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September 11, 2007

Mary K. Keyer
AT&T Kentucky
601 W. Chestnut Street
Room 407
Louisville, KY 40203

Re: Case No. 2004-00259

Dear Ms. Keyer:

The Commission Staff has received a copy of the attached agreement between AT&T Kentucky and Covad.

Because it was ordered to be filed with the Commission, it is hereby placed in this case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Beth O'Donnell".

Beth O'Donnell
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, Ky 40602

cc: Parties of Record



RECEIVED
SEP 05 2007
GENERAL COUNSEL

AT&T Kentucky
601 W. Chestnut Street
Room 407
Louisville, KY 40203

T: 502.582.8219
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August 31, 2007

VIA FEDERAL EXPRESS

Amy E. Dougherty, Esq.
Division of General Counsel
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

RECEIVED

SEP 04 2007

PUBLIC SERVICE
COMMISSION

Re: Courtesy Copy of Commercial Agreement Between BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky ("AT&T Kentucky"), and DIECA Communications, Inc., d/b/a Covad Communications Company ("Covad")

Dear Ms. Dougherty:

Attached please find a courtesy copy of the Commercial Agreement between BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky ("AT&T Kentucky"), and DIECA Communications, Inc., d/b/a Covad Communications Company ("Covad"). This Agreement resolves any line sharing issues that were part of the Petition of DIECA Communications, Inc. d/b/a Covad Communications Company for Arbitration of Interconnection Agreement Amendment with BellSouth Telecommunications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996 PSC 2004-00259.

Since the agreement is a commercial agreement within the FCC jurisdiction, that agreement has been filed on a non-confidential basis with the Federal Communications Commission pursuant to Section 211 of the Act and Section 43.51 of the FCC's rules. This courtesy copy is being provided for informational purposes only and not for filing in the above case.

If you have any questions, please let me know.

Sincerely,

Mary K. Keyer
Mary K. Keyer

cc: Parties of Record

689470



Terri L. Hoskins
Senior Attorney

AT&T Services, Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20036

202.457.3047 Phone
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COURTESY
COPY

August 2, 2007

By Messenger

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

FILED/ACCEPTED

AUG - 2 2007

Federal Communications Commission
Office of the Secretary

Re: Submission of Contract Pursuant to 47 U.S.C. § 211 and 47 C.F.R. § 43.51

Dear Ms. Dortch:

Pursuant to § 211 (a) of the Communications Act of 1934, as amended, and § 43.51 of the Commission's rules, AT&T hereby files the attached agreement between AT&T-22 State and Covad Communications Company and DIECA Communications, Inc. d/b/a Covad Communications Company to provide ABBS and Line Share One. If you have any questions, please do not hesitate to contact me at (202) 457-3047.

Sincerely,

/s/ Terri L. Hoskins
Senior Counsel
AT&T Services, Inc.

COMMERCIAL AGREEMENT

between

Illinois Bell Telephone Company d/b/a AT&T Illinois,
Indiana Bell Telephone Company Incorporated d/b/a AT&T
Indiana,

Michigan Bell Telephone Company d/b/a AT&T Michigan,
Nevada Bell Telephone Company d/b/a AT&T Nevada,
The Ohio Bell Telephone Company d/b/a AT&T Ohio,
Pacific Bell Telephone Company d/b/a AT&T California,
The Southern New England Telephone Company d/b/a AT&T
Connecticut, Southwestern Bell Telephone Company d/b/a AT&T
Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or
AT&T Texas, Wisconsin Bell, Inc. d/b/a SBC Wisconsin,
BellSouth Telecommunications, Inc. d/b/a AT&T Alabama,
AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T
Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South
Carolina, and/or AT&T Tennessee

and

Covad Communications Company and DIECA Communications,
Inc. d/b/a Covad Communications Company

TABLE OF CONTENTS

1. INTRODUCTION	3
2. GENERAL DEFINITIONS APPLICABLE TO THE AGREEMENT (INCLUDING THE ATTACHMENTS)	3
3. PRICING	4
4. REUSE OF FACILITIES	4
5. TECHNOLOGY EVOLUTION	5
6. INTENTIONALLY OMITTED	5
7. BRANDING	5
8. FORCE MAJEURE	6
9. GOVERNING LAW	6
10. LIMITATION OF LIABILITY/INDEMNITY	6
11. BILLING AND PAYMENT OF RATES AND CHARGES AND BILLING DISPUTES	11
12. DISPUTE RESOLUTION	11
13. NONDISCLOSURE	13
14. PUBLICITY	13
15. ASSIGNMENT	14
16. NOTICES	14
17. THIRD PARTY BENEFICIARIES	14
18. TAXES	15
19. EFFECTIVE DATE, TERM EXPIRATION AND TERMINATION	15
20. WAIVER	18
21. DISCLAIMER OF WARRANTIES	18
22. RELATIONSHIP OF THE PARTIES	18
23. FILING OF AGREEMENT; GOVERNMENTAL REQUIREMENT	19
24. AMENDMENTS AND MODIFICATIONS	19
25. INTERPRETATION/JOINT WORK PRODUCT	19
26. NO LICENCE	19
27. INTELLECTUAL PROPERTY	19
28. COMPLIANCE AND CERTIFICATION	19
29. NETWORK MAINTENANCE AND MANAGEMENT	19
30. CUSTOMER INQUIRIES/END USER NOTICES	20
31. INSURANCE	20
32. SEVERABILITY	21
33. SURVIVAL	22

34. AUTHORITY22
35. COUNTERPARTS22
36. ADVOCACY22
37. ENTIRE AGREEMENT 22

COMMERCIAL AGREEMENT

General Terms and Conditions

This Agreement is entered into by and between Covad Communications Company and DIECA Communications, Inc., d/b/a Covad Communications Company (hereinafter referred to as "CARRIER" or "CLEC") and AT&T-22STATE (as defined herein) (collectively, the "Parties"; each, a "Party").

1. INTRODUCTION

- 1.1 AT&T-22STATE and CARRIER acknowledge and agree that: (a) the Services offered under this Agreement are jurisdictionally interstate and are therefore not subject to the jurisdiction of any state utility commission; (b) the Services provided pursuant to this Agreement are provided pursuant to Sections 201/202 of the Act and this Agreement will be filed with the FCC under Section 211 of the Act; (c) AT&T-22STATE's provision of the Services offered under the Agreement to CARRIER does not constitute a request by CARRIER or an offer by AT&T-22STATE of interconnection, unbundled access, resale or other services pursuant to Section 251 of the Telecommunications Act of 1996 (the "Act") or any state law counterpart(s); (d) the Services provided pursuant to this Agreement and this Agreement are not subject to Section 252 of the Act or any state law counterpart(s), including, without limitation, any requirement to negotiate, mediate, or arbitrate the Agreement pursuant to Section 252 of the Act, or file it with any state utility commission or the Federal Communications Commission; and (e) the Services provided pursuant to this Agreement and this Agreement are not subject to Section 271 of the Act. All disputes that arise under this Agreement shall be resolved solely pursuant to the Dispute Resolution provisions of this Agreement.
- 1.2 The products and/or services available under this Agreement are set forth in the following Attachments (which are hereby attached and incorporated herein), and are subject to the provisions of this Agreement. All of the provisions in this Agreement (including all Attachments, appendices, exhibits, schedules, and addenda hereto) are integrally related and non-severable. In the event of any inconsistency or conflict between this Agreement (ignoring the Attachments) and an Attachment, the Attachment shall control but only to the extent of such inconsistency or conflict.
 - 1.2.1 Advanced Broadband Service Attachment to Commercial Agreement and Pricing Appendix for AT&T-13STATE. ("AT&T-13STATE ABBS Attachment")
 - 1.2.2 Line Share One Attachment to Commercial Agreement and Pricing Appendix for AT&T-13STATE. ("AT&T-13STATE Line Share One Attachment")
 - 1.2.3 Line Share Attachment to Commercial Agreement and Pricing Appendix for AT&T-9STATE. ("AT&T-9STATE Line Share Attachment")
- 1.3 This Agreement includes certain Attachments, appendices, exhibits, schedules and addenda, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.
- 1.4 This Agreement is applicable to and binding upon both Parties in the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio, Connecticut, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and only applies within the Service Area; provided, however, CARRIER must have an effective Commission-approved 251/252 interconnection agreement in any such state before CARRIER may obtain the products and/or services offered under this Agreement in that state.
- 1.5 The facilities used by AT&T-22STATE to provide the products and/or services hereunder shall remain the property of AT&T-22STATE.
- 1.6 Except for as may be expressly set forth or attached to and which are specific to an Attachment, the Parties understand and agree that no performance measures and remedies, including without limitation, any

wholesale service quality standards, liquidated damages, and remedies, shall apply to the products and/or services under this Agreement. The Parties agree that the products and/or services under this Agreement are not subject to any AT&T-22STATE change management processes (often referred to as "CMP"), except that changes to systems and processes that are common to both the services and/or products hereunder and other AT&T-22STATE offerings that are subject to any change management process, shall continue to be subject to such process.

2. GENERAL DEFINITIONS APPLICABLE TO THE AGREEMENT (INCLUDING THE ATTACHMENTS)

- 2.1 "AT&T-9STATE" means BellSouth Telecommunications, Inc. d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina, and/or AT&T Tennessee.
- 2.2 "AT&T CALIFORNIA" means Pacific Bell Telephone Company d/b/a AT&T California.
- 2.3 "AT&T CONNECTICUT" means The Southern New England Telephone Company d/b/a AT&T Connecticut.
- 2.4 "AT&T MIDWEST REGION 5-STATE" means Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, The Ohio Bell Telephone Company d/b/a AT&T Ohio, and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin.
- 2.5 "AT&T NEVADA" means Nevada Bell Telephone Company d/b/a AT&T Nevada.
- 2.6 "AT&T OKLAHOMA" means Southwestern Bell Telephone Company d/b/a AT&T Oklahoma.
- 2.7 "AT&T SOUTHWEST REGION 5-STATE" means Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas in Arkansas, Kansas, Missouri, Oklahoma, and/or Texas, respectively.
- 2.8 "AT&T-2STATE" means AT&T CALIFORNIA and AT&T NEVADA.
- 2.9 "AT&T-8STATE" means AT&T SOUTHWEST REGION 5-STATE, AT&T CALIFORNIA, AT&T NEVADA, and AT&T CONNECTICUT.
- 2.10 "AT&T-12STATE" means AT&T-2STATE, AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE.
- 2.11 "AT&T-13STATE" means AT&T-2STATE, AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE, and AT&T CONNECTICUT.
- 2.12 "AT&T-22STATE" means AT&T-13STATE and AT&T-9STATE.
- 2.13 "Act" means the federal Communications Act of 1934, as amended, including without limitation by the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996).
- 2.14 "Business Day" means Monday through Friday, excluding holidays on which the applicable AT&T-22STATE ILEC does not provision new orders for retail telecommunications services. The use of only "day" in this Agreement refers to a calendar day.
- 2.15 "Intellectual Property" means copyrights, patents, trademarks, service marks, trade secrets, mask works and all other intellectual property rights.
- 2.16 "Service Area" means a geographic area in which AT&T-22STATE then serves as the incumbent local exchange carrier. "AT&T13-STATE Service Area" means a geographic area in which AT&T-13STATE then serves as the incumbent local exchange carrier. "AT&T-9STATE Service Area" means a geographic area in which AT&T-9STATE then serves as the incumbent local exchange carrier.

2.17 "Services" means the AT&T-13STATE ABBS, AT&T-13STATE Line Share One, and AT&T-9STATE Line Share services available under this Agreement. For purposes of this Agreement, the Services may also be referred to herein as the "products and/or services."

3. PRICING

3.1 The rates which shall apply under this Agreement are set forth in the various pricing schedules, attachments and/or appendices to this Agreement, which are incorporated herein by this reference.

3.2 Where rates are shown as monthly, a month will be defined as a calendar month. The minimum term for each product and/or service purchased hereunder will be one (1) month. After that initial month, billing will be on the basis of whole or fractional months used.

4. REUSE OF FACILITIES

4.1 Each Party will abide by any applicable federal and state laws and regulations in obtaining end user authorization prior to changing an end user customer's provider of services and/or products made available through use of the services and/or products provided under this Agreement or like-services and in assuming responsibility for any charges that may apply to the extent the FCC's rules regarding Subscriber Carrier Selection Changes (47 C.F.R. §§ 64.1100 through 64.1170) or any state regulation applies to the changing of an end user customer's provider of services and/or products made available through use of the services and/or products provided under this Agreement or like-services.

4.2 When an end user changes or withdraws authorization from its carrier, each Party shall immediately release end user-specific facilities belonging to or possessed by AT&T-22STATE in accordance with the end user customer's direction or that of the end user customer's authorized agent. Further, when an end user customer abandons its premise (that is, its place of business or domicile), AT&T-22STATE is free to reclaim the end user-specific facilities, and is free to issue service orders required to reclaim such facilities. In either situation, CARRIER shall promptly provide AT&T-22STATE with all information necessary for AT&T-22STATE to reclaim or reuse the facilities, including, but not limited to the circuit ID of the affected facility.

4.3 The Parties agree to the re-use of existing network facilities when a customer (including without limitation its end user customers) changes its provider of service being provided by those existing facilities and the network facilities are provided by the same network provider.

5. TECHNOLOGY EVOLUTION

5.1 Nothing in this Agreement shall constrain or otherwise limit AT&T-22STATE from continuing to evolve and otherwise modify its networks by, for example, deploying new and different technologies and altering the manner in which products and/or services are provided, including without limitation the products and/or services provided for in the Attachments. AT&T-22STATE shall retain the right to deliver those products and/or services, including without limitation local exchange service, over the technologies and in the manner that AT&T-22STATE chooses.

5.2 Notwithstanding anything to the contrary in this Agreement, nothing herein shall obligate AT&T-22STATE to provide the Services or otherwise to offer Carrier under this Agreement access to any fiber-to-the-premise, fiber-to-the-home or fiber-to-the-curb facilities as defined in 47 C.F.R. 51.319(a)(3) or any other facilities that AT&T-22STATE may have deployed or that AT&T-22STATE may deploy other than, in the case of AT&T-13STATE Line Share One and AT&T-9STATE Line Share, Central Office-based all copper loops as more specifically defined in the AT&T-13STATE Line Share One Attachment and the AT&T-9STATE Line Share Attachment to this Agreement and, in the case of ABBS, next generation digital loop carrier facilities deployed by AT&T-13STATE, as more specifically defined in the AT&T-13STATE ABBS Attachment to this Agreement, including any upgrades to such facilities as provided in Section 6 of the AT&T-13STATE ABBS Attachment.

6. INTENTIONALLY OMITTED

7. BRANDING

- 7.1 Except where otherwise required by law or as expressly permitted by this Agreement (including without limitation any Attachment), CARRIER shall not, without AT&T-22STATE's written authorization, (i) offer products and/or services using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of AT&T-22STATE or its affiliates, or (ii) state or imply that there is any joint business association or similar arrangement with AT&T-22STATE or its affiliates in the provision of products and/or services to CARRIER's own customers (including without limitation its end user customers). CARRIER may brand products and/or services included in this Agreement with its own brand name, but AT&T-22STATE will not provide for CARRIER branding of those products and/or services.
- 7.2 AT&T-22STATE shall not be obligated by this Agreement to provide CARRIER with branding of any kind including but not limited to, technician apparel, vehicles, forms; nor shall the AT&T-22STATE technicians carry and provide to CARRIER's customers (including without limitation its end user customers), CARRIER-specific branded business cards or other printed materials.

8. FORCE MAJEURE

- 8.1 Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond its reasonable control, regardless of whether such delays or failures in performance were foreseen or foreseeable, including, without limitation: fire, explosion, power failure, power blackouts/brownouts, cable cuts, embargoes, epidemics, nuclear accidents, acts of God, acts of nature, unusually severe weather conditions, acts of civil or military authority, war, terrorist acts, riots, insurrection, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation, strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond its reasonable control. The party affected by one of the events listed above will give prompt notice to the other Party when such an event has occurred. When possible, the notice will identify the area(s) that is(are) affected by the event and the approximate time frame within which the event occurred and if known, the approximate date it is anticipated the event will conclude. When possible, the affected Party will provide reasonable updates concerning the event and will provide notification to the other Party when the event will be or has completed and all affected areas are anticipated to return to business as usual.

9. GOVERNING LAW

- 9.1 Unless otherwise provided by applicable law, this Agreement shall be governed by and construed in accordance with the laws of the AT&T-22STATE State in which the product(s) and/or service(s) at issue was provided and, if agreement cannot be reached upon which state law applies or if the same issues involves the provision of product(s) and/or service(s) in multiple states, the laws of the State of Texas shall apply, each without regard to conflict in law principles of the applicable state's law.

10. LIMITATION OF LIABILITY/INDEMNITY

10.1 LIMITATION OF LIABILITY

- 10.1.1 Except for indemnity obligations expressly set forth herein or as otherwise expressly provided in specific Attachments, to the maximum extent permitted by applicable law each Party's liability to the other Party (and its affiliates and their respective officers, directors, employees, agents, and other representatives) for any and all losses, costs (including court costs), claims, damages (including fines, penalties, and criminal or civil judgments and settlements), injuries, liabilities and

expenses (including attorneys' fees) ("Loss" or "Losses") relating to or arising out of such Party's performance under this Agreement and any and all dealings and arrangements between the Parties relating to the products and/or services hereunder (but excluding any Loss(es) relating to or arising out of any AT&T-22STATE tariffs and products purchased by CARRIER from AT&T-22STATE tariffs, which shall be governed exclusively by such tariffs) ("Commercial Relationship"), including any negligent act or omission (whether willful or inadvertent), whether in contract, tort or otherwise, including alleged breaches of this Agreement and causes of action alleged to arise from allegations that constitute breaches of this Agreement also constitute a violation of a statute, shall not exceed in total the amount AT&T-22STATE or CARRIER has charged or would have charged to the other Party for the affected products and/or services that were not performed or were improperly performed (not to exceed the billings between the Parties for such affected products and/or services for the month or months in which the condition occurred, but not to exceed twelve (12) months in any event). To the maximum extent permitted by applicable law, neither CARRIER nor AT&T-22STATE shall be liable to the other Party for any indirect, incidental, reliance, special, consequential, punitive, exemplary, or multiple damages (including without limitation for any lost business opportunity/profits) suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of a statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 10.1.2 to indemnify, defend, and hold the other Party harmless against any amounts payable to a third party, including any Losses, and indirect, incidental, reliance, special, consequential, punitive, exemplary, or multiple damages (including without limitation for any lost business opportunity/profits) of such third party, subject to Section 10.1.3 below; provided, however, nothing in this Section 10.1.1 shall impose indemnity obligations on a Party for any Losses or indirect, incidental, reliance, special, consequential, punitive, exemplary, or multiple damages (including without limitation for any lost business opportunity/profits) suffered by that Party's customers (including without limitation its end user customers) in connection with any affected products and/or services. Rather, each Party ("Indemnifying Party") hereby releases and holds harmless the other Party ("Indemnitee") and Indemnitee's affiliates (and their respective officers, directors, employees, agents, and other representatives) against any Loss or claim made by or through the Indemnifying Party's customers (including without limitation its end user customers).

- 10.1.2 Except as otherwise expressly provided in specific Attachments and subject to Section 10.1.5 below, in the case of any Loss alleged or claimed by a third party to have arisen out of the gross negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own gross negligence or willful misconduct or that of its officers, directors, employees, agents, contractors, or others acting in aid or concert with it.
- 10.1.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its customers (including without limitation its end user customers) or third parties that relate to any products and/or services provided or contemplated by this Agreement that, to the maximum extent permitted by applicable law, such Party shall not be liable to such customer or third party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged such customer or third party for the products and/or services that gave rise to such Loss and (ii) any indirect, incidental, reliance, special, consequential, punitive, exemplary, or multiple damages (including without limitation for any lost business opportunity/profits). If a Party elects not to place in its tariffs or contracts such

limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 10.1.3.

- 10.1.4 **AT&T-22STATE** (and its affiliates and their respective officers, directors, employees, agents, and other representatives) shall not be liable for damages to a customer's premises (including without limitation the premises of its end user customers) resulting from the furnishing of any products and/or services hereunder including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by **AT&T-22STATE's** gross negligence or willful misconduct, subject to Section 10.1.5 below.
- 10.1.5 In the event that any Party to this Agreement or any third party ("Claiming Party") claims that any Loss resulted from the gross negligence or willful or intentional misconduct of another Party ("Responding Party") to this Agreement, then the Claiming Party must establish and a court of competent jurisdiction or an Arbitration Panel, as applicable, must find: (1) that the action was taken by a fourth level or higher employee of **AT&T-22STATE** or by a comparable level employee of CARRIER; and (2) the action was taken with the specific intent to knowingly violate the law or this Agreement in a manner that would constitute a material breach and to knowingly harm the other Party or constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the other Party; and (3) the intentional action or intentional failure to perform a manifest duty was the principal cause of a material adverse effect on the Responding Party. In the event that a Party to this Agreement establishes and a court of competent jurisdiction or an Arbitration Panel, as applicable, finds that any claimed Loss is the result of another Party's to this Agreement own gross negligence or willful or intentional misconduct (as provided in Dispute Resolution, Section 12, of this Agreement), through findings of fact and conclusions of law issued by such court or Arbitration Panel, then and only then the court of competent jurisdiction or Arbitration Panel, as applicable, award up to treble monetary damages (excluding attorneys fees, interests and costs) for such gross negligence or intentional conduct.
- 10.1.6 **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCEPT AS OTHERWISE PROVIDED IN ANY OTHER AGREEMENT(S) BETWEEN THE PARTIES, THE PARTIES VOLUNTARILY AGREE, AFTER CONSULTATION WITH THEIR RESPECTIVE COUNSEL, THAT THE RIGHTS AND REMEDIES AS STATED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, DISPUTE RESOLUTION, SECTION 12, OF THIS AGREEMENT (AS TO THE SUBJECT-MATTER OF THIS AGREEMENT) ARE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO EITHER PARTY WITH RESPECT TO ANY CLAIMS, LOSS(ES) AND DISPUTES ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ALL DEALINGS, ARRANGEMENTS, NEGOTIATIONS, AND/OR COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE COMMERCIAL RELATIONSHIP, INCLUDING SUCH MATTERS WITH RESPECT TO ACTUAL OR POTENTIAL WHOLESALE TERMS AND CONDITIONS APPLICABLE TO ANY AREA WITHIN THE DOMESTIC UNITED STATES IN WHICH AT&T-22STATE OPERATES (BUT EXCLUDING ANY CLAIMS, LOSS(ES) AND DISPUTES RELATING TO OR ARISING OUT OF ANY AT&T-22STATE TARIFFS, WHICH SHALL BE GOVERNED EXCLUSIVELY BY SUCH TARIFFS), AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES THAT A PARTY MAY POSSESS PURSUANT TO STATUTE, OR AT COMMON LAW OR IN EQUITY.**

10.2 INDEMNITY

- 10.2.1 **Responsibility of Each Party for its Services:** Except as otherwise expressly provided in this Agreement (including without limitation in a product/service-specific Attachment), each Party shall

be responsible only for the products and/or services which are provided by such Party, its agents, contractors, subcontractors, or others retained by such Party, and neither Party shall bear any responsibility for the products and/or services provided by the other Party, its agents, contractors, subcontractors, or others retained by such other Party.

- 10.2.2 **Claims of Loss by Third Party(ies):** Except as otherwise expressly provided in this Agreement (including without limitation in a product/service-specific Attachment) and subject to Section 10.1, Limitation of Liability above, and to the extent not prohibited by applicable law and not otherwise controlled by tariff, each Party (the "**Indemnifying Party**") shall release, defend and indemnify the other Party (the "**Indemnified Party**") and hold such Indemnified Party harmless against any Losses to a third party arising out of the gross negligence, recklessness, or willful misconduct ("**Fault**") of such Indemnifying Party, its officers, directors, employees, agents, its customers (including without limitation its end user customers), contractors, or others retained by the Indemnifying Party, in connection with the Indemnifying Party's provision of products and/or services and performance under this Agreement and the Commercial Relationship; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment or agency, respectively, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.
- 10.2.3 **Claims of Loss by a Customer (including without limitation an end user customer) of a Party:** Except as otherwise expressly provided in this Agreement (including without limitation in a product/service-specific Attachment) and subject to Section 10.1, Limitation of Liability above including without limitation Section 10.1.5, in the case of any Loss alleged or claimed by a customer (including without limitation an end user customer) of either Party, the Party whose customer alleged or claimed such Loss (the "**Indemnifying Party**") shall defend and indemnify the other Party (the "**Indemnified Party**") against any and all such claims or Losses by such Indemnifying Party customer regardless of whether the underlying product and/or service or performance giving rise to such claim or Loss was provided or provisioned by the Indemnified Party, unless the claim or Loss was caused by the gross negligence, recklessness, or willful misconduct of the Indemnified Party.
- 10.2.4 **Claims of Loss by a Party Against other Party:** Subject to Section 10.1, Limitation of Liability above, a Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any claim or Loss arising from the Indemnifying Party's use of products and/or services provided hereunder, or performance, under this Agreement, including, without limitation, any claim(s) or Loss(es) arising from: any claim for libel, slander, or invasion of privacy or infringement of Intellectual Property rights arising from the Indemnifying Party's use or provision of products or services under this Agreement, as applicable. Notwithstanding the foregoing, each Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any claim or Loss arising from allegations of patent infringement based on the use or provision by the Indemnified Party and/or its customer(s) of the products and /or services under this Agreement, as applicable.
- 10.2.5 **Indemnity for Damage to Facilities:** A Party (the "Indemnifying Party") shall reimburse the other Party (the "Indemnified Party") for damages to the Indemnified Party's facilities utilized to provide any products and/or services hereunder caused by the gross negligence or willful act of the Indemnifying Party, its officers, directors, employees, agents, contractors, or subcontractors or the Indemnifying Party's customers (including without limitation its end user customers) or resulting from the Indemnifying Party's or its customer's improper use of the Indemnified Party's facilities, or

due to malfunction of any facilities, functions, products, services or equipment provided by any person or entity other than the Indemnified Party. Upon reimbursement for damages, the Indemnified Party will cooperate with the Indemnifying Party in prosecuting a claim against the person or entity causing such damage. The Indemnifying Party shall be subrogated to the right of recovery by the Indemnified Party for the damages to the extent of such payment. In addition, CARRIER hereby agrees to assume any and all liability for any such intrusive testing it performs, including the payment of all costs associated with any damage, service interruption, or other service degradation or damage to AT&T-22STATE's facilities and hereby agrees to release, defend and indemnify AT&T-22STATE, and hold AT&T-22STATE harmless, from any claims for loss or damages, including but not limited to direct, indirect, incidental, reliance, special, consequential, punitive, exemplary, or multiple damages (including without limitation for any lost business opportunity/profits), made against AT&T-22STATE by a customer (including without limitation an end user customer), any telecommunications service provider or telecommunications user relating to such testing by CARRIER.

- 10.2.6 **Indemnification Procedures:** Whenever a claim shall arise for indemnification under this Section 10.2, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim. The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party. Until such time as the Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim. Upon accepting the defense, the Indemnifying Party shall have the exclusive right to control and conduct the defense and settlement of any such claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement. At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against any cost or liability in excess of such refused compromise or settlement. With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense. If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of

the indemnifying Party. Each Party agrees to cooperate and to cause its officers, directors, employees, agents, and other representatives to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Nondisclosure, Section 13, of this Agreement.

11. BILLING AND PAYMENT OF RATES AND CHARGES AND BILLING DISPUTES

- 11.1 AT&T-22STATE shall include all charges under this Agreement on the monthly bill(s) rendered to CARRIER (hereinafter "invoice").
- 11.2 **Payment of Rates and Charges**
- 11.2.1 For the AT&T-13STATE Service Area, CARRIER shall pay all AT&T-13STATE charges under this Agreement within thirty (30) days of the invoice date.
- 11.2.2 For the AT&T-9STATE Service Area, AT&T-9STATE shall send to CARRIER within ten (10) business days of the bill date the entire bill in electronic or paper form, unless otherwise agreed to by the Parties. If the paper form of the bill is not received within ten (10) business days of the bill date, Covad shall notify AT&T-9STATE and the Parties will negotiate a payment due date. With the exception of the above rule, payment for services provided by AT&T-9STATE, excluding disputed charges, is due on or before the next bill date. Information required to apply payments must accompany the payment.
- 11.3 A good faith billing dispute under this Agreement requires CARRIER to provide a written claim to AT&T-22STATE to permit AT&T-22STATE to investigate the merits of the dispute. Such claim must identify the following within ten (10) Business Days from the date AT&T-22STATE is notified of the dispute: (a) the account number under which the invoice has been rendered; (b) the specific charge that the customer believes was billed in error; (c) the date of the invoice; and (d) the reason or grounds for the dispute. The Disputing Party should utilize any existing and preferred form/application provided by the Billing Party, most notably the Exclaim system where available, to communicate disputes to the Billing Party
- 11.4 CARRIER billing inquiries and/or claims of overbilling by AT&T-22STATE shall be referred to AT&T-22STATE for investigation within six (6) months of the charge(s) first appearance on the invoice to CARRIER. Absent a claim and/or dispute by CARRIER as to a charge within six (6) months from its first appearance on an invoice to CARRIER, such charge shall be deemed to be correct. If the Parties determine that CARRIER was billed incorrectly for products and/or services rendered pursuant to this Agreement, a billing adjustment shall be calculated. If a refund is due, an adjustment shall be made for the overcharges. If an overcharge is adjusted within three billing cycles of the invoice in error, interest will not be applicable. If the overcharge is not adjusted within three billing cycles, interest on the amount will be credited at the lower of 1 percent per month compounded daily or the highest interest rate permitted by applicable law in the AT&T-22STATE state. If the dispute is decided in favor of AT&T-22STATE, then the resolution date will be the date upon which Notice is deemed to have been received by CARRIER under the Notice provisions in this Agreement ("Resolution Date") and CARRIER shall pay AT&T-22STATE interest on the disputed amount at the lower of one (1) percent per month compounded daily or the highest interest rate permitted by applicable law in the AT&T-22STATE state within fourteen (14) days of the Resolution Date.
- 11.5 Notwithstanding anything to the contrary in this Agreement (except to the extent expressly provided otherwise in an Attachment, and then only to the products and/or services available under that Attachment), upon nonpayment of any charges due under this Agreement, AT&T-22STATE may, without incurring any liability, discontinue furnishing service under this Agreement ("discontinuance") and terminate this Agreement; provided that before any discontinuance or termination of this Agreement due to CARRIER's non-payment of charges due under this Agreement, AT&T-22STATE shall first provide written notice specifying the service discontinuance date or termination date of this Agreement and any unpaid charges

fifteen (15) days in advance of discontinuance or termination. If CARRIER pays the specified unpaid charges within such fifteen (15) day period, AT&T-22STATE shall not discontinue service or terminate this Agreement due to CARRIER's non-payment of any charges due under this Agreement. In the case of any termination of this Agreement under this Section 11.5, neither Party shall have any further obligations under this Agreement (except for those obligations set forth in Sections 19.6 and 19.7 below). At its option, AT&T-22STATE may net amounts owed by CARRIER against funds which otherwise might be due to CARRIER from AT&T-22STATE under this agreement. In the case of discontinuance or termination under this Section 11.5, all applicable charges, including without limitation outstanding charges, interest charges, late payment fees and termination charges shall become due. If AT&T-22STATE does not discontinue or terminate the provision of the products and/or services on the date specified in its 15 days' notice and CARRIER's noncompliance continues, nothing contained herein shall preclude AT&T-22STATE's right to discontinue or terminate the provision of the products and/or services to CARRIER without further notice.

12. DISPUTE RESOLUTION

12.1 Finality of Disputes

12.1.1 Except as otherwise specifically provided for in this Agreement including without limitation, Section 11 above (as to billing disputes), no claim may be brought for any dispute arising from this Agreement and the Commercial Relationship more than six (6) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

12.2 Alternative to Litigation

12.2.1 Except as may otherwise be provided under another agreement between the Parties, the Parties desire to resolve disputes arising out of or relating to this Agreement and with respect to all dealings, arrangements, negotiations and/or communications between the Parties relating to this Agreement and the Commercial Relationship without litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement and the Commercial Relationship.

12.3 Commencing Dispute Resolution

12.3.1 Dispute Resolution shall commence upon one Party's receipt of written notice of a controversy or claim arising out of or relating to this Agreement or its breach and Commercial Relationship. No Party may pursue any claim unless such written notice has first been given to the other Party. There are three (3) separate Dispute Resolution methods:

12.3.1.1 Billing disputes: Billing disputes between the Parties arising out of or relating to this Agreement shall be resolved in accordance with the procedures set forth in Section 11 above and Section 12.5 below.

12.3.1.2 Informal Dispute Resolution (described below); and

12.3.1.3 Formal Dispute Resolution (described below).

12.4 Informal Resolution of Non-Billing Disputes

12.4.1 Billing disputes which are addressed in Section 11 of this Agreement are not subject to this Informal Resolution Process.

12.4.2 Upon receipt by one Party of notice of a non-billing related dispute by the other Party pursuant to Section 12.3.1 above, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement and the Commercial Relationship. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. Discussions and

the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

12.5 Formal Dispute Resolution

12.5.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 11 above (as to billing disputes) or Section 12.4 above (as to non-billing related disputes), then either Party may invoke the formal Dispute Resolution procedures described in this Section 12.5. Formal Dispute Resolution procedures may not be invoked by either Party with respect to non-billing related disputes earlier than the date that is sixty (60) calendar days after receipt of the letter initiating Dispute Resolution under Section 12.3.1 of this Agreement.

12.5.2 Claims Subject to Mandatory Arbitration. The following claims, if not settled through the informal procedure described in Section 11 above (as to billing disputes) will be subject to mandatory arbitration pursuant to Section 12.6 below:

12.5.2.1 Each unresolved billing dispute involving one percent (1%) or less of the amounts charged to the Disputing Party under this Agreement and the Commercial Relationship in the state in which the dispute arises during the six (6) months immediately preceding receipt of the letter initiating a billing dispute under Section 11 above. If the disputing Party has not been billed for a minimum of six (6) months immediately preceding receipt of the letter initiating a billing dispute under Section 11 the Parties will annualize the actual number of months billed.

12.5.2.2 All Other Claims and Relief. Any claim and any relief other than as specified in Section 12.5.2.1 is not subject to mandatory arbitration. Except to the extent that both parties otherwise agree, either Party may proceed with any remedy available to it pursuant to law or equity before any appropriate judicial or regulatory authority with jurisdiction over the parties and subject matter of the claim which shall be subject to the Limitation of Liability and Indemnity provisions set forth in this Agreement.

12.6 Arbitration

12.6.1 Disputes subject to mandatory arbitration (or when arbitration is agreed to by both Parties) under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. All arbitrations will be held in Dallas, Texas unless the Parties agree otherwise. The arbitration hearing will be requested to commence within sixty (60) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator will have no authority to award punitive damages, exemplary damages, consequential Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall

be final and binding and may be entered in any court having jurisdiction thereof. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

13. NONDISCLOSURE

- 13.1 Each Party anticipates and recognizes that it will come into possession of technical or business information or data about the other Party and/or its customers (including without limitation its end user customers) as a result of this Agreement which will be considered confidential by such other Party. The Parties agree (1) to treat all such information and data as strictly confidential; and (2) to use such information only for purposes of performance under this Agreement. Each Party agrees not to disclose confidential information and/or data of or pertaining to the other Party or its customers (including without limitation its end user customers) to any third party without first securing the written consent of such Party. The foregoing shall not apply to information which is in the public domain. Nothing in this Agreement prevents either Party from disclosing operations results or other data that might reflect the results of this Agreement as a part of that Party's aggregate operating data as long as the disclosed data is at a level of aggregation sufficient to avoid disclosing with specificity information obtained in the operation of this Agreement.
- 13.2 If a court or governmental agency orders or a third-party requests a Party to disclose or to provide any data or information covered by this Section 13, that Party will immediately inform the other Party of the order or request before such data or information is provided and will inform the other Party both by telephone and certified mail. Notification and consent requirements described above are not applicable in cases where a court order requires the production of billing and/or usage records of or pertaining to an individual customer (including without limitation an end user customer).
- 13.3 This Section 13 will not preclude the disclosure by a Party of information or data subject to this Section to consultants, agents, or attorneys representing that Party, or the Office of the Public Counsel for a State, or appropriate State Commissions or staffs, or FCC Staff, provided that such representatives are informed of the confidential nature of the information and/or data prior to disclosure and are bound by confidentiality requirements that are at least as restrictive as applicable to the Parties to this Agreement.
- 13.4 The provisions of this Section 13 shall survive the expiration and/or termination of this Agreement, unless agreed to in writing by the Parties.

14. PUBLICITY

- 14.1 Except as may be expressly provided elsewhere in this Agreement (including without limitation the Attachments), the Parties agree not to use in any advertising or sales promotion, press releases or other publicity matters any endorsements, direct or indirect quotes, or pictures implying endorsement or business relationships by the other Party or any of its employees without such Party's prior written approval, which approval will not be unreasonably withheld. Each Party will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain symbols, pictures, or language from which a connection to said name and/or marks may be inferred or implied.

15. ASSIGNMENT

- 15.1 Any attempted assignment, transfer or delegation by CARRIER of this Agreement to any non-affiliate third party or any right, obligation, or duty or of any interest under this Agreement, in whole or in part, without the prior consent of AT&T-22STATE, which consent shall not be unreasonably withheld, conditioned or delayed, is void *ab initio*.
- 15.2 Any Party, which elects to perform its obligations through an Affiliate, shall cause its Affiliate to take all action necessary for the performance of such Party's obligations hereunder. Each Party represents and warrants that if an obligation under this Agreement is to be performed by an Affiliate, such Party

has the authority to cause such Affiliate to perform such obligation and such Affiliate will have the resources required to accomplish the delegated performance. Notwithstanding the foregoing, CARRIER may not assign or transfer this Agreement, or any rights or obligations hereunder, to its Affiliate if that Affiliate is a party to a separate commercial agreement with AT&T-22STATE. Any attempted assignment or transfer that is not permitted is void *ab initio*.

16. NOTICES

- 16.1 Notices given by one Party to the other Party under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement, including without limitation, Section 7 above to be delivered to another representative, point of contact or specific manner, shall be: (a) delivered personally; or (b) delivered by express overnight delivery service; or (c) mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or (d) delivered by facsimile; provided that a paper copy is also sent by a method described above in subsections (a), (b) or (c).
- 16.2 Except as otherwise explicitly provided for in this Agreement including, without limitation, Section 16.1 above, Notices will be deemed given as of the earliest of: (a) the date of actual receipt; or (b) the next Business Day when sent via express overnight delivery service; or (c) five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service; or (d) on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.
- 16.3 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CARRIER CONTACT	AT&T-22STATE CONTACT
NAME/TITLE	Doug Carlen Vice President, Legal and Corporate Affairs	Contract Management ATTN: Notices Manager
STREET ADDRESS	110 Rio Robles	311 S. Akard, 9 th Floor Four SBC Plaza
CITY/STATE/ZIP CODE	San Jose, CA 95134	Dallas, TX 75202
FACSIMILE NUMBER	408-952-7539	214-464-2006

Either Party may unilaterally change its designated contact, address, telephone number and/or facsimile number for the receipt of notices by giving written notice to the other Party in compliance with this Section. Any notice to change the designated contact, address, telephone and/or facsimile number for the receipt of notices shall be deemed effective ten (10) calendar days following receipt by the other Party.

17. THIRD PARTY BENEFICIARIES

- 17.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any third party beneficiary rights hereunder. This Agreement shall not provide any non-party with any remedy, claim, cause of action or other right.

18. TAXES

- 18.1 CARRIER shall be responsible for all federal, state or local, sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees, or surcharges (hereinafter "Tax(es)") imposed on or with respect to the products and/or services provided under this Agreement including those Taxes the incidence of which is imposed on AT&T-22STATE other than taxes imposed on the income of AT&T-22STATE. CARRIER shall reimburse AT&T-22STATE for the amount of any such Taxes that AT&T-22STATE is required to pay or collect. CARRIER agrees to indemnify and hold harmless AT&T-22STATE for any costs

incurred by **AT&T-22STATE** as a result of actions taken by the applicable taxing authority to collect the Tax from **AT&T-22STATE** due to the failure of CARRIER to pay or collect and remit any Tax to such authority. Nothing shall prevent **AT&T-22STATE** from paying any Tax to the appropriate taxing authority prior to the time: (1) it bills CARRIER for such Tax, or (2) it collects the Tax from CARRIER. Notwithstanding anything in this Agreement to the contrary, CARRIER shall be liable for and **AT&T-22STATE** may collect Taxes which were assessed by or paid to an appropriate taxing authority within the statute of limitations period but not included on an invoice within four (4) years after the Tax otherwise was owed or due.

- 18.2 To the extent a purchase of any products and/or services provided under this Agreement is claimed to be for resale and thus subject to tax exemption, CARRIER shall furnish **AT&T-22STATE** a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the CARRIER for any period prior to the date that CARRIER presents a valid certificate. If applicable law excludes or exempts a purchase of a product and/or service provided under this Agreement from a Tax, but does not also provide an exemption procedure, then **AT&T-22STATE** will not collect such Tax if CARRIER (a) furnishes **AT&T-22STATE** with a letter signed by an officer of the CARRIER claiming an exemption and identifying the applicable law that both allows such exemption and does not require an exemption certificate; and (b) supplies **AT&T-22STATE** with an indemnification agreement, reasonably acceptable to **AT&T-22STATE**, which holds **AT&T-22STATE** harmless from any Tax, interest, penalties, loss, cost or expense with respect to forbearing to collect such Tax.
- 18.3 With respect to any Tax or Tax controversy covered by this Section 18, CARRIER is entitled to contest with the imposing jurisdiction, pursuant to applicable law and at its own expense, any Tax that it is ultimately obligated to pay. CARRIER will ensure that no lien is attached to any asset of **AT&T-22STATE** as a result of any contest. CARRIER shall be entitled to the benefit of any refund or recovery of amounts that it had previously paid resulting from such a contest. Amounts previously paid by **AT&T-22STATE** shall be refunded to **AT&T-22STATE**.
- 18.4 If a Party is assessed by a taxing authority or jurisdiction any Tax which has been paid by or been invoiced to the other Party that arises in conjunction with or directly related to this Agreement, then the Parties will work cooperatively and assist each other as necessary in resolving the matter with the taxing authority or jurisdiction.

19. EFFECTIVE DATE, TERM, EXPIRATION AND TERMINATION

- 19.1 The Effective Date of this Agreement shall be the later of: (i) July 15, 2007; or (ii) the first date upon which both Parties' final authorizing signatures have been affixed to this Agreement (the "Effective Date").
- 19.2 Except as otherwise provided herein, the term (the "Term") of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on May 2, 2010 (the "Expiration Date"). This Agreement shall automatically terminate on May 3, 2010 ("Termination Date"); provided, however, subject to Section 19.3 below, the Parties understand and agree that the last date that CARRIER may sign up new end-users to be served under this Agreement is May 1, 2009. Subject to Section 19.3 below, CARRIER shall not sign up any new end-user customers under this Agreement on or after May 2, 2009. Rather, unless otherwise agreed to by the Parties, from May 2, 2009 through May 2, 2010 ("Year 4"), CARRIER may only continue to serve its embedded base of customers that it had in-service under this Agreement as of May 1, 2009 ("Embedded Base") until the Termination Date of this Agreement. On May 2, 2009, the monthly recurring prices for ABBS, Line Share One and Line Share services provided for under this Agreement to CARRIER's Embedded Base shall increase six percent (6%), as more specifically addressed in the attached Pricing Schedules to this Agreement. Upon the Termination Date of this Agreement, neither Party shall have any further obligation under this Agreement, except as otherwise set forth in Section 19.7 below and pursuant to Survival, Section 32.

The Parties agree to an orderly transition schedule requiring CARRIER to transition all CARRIER customers off the product and services provided under the AT&T-13STATE ABBS Attachment, the AT&T-13STATE Line Share One Attachment and the AT&T-9STATE Line Share Attachment beginning on January 2, 2010 and concluding such transition no later than May 2, 2010. If and to the extent CARRIER fails to comply with the transition schedule and does not transition its customers off these product and services by May 2, 2010, AT&T-22STATE may disconnect such line sharing (at its sole discretion and without notice to CARRIER), and CARRIER agrees that it has no rights (and shall take no action) at law or equity with respect to such disconnection. The recurring charges for AT&T-13STATE Line Share One in Attachment A, AT&T-9STATE Line Share in Attachment C, and AT&T-13STATE ABBS in Attachment B (increase by 100% for all line sharing lines remaining in service after May 2, 2010.

- 19.3 In the event that CARRIER should wish to pursue a successor agreement with AT&T-22STATE to have in place upon the Termination Date of this Agreement, CARRIER must provide AT&T-22STATE with a written request to negotiate no later than May 1, 2008. Upon AT&T-22STATE's receipt of CARRIER's request to negotiate, the Parties shall commence good faith negotiations for a successor agreement during the first six (6) months of the second year of the Term of this Agreement. If the Parties are unable to reach agreement on provisions for a successor agreement or arrangement during this six-month negotiations timeframe, i.e., before November 1, 2008, then CARRIER shall not sign up any new end-users to be served under this Agreement on or after May 2, 2009, as more specifically addressed in Section 19.2 above.
- 19.4 The rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of: (i) the effective date of the successor agreement, if any; or (iii) the Termination Date set forth in Section 19.2 above.
- 19.5 Notwithstanding any other provision of this Agreement, and in addition to AT&T-22STATE's rights to terminate under other Sections of this Agreement, a Party may terminate this Agreement in the event that the other Party fails to perform a material obligation or materially breaches this Agreement and the other Party fails to cure such nonperformance or breach by 5:00 p.m. Central Time on the 45th calendar day after receipt of written notice thereof. If the Party against which the claim of nonperformance or breach is made materially and in good faith disagrees with the claim, it shall notify the claiming Party of its disagreement in writing by 5:00 p.m. Central Time of the 14th day following receipt of the nonperformance/breach notice, providing with specificity the basis for its disagreement, and the dispute shall then be resolved between the Parties pursuant to Section 11 above (as to billing disputes) and Section 12 above. If the nonperformance/breach is not disputed in a timely manner, the Party shall cure the nonperformance/breach and certify in writing to the other by deadline on the 45th day that the nonperformance/breach has been cured. Any termination of this Agreement pursuant to this Section 19 shall take effect in accordance with the written notice delivered to the nonperforming/breaching Party after it failed to cure and/or to certify by the deadline on that 45th day.
- 19.6 Except as otherwise set forth in Section 19.7 below, prior to the Termination Date of this Agreement, AT&T-22STATE and CARRIER shall cooperate in good faith to effect an orderly transition of CARRIER's customers (including without limitation its end user customers) who are being served by CARRIER using the products and/or services hereunder; provided that CARRIER shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its customers (including without limitation its end user customers) have been transitioned to another serving arrangement or to a different telecommunications carrier by the Termination Date of this Agreement or that such customers (including without limitation its end user customers) have otherwise been informed by CARRIER that their CARRIER-provided products and/or services will be discontinued/disconnected by CARRIER on or before the Termination Date, unless otherwise provided herein or agreed by both Parties. If, before the Termination Date, CARRIER has not transitioned or disconnected/discontinued the services that are being provided using the products and/or services hereunder, then AT&T-22STATE may terminate any such CARRIER services still in-service on the first day following such Termination Date unless otherwise agreed in a writing signed by both Parties.

- 19.7 Upon the Termination Date of this Agreement, in one or more State, neither Party shall have any further obligation under this Agreement in such State or State(s), except:
- 19.7.1 Each Party's confidentiality obligations shall survive; and
 - 19.7.2 Each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement;
 - 19.7.3 As provided in Survival, Section 32; and
 - 19.7.4 As may be provided elsewhere in the Agreement (including without limitation the Attachments).
- In any event, AT&T-22STATE shall be under no obligation to provision any products and/or services pursuant to this Agreement as of the Termination Date.
- 19.8 Intentionally omitted.
- 19.9 Intentionally omitted.
- 19.10 In addition, AT&T-22STATE shall have the right, at its sole discretion, to terminate this Agreement if an "Event of Default" occurs, with neither any notice of default by AT&T-22STATE nor an opportunity for cure by CARRIER required. Such right shall be exercised by providing a written notice to terminate to CARRIER. Events of Default shall be the following event, each of which the Parties agree would be a material breach of this Agreement:
- 19.10.1 The filing of a bankruptcy by CARRIER or any of its Affiliates (including the corporate parent of CARRIER, if any), pursuant to Chapter 7 or 11 of Title 11 of the United States Code.
 - 19.10.2 the assignment, subcontracting, or otherwise transferring of CARRIER's rights or obligations under this Agreement in violation of Section 15.

20. WAIVER

- 20.1 The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times, in full force and effect, unless terminated or amended as provided for herein.

21. DISCLAIMER OF WARRANTIES

- 21.1 AT&T-22STATE MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO PRODUCTS AND/OR SERVICES PROVIDED HEREUNDER, AND AT&T-22STATE DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR INTENDED OR PARTICULAR PURPOSE FOR EACH PRODUCT AND SERVICE. ADDITIONALLY, AT&T-22STATE ASSUMES NO RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY CARRIER WHEN THIS DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

22. RELATIONSHIP OF THE PARTIES

- 22.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party (and each Party's contractor(s), if any) shall be solely responsible for all

matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

- 22.2 This Agreement shall not establish, be interpreted as establishing, or be used by either Party to establish or to represent their relationship as any form of agency, partnership or joint venture. Neither Party shall have any authority to bind the other or to act as an agent or representative for the other unless written authority, separate from this Agreement, is provided. Nothing in this Agreement shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both of the Parties. Nothing herein shall be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. No Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

23. FILING OF AGREEMENT; GOVERNMENTAL REQUIREMENT

- 23.1 To the extent required (and not exempted), the Parties understand and agree that this Agreement will be filed with the Federal Communications Commission pursuant to 47 U.S.C. § 211.
- 23.2 The Parties further understand and agree that to the extent a Party ("Disclosing Party") is requested, required or ordered by a state regulatory body or a court of competent jurisdiction finds, that this Agreement should be filed, or that such Agreement should be submitted to a state regulatory body for approval, or should a regulatory body or court of competent jurisdiction find that its provisions should be tariffed pursuant to applicable law or regulation, the Disclosing Party must provide the other Party ("Receiving Party") with written notice of such requirement as soon as possible and the Receiving Party shall cooperate with the Disclosing Party in expeditiously complying with any such request, order or finding.

24. AMENDMENTS AND MODIFICATIONS

- 24.1 Except as otherwise provided for in this Agreement, no provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

25. INTERPRETATION/JOINT WORK PRODUCT

- 25.1 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective representatives and legal counsel, and shall be fairly interpreted in accordance with its provisions and, in the event of any ambiguities, no inferences shall be drawn against either Party.

26. NO LICENSE

- 26.1 Except at otherwise expressly provided in this Agreement (including without limitation any Attachment), no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

27. INTELLECTUAL PROPERTY

- 27.1 Any Intellectual Property originating from or developed by a Party shall remain in the exclusive ownership of that Party.

28. COMPLIANCE AND CERTIFICATION

- 28.1 Each Party shall comply at its own expense with all applicable laws that relate to that Party's obligations to the other Party under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of applicable law.
- 28.2 CARRIER warrants that, to the extent applicable and required, it has obtained all necessary State certification required in each State covered by this Agreement. Upon request, each Party shall provide proof of certification.
- 28.3 Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, governmental authorities, building and property owners, other carriers, and any other third parties that may be required in connection with the performance of its obligations under this Agreement.
- 28.4 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA, to the extent applicable.

29. NETWORK MAINTENANCE AND MANAGEMENT

- 29.1 The Parties will exchange information appropriate for the implementation and performance of this Agreement (for example, as applicable, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, escalation processes, etc.).
- 29.2 Each Party will provide a 24-hour contact number for network management issues to the other's surveillance management center.
- 29.3 CARRIER shall not use any products and/or services hereunder in any manner that interferes with or impairs or undermines service over any facilities of AT&T-22STATE, its affiliated companies or other connecting telecommunications carriers, prevents any telecommunications carrier from using its telecommunications service, impairs the quality or the privacy of telecommunications service to other carriers or to either Party's end users, causes hazards to either Party's personnel or the public, damage to either Party's or any connecting carrier's facilities or equipment, including any malfunction of ordering or billing systems or equipment. Upon such occurrence either Party may discontinue using or refuse to provide the products and/or services hereunder, but only for so long as the other Party is violating this provision. Upon any such violation, either Party shall provide the other Party notice of the violation at the earliest practicable time.

30. CUSTOMER INQUIRIES/END USER NOTICES

- 30.1 Except as may otherwise be required hereunder, each Party will refer all questions regarding the other Party's services or products directly to the other Party.
- 30.2 Except as may otherwise be required hereunder, each Party will ensure that its representatives who receive inquiries regarding the other Party's services:
- 38.2.1 Direct the caller to the other Party if the caller inquires about the other Party's services or products;
and
- 38.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.

- 30.3 CARRIER shall be responsible for all notices and other communications with its customers (including without limitation end user customers), including without limitation any notices of pending disconnection due to the termination or expiration of this Agreement.

31. INSURANCE

- 31.1 At all times during the term of this Attachment, each Party shall keep and maintain in force at its own expense the following minimum insurance coverage and limits and any additional insurance and/or bonds required by applicable law:
- 31.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Attachment and Employers Liability insurance with minimum limits of \$100,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$100,000 for Bodily Injury by disease-each employee.
 - 31.1.2 Commercial General Liability insurance, or a combination of such insurance with Umbrella Liability insurance, with combined minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations. Fire Legal Liability sub-limits of \$1,000,000 are also required if this Attachment involves collocation. The other Party must be named as an Additional Insured on the Commercial General Liability policy.
 - 31.1.3 If use of an automobile is required, Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, which coverage shall extend to all owned, hired and non-owned vehicles.
 - 31.1.4 Each Party shall require subcontractors providing services under this Attachment to maintain in force the insurance coverage and limits required in Sections 31.1.1 through 31.1.3 of this Attachment.
 - 31.1.5 The Parties agree that companies affording the insurance coverage required under this Section 31 shall have a rating of B+ or better and a Financial Size Category rating of VII or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance coverage.
 - 31.1.6 Each Party agrees to endeavor to provide the other Party with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein, but any event, will provide such notice as soon as reasonably practicable.
 - 31.1.7 Each Party agrees to accept the other Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
 - 31.1.7.1 The Party desiring to satisfy its Workers' Compensation and Employers Liability obligations through self-insurance shall submit to the other Party a copy of its Certificate of Authority to Self-insure its Workers' Compensation obligations issued by each state covered by this Attachment or the employer's state of hire; and
 - 31.1.7.2 The Party desiring to satisfy its automobile liability obligations through self-insurance shall submit to the other Party a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Attachment; and
 - 31.1.7.3 The Party desiring to satisfy its general liability obligations through self-insurance must provide evidence acceptable to the other Party that it maintains at least an investment

grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.

31.1.8 This Section 31 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement.

32. SEVERABILITY

32.1 Except as otherwise provided herein, if any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable (a "Severed Provision"), the Parties shall negotiate in good faith and use diligent efforts to amend this Agreement to replace the unenforceable provision with an enforceable provision that is mutually acceptable and that reflects the intent of the unenforceable provision as closely as possible. If the Parties are unable to reach such mutually acceptable new provisions within ninety (90) days, and the affected provision materially affects the economic value of this Agreement to either Party, then the materially affected Party may terminate this Agreement upon 90 days written notice to the other, during which time the Parties shall work cooperatively to establish an orderly transition of CARRIER's customers/End Users to other serving arrangements. In any situation in which the right to terminate under this Section 32.1 is triggered by State government action, the right to terminate shall arise only in the State in which such action occurred and would apply for that State only.

33. SURVIVAL

33.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Without limiting the general applicability of the foregoing, the following sections are specifically agreed by the Parties to continue beyond the termination or expiration of this Agreement: Sections 19 (Effective Date, Term, Expiration and Termination), 10 (Limitation of Liability/Indemnity), 21 (Disclaimer of Warranties), 11 (as to any billing/charges matters hereunder), 12 (as to any disputes hereunder), 13 (Nondisclosure) and 18 (Taxes).

34. AUTHORITY

34.1 Each of the AT&T-22STATE ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation or limited partnership duly organized, validly existing and in good standing under the laws of its state of incorporation or formation. Each of the AT&T-22STATE ILEC(s) for which this Agreement is executed represents and warrants that SBC Telecommunications, Inc. has full power and authority to execute and deliver this Agreement as agent for that AT&T-22STATE ILEC. Each of the AT&T-22STATE ILEC(s) for which this Agreement is executed represents and warrants that it has full power and authority to perform its obligations hereunder.

34.2 CARRIER represents and warrants that Covad Communications Company and DIECA Communications, Inc., are corporations duly organized, validly existing and in good standing under the laws of the States of California and Virginia, respectively, and have full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

34.3 Each individual whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

35. COUNTERPARTS

35.1 This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

36. ADVOCACY

- 36.1 AT&T-22STATE and CARRIER acknowledge and agree that: (a) the Services offered pursuant to this Agreement are jurisdictionally interstate and are therefore not subject to the jurisdiction of any state utility commission; (b) the Services offered pursuant to this Agreement are provided pursuant to Sections 201/202 of the Act and this Agreement will be filed with the FCC under Section 211 of the Act; (c) AT&T-22STATE's provision of the Services offered pursuant to this Agreement to CARRIER does not constitute a request by CARRIER or an offer by AT&T-22STATE of interconnection, unbundled access, resale or other services pursuant to Section 251 of the Telecommunications Act of 1996 (the "Act") or any state law counterpart(s); (d) the Services offered pursuant to this Agreement and this Agreement are not subject to Section 252 of the Act or any state law counterpart(s), including, without limitation, any requirement to negotiate, mediate, or arbitrate the Agreement pursuant to Section 252 of the Act, or file it with any state utility commission or the Federal Communications Commission; and (e) the Services offered pursuant to this Agreement and this Agreement are not subject to Section 271 of the Act. All disputes that arise under this Agreement shall be resolved solely pursuant to the Dispute Resolution provisions of this Agreement.
- 36.2 During the effectiveness of this Agreement, CARRIER:
- 36.2.1 shall not claim in any forum that the Services provided pursuant to this Agreement are subject to Sections 251, 252 or 271 of the Act or any state law counterpart(s), or that AT&T-22STATE is not meeting its unbundling obligations under Sections 251, 252 or 271 of the Act or any other provision of state or federal law with respect to the Services provided pursuant to this Agreement; and
- 36.2.2 waives any right to request that AT&T-22STATE provide the Services provided pursuant to this Agreement, under Sections 251 or 271 of the Act or under any UNE tariffs, SGATs or Interconnection Agreements or any other provision or regulation of state or federal law or pursuant to any other state or federal obligations or conditions; and
- 36.2.3 subject to Section 36.3 below, shall not initiate any proceedings or otherwise participate and/or intervene in any pending or future state or federal regulatory, judicial or legislative proceeding(s) seeking to require AT&T-22STATE to provide line sharing, the Broadband Architecture and/or Services under Sections 251, 252 or 271 of the Act or any other provision of state or federal law prior to the Order Cutoff Date (May 2, 2009) of this Agreement; and
- 36.3 For the avoidance of doubt, CARRIER shall not be prohibited from taking the position that federal and/or state law require line sharing in any proceeding of general applicability which may result in an interpretation of federal or state law which could have legal force or effect after the Order Cutoff Date (May 2, 2009) of this Agreement, provided that in any such proceeding, and in any individual filing in any such proceeding, CARRIER shall disclose that it is a party to this Agreement and that CARRIER is not seeking any ruling that AT&T-22STATE has any legal obligations with respect to access to line sharing, the Broadband Architecture and/or the Services other than as provided in this agreement prior to the Order Cutoff Date (May 2, 2009) of this Agreement.
- 36.4. In the event that the Parties do not complete a successor agreement within the six month period provided in Section 19.3 of this Agreement, nothing in this Agreement shall be deemed to prohibit CARRIER from thereafter initiating emergency proceeding before the FCC or any state public utility commission seeking to require AT&T-22STATE to provide access to line sharing, the Broadband Architecture and/or the Services under applicable law after the Order Cutoff Date (May 2, 2009) of this Agreement.
- 36.4.1 Notwithstanding any other provision of this Agreement, CARRIER agrees that it shall not assert any claims under federal antitrust laws or any similar state statute arising out of the refusal or

unwillingness of AT&T-22STATE to (i) enter into a successor agreement, or (ii) provide the Services after the Order Cutoff Date or the Expiration Date of this Agreement.

- 36.5 Nothing herein shall constitute a waiver, concession or admission by either Party and shall not prejudice either Party's positions it may have taken or will take in any future legislative, regulatory or judicial proceeding(s) following the termination of this Agreement, or any subsequent negotiations for a successor agreement to this Agreement; provided, however, notwithstanding anything to the contrary herein, the Parties understand and agree that no Party to this Agreement shall take any positions as to the other Party to this Agreement that are inconsistent with the provisions of this Agreement for application between the Parties during the effectiveness of this Agreement.

37. ENTIRE AGREEMENT

- 37.1 AT&T-12STATE and AT&T 9STATE only: The rates, terms and condition contained in this Agreement and any Attachments, appendices, exhibits, schedules, and addenda and other documents or instruments referred to herein and incorporated into this Agreement by reference (if any) constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings; proposals and other communications, oral or written between the Parties during the negotiations of this Agreement and through the execution and/or Effective Date of this Agreement. This Agreement shall not operate as or constitute a novation of any agreement or contract between the Parties that predates the execution and/or Effective Date of this Agreement.
- 37.2 AT&T CONNECTICUT ONLY: The rates, terms and conditions contained in this Agreement and any Attachments, appendices, exhibits, schedules, Addenda, and commission tariffs and other documents or instruments referred to herein and incorporated into this Agreement by reference constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written between the Parties pre-dating the execution of this Agreement; provided, however, that none of the rates, terms or conditions of this Agreement shall be construed to apply in any manner to any period prior to the termination and/or expiration date of any agreement that this Agreement replaces. This Agreement shall not operate as or constitute a novation of any agreement or contract between the Parties that predates the execution and/or Effective Date of this Agreement.

COMMERCIAL AGREEMENT

Please indicate the CARRIER OCN & ACNA next to the state(s) in which the CARRIER is authorized to do business and in which the CARRIER is requesting this Agreement apply:

	<u>OCN #</u>	<u>ACNA</u>		<u>OCN #</u>	<u>ACNA</u>
ARKANSAS			MISSOURI	<u>4687</u>	<u>OVC</u>
CALIFORNIA	<u>7871</u>	<u>OVC</u>	NEVADA		
CONNECTICUT	<u>2996</u>	<u>OVC</u>	OHIO	<u>3286</u>	<u>OVC</u>
ILLINOIS	<u>4681</u>	<u>OVC</u>	OKLAHOMA		
INDIANA	<u>4682</u>	<u>OVC</u>	TEXAS	<u>4694</u>	<u>OVC</u>
KANSAS	<u>2995</u>	<u>OVC</u>	WISCONSIN	<u>2992</u>	<u>OVC</u>
MICHIGAN	<u>4685</u>	<u>OVC</u>	ALABAMA	<u>0992</u>	<u>OVC</u>
FLORIDA	<u>4679</u>	<u>OVC</u>	GEORGIA	<u>4680</u>	<u>OVC</u>
KENTUCKY	<u>3832</u>	<u>OVC</u>	LOUISIANA	<u>1492</u>	<u>OVC</u>
MISSISSIPPI	<u>0773</u>	<u>OVC</u>	NORTH CAROLINA	<u>4691</u>	<u>OVC</u>
SOUTH CAROLINA	<u>1493</u>	<u>OVC</u>	TENNESSEE	<u>0636</u>	<u>OVC</u>

In the event CARRIER wants to change and/or add to the OCN and/or ACNA information set forth above, CARRIER shall send written notice to AT&T-22STATE to be received at least 30 days prior to the change and/or addition.

From:

To: 912816645846

07/23/2007 16:08

#122 P.003/005

COMMERCIAL AGREEMENT/AT&T-22STATE
PAGE 27 OF 27
AT&T-22STATE/COVAD

Signatures

Covad Communications Company and DIECA
Communications, Inc. d/b/a Covad Communications
Company


Illinois Bell Telephone Company d/b/a AT&T Illinois,
Indiana Bell Telephone Company Incorporated d/b/a
AT&T Indiana, Michigan Bell Telephone Company
d/b/a AT&T Michigan, Nevada Bell Telephone
Company d/b/a AT&T Nevada, The Ohio Bell
Telephone Company d/b/a AT&T Ohio, Pacific Bell
Telephone Company d/b/a AT&T California, The
Southern New England Telephone Company d/b/a
AT&T Connecticut, Southwestern Bell Telephone
Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T
Missouri, AT&T Oklahoma and/or AT&T Texas,
Wisconsin Bell, Inc. d/b/a AT&T Wisconsin by AT&T
Operations, Inc., their authorized agent

Name: Jim Kirkland

Name: Edie Reed, Jr.

Title: Executive Vice President, Strategic Development and
General Counsel

Title: Director - Contract Management

Signature: 
Date: 7/23/07

Signature: _____
Date: _____

BellSouth Telecommunications, Inc. d/b/a AT&T
Alabama, AT&T Florida, AT&T Georgia, AT&T
Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T
North Carolina, AT&T South Carolina, AT&T
Tennessee

Name: Kristen Shore

Title: Director - Product Management

Signature: _____
Date: _____

Signatures

**Covad Communications Company and DIECA
Communications, Inc. d/b/a Covad Communications
Company**

**Illinois Bell Telephone Company d/b/a AT&T Illinois,
Indiana Bell Telephone Company Incorporated d/b/a
AT&T Indiana, Michigan Bell Telephone Company
d/b/a AT&T Michigan, Nevada Bell Telephone
Company d/b/a AT&T Nevada, The Ohio Bell
Telephone Company d/b/a AT&T Ohio, Pacific Bell
Telephone Company d/b/a AT&T California, The
Southern New England Telephone Company d/b/a
AT&T Connecticut, Southwestern Bell Telephone
Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T
Missouri, AT&T Oklahoma and/or AT&T Texas,
Wisconsin Bell, Inc. d/b/a AT&T Wisconsin by AT&T
Operations, Inc., their authorized agent**

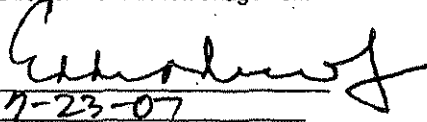
Name: Jim Kirkland

Name: Edie Reed, Jr.

Title: Executive Vice President, Strategic Development and
General Counsel

Title: Director -- Contract Management

Signature: _____
Date: _____

Signature: 
Date: 7-23-07

**BellSouth Telecommunications, Inc. d/b/a AT&T
Alabama, AT&T Florida, AT&T Georgia, AT&T
Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T
North Carolina, AT&T South Carolina, AT&T
Tennessee**

Name: Kristen Shore

Title: Director -- Product Management

Signature: _____
Date: _____

Signatures

Covad Communications Company and DIECA
Communications, Inc. d/b/a Covad Communications
Company

Illinois Bell Telephone Company d/b/a AT&T Illinois,
Indiana Bell Telephone Company Incorporated d/b/a
AT&T Indiana, Michigan Bell Telephone Company
d/b/a AT&T Michigan, Nevada Bell Telephone
Company d/b/a AT&T Nevada, The Ohio Bell
Telephone Company d/b/a AT&T Ohio, Pacific Bell
Telephone Company d/b/a AT&T California, The
Southern New England Telephone Company d/b/a
AT&T Connecticut, Southwestern Bell Telephone
Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T
Missouri, AT&T Oklahoma and/or AT&T Texas,
Wisconsin Bell, Inc. d/b/a AT&T Wisconsin by AT&T
Operations, Inc., their authorized agent

Name: Jim Kirkland

Name: Edie Reed, Jr.

Title: Executive Vice President, Strategic Development and
General Counsel

Title: Director - Contract Management

Signature: _____
Date: _____

Signature: _____
Date: _____

BellSouth Telecommunications, Inc. d/b/a AT&T
Alabama, AT&T Florida, AT&T Georgia, AT&T
Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T
North Carolina, AT&T South Carolina, AT&T
Tennessee

Name: Kristen Shore

Title: Director - Product Management

Signature: *Kristen L. Shore*
Date: *July 23, 2007*

ABBS ATTACHMENT TO COMMERCIAL AGREEMENT

1.0 Introduction:

- 1.1 The Parties understand and agree that this Attachment and the associated Pricing Appendix are limited to the AT&T-13STATE service area and set forth the rates, terms and conditions under which AT&T-13STATE will make available to CARRIER its dedicated interstate internet information access service, known as the Advanced Broadband Service for CARRIER to provide Digital Subscriber Line ("xDSL")-based services over AT&T-13STATE's next-generation packetized capabilities over AT&T-13STATE facilities (the "Broadband Architecture"). The rates, terms and conditions set forth in this Advanced Broadband Service ("ABBS") Attachment to the Parties' Commercial Agreement are specific to the ABBS and do not apply to AT&T-13STATE's Line Share One Service, AT&T-9STATE Line Share One Service or any other products and/or services made available under this Agreement, which is/are addressed in a separate Attachment(s) to this Agreement. The General Terms and Conditions of this Agreement shall apply and are integral to, all of the rates, terms and conditions set forth in this ABBS Attachment; provided, however, to the extent of any conflict between the General Terms and Conditions of this Agreement and this ABBS Attachment, then this ABBS Attachment shall control but only as to the ABBS.
- 1.2 The network service arrangements associated with the ABBS Service are all integrated to one another and as such, are being offered as an end-to-end access service offering and are not available on an individual or unbundled basis.
- 1.3 CARRIER hereby warrants and represents that CARRIER's usage of the ABBS Service will be used solely and exclusively for traffic that is interstate in nature, or for jurisdictionally mixed traffic of which at least ten percent (10%) or more is interstate in nature.
- 1.4 This Attachment shall apply between the Parties, and each Party shall be bound to its provisions, in each and every AT&T-13STATE state in which CARRIER elects to provide xDSL-based services over AT&T-13STATE's Broadband Architecture pursuant to the ABBS Service provided under this Attachment and Agreement.
- 1.5 The facilities utilized by AT&T-13STATE to provide the ABBS Service under the provisions of this Attachment and Agreement shall remain the property of AT&T-13STATE.
- 1.6 The Parties understand and agree that no performance measures and remedies shall apply as to the ABBS Service and under this Attachment.
- 1.7 The Parties acknowledge and agree that the provisions set forth in this Attachment and Agreement are not subject to Sections 251/252 of the Act and are not subject to negotiation and/or arbitration under Section 252 of the Act unless both Parties otherwise voluntarily agree in a writing signed by both Parties.
- 1.8 ABBS is an end-to-end dedicated interstate internet information access service for CARRIER to provide Digital Subscriber Line ("xDSL")-based services over the next-generation packetized capabilities of AT&T-13STATE hybrid fiber/copper loops (hereinafter referred to as the "Broadband Architecture") and which consists of the following components: packet switch equipped remote terminals ("RTs"), an RT derived copper pair, the Central Office Terminal ("COT") fiber based connectivity from the RT to the aggregation device ("Aggregator") located in the AT&T-13STATE serving wire center ("SWC"), ATM capacity for routing and aggregation of incoming traffic from multiple RTs, and the associated cross-connects from the Aggregator to CARRIER's collocation arrangement in the AT&T-13STATE CO.

2.0 **Definitions:**

- 2.1 **"Aggregation Device" or "Aggregator"** as used herein means a device deployed in an end office for purposes of the routing and aggregation of incoming data traffic from an AT&T-13STATE Broadband Architecture-equipped RT.
- 2.2 **"Asymmetrical Digital Subscriber Line" or "ADSL"** as used herein refers to a specific type of DSL service that provides data and Internet connections that provide different speeds for upstream and downstream information.
- 2.3 **"Asynchronous Transfer Mode" or "ATM"** as used herein describes a packet-based technology that offers the efficiency of packet switching and the reliability of a circuit switched network.
- 2.4 **"Central Office Terminal" or "COT"** as used herein means a device deployed in an end office for purposes of the routing and aggregation of incoming voice traffic from an AT&T-13STATE Broadband Architecture-equipped RT.
- 2.5 **"CARRIER"** as used herein shall mean Covad Communications Company and DIECA Communications, Inc., d/b/a Covad Communications Company.
- 2.6 **"Conditioning"** as used herein shall refer to the removal by AT&T-13STATE of excessive bridged tap (i.e., bridged tap in excess of 2,500 feet in length), load coils and/or repeaters on the DLE-HFS from the RT site to the demarcation point at the end user customer premises.
- 2.7 **"Digital Loop Carrier" or "DLC"** as used herein describes network transmission equipment used to provide pair gain on a loop facility.
- 2.8 **"Digital Loop Electronics" or "DLE"** as used herein means the specific outside plant loop network infrastructure that is described in detail below.
- 2.9 **"Digital Loop Electronics – High Frequency Spectrum" or "DLE-HFS"** as used herein is a collective reference to the following components of the Broadband Architecture: the Permanent Virtual Circuit, copper facilities, Remote terminal Functionality, and Serving Area Interface (SAI) cross connect.
- 2.10 **"Fiber Distribution Frame" or "FDF"** as used herein refers to the frame upon which the OC level facilities terminate.
- 2.11 **"Packet Switching"** as used herein means the routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by DSLAMS, including but not limited to the ability to terminate an end-user customer's copper loop facility (which includes both a low-band voice channel and a high-band data channel, or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch(es).
- 2.12 **"Permanent Virtual Circuit" or "PVC"** as used herein means a virtual circuit that provides the equivalent of a dedicated private line service over a packet switched network architecture.
- 2.13 **"Remote Terminal" or "RT"** site as used herein is defined as either a Controlled Environmental Vault or "CEV", Hut and/or Cabinet equipped with the AT&T-13STATE Broadband Architecture deployed specifically for the purposes of providing ADSL service to an end user customer. Additional vendor applications may be deployed within the AT&T-13STATE at the discretion of AT&T-13STATE. CARRIER will be notified of any such future deployment via network disclosure.
- 2.14 **"Serving Area Interface" or "SAI"** as used herein describes a cross-connect location outside of the RT within which copper feeder facilities are cross-connected to copper distribution facilities servicing an end user customer location.

- 2.15 "Serving Wire Center" or "SWC" as used herein is defined as an end office equipped with the network infrastructure described herein.
- 2.16 "Unspecified Bit Rate" or "UBR" as used herein means an ATM Quality of Service or "QoS" that provides a transmission path through the packet switched portion of the Broadband Architecture at unspecified rates of speed (e.g. bandwidth).

3.0 **Description of Broadband Architecture:**

- 3.1 The Broadband Architecture deployed by AT&T-13STATE consists of the following components: an RT site equipped with the Broadband Architecture; RT derived copper DSL capable loop facilities; Dedicated fiber strands from the Broadband Architecture RT to the CO with individual strands specific to voice and data respectively; the Broadband Architecture deployed in the COT for the transport of the voice signal from the RT site to the AT&T-13STATE Voice Switch and/or Main Distribution Frame ("MDF"); and ATM capacity that will act as an Aggregator for the purpose of routing packet signals from the dedicated data fiber strand to a port purchased by CARRIER on the Aggregation Device.
- 3.2 The Broadband Architecture is installed in RT sites to effectively shorten copper loop facilities, as measured from the RT location, to less than 12 Kilofeet ("Kft") in most instances. The end-to-end ABBS will include the 2-wire copper facility from the RT site, through the SAI to the demarcation point at the end user customer premise. The feeder cable will be spliced to the backplane of the Broadband Architecture placed in the RT site. The ABBS will also include a 2-wire copper cross-connect in the SAI to an existing distribution copper loop facility associated with a subscriber address to the Broadband Architecture in the RT site. This cross-connect will serve to move the end-user customer's line from the existing copper based network topology onto the Broadband Architecture, effectively shortening the length of the copper facilities (feeder and distribution) from the RT site to the end user customer premises.
- 3.3 A combination voice and data card will be placed in the Broadband Architecture equipment in the RT site. At this time the only card being deployed by AT&T-13STATE is an ADSL service card. This card, along with the rest of the Broadband Architecture hardware and software, splits the voice and data signal and packetizes the data providing ATM data transport to the CO. A PVC will be established to route the data signal from the Broadband Architecture to the OC-3c ATM data transport facility to the CO and subsequently to a port purchased by CARRIER on the Aggregator.
- 3.4 From the RT site, OC-3s will be utilized to transport voice and data from the RT site to the CO on a non-protected fiber. An ATM based OC-3c will be provided for the data portion, and a Time Division Multiplexed ("TDM") based OC-3 will be provided for the voice path. In the CO, the incoming data OC-3c terminates on the COT.
- 3.5 Access to the ABBS is provided under this Agreement where AT&T-13STATE's Broadband Architecture has been deployed and is operational, and where facilities are available. The deployment of AT&T-13STATE's Broadband Architecture shall be at AT&T-13STATE's sole discretion. AT&T-13STATE will provide to CARRIER information regarding the deployment of this technology through network disclosures. Additional information is available via the applicable AT&T-13STATE Handbook.
- 3.6 Any ADSL service established under the terms of this Agreement must be compatible with the AT&T-13STATE Broadband Architecture deployed in a specific RT site and with any AT&T-13STATE Broadband Architecture COT equipment deployed in the SWC. Additionally, any service provisioned over the Broadband Architecture described herein is subject to the technical specifications outlined in the applicable AT&T-13STATE "Technical Publication" and Handbook.
- 3.7 Collocation in each end office in which CARRIER desires to provide the ABBS is required as the means of access to the network service configuration outlined below. CARRIER is responsible to ensure that any necessary collocation arrangement, whether virtual and/or physical, and any subsequent

collocation augments are completed and in place in each SWC in which CARRIER desires to place an order for any of the network service arrangements described within this Agreement. The installation of LGX panels provided by the CARRIER will accommodate the collocation requirement within this Agreement.

4.0 Data Service Configuration:

- 4.1 The data service configuration provides CARRIER the capability to provision data connectivity from an end user customer location, through the AT&T-13STATE Aggregator, terminating at the CARRIER collocation arrangement in the SWC. Such configuration will provide CARRIER the capability of provisioning an ADSL service to the end user customer location. Under this configuration, the retail voice service will continue to be provided by AT&T-13STATE over the same facility that CARRIER is providing xDSL-based service to the same end-user customer over the DLE-HFS component of the ABBS.
- 4.2 **DLE-HFS Permanent Virtual Circuit:** CARRIER will be required to provision a PVC from the Broadband Architecture, including the use of the ADSL Line Card, common control and necessary software supporting the Broadband Architecture system - to the Aggregator Port purchased by CARRIER from AT&T-13STATE. As such, AT&T-13STATE will provide CARRIER the DLE-PVC network service arrangement. This arrangement will provide CARRIER a PVC provisioned over the OC-3c ATM data transport facility extended to the Aggregator in the CO, to provide the data path from the RT to the Aggregator in the SWC.
- 4.3 **Aggregator Port Termination:** CARRIER will be required to purchase an Aggregator Port which terminates at the Aggregator in the AT&T-13STATE CO. The Aggregator Port Termination will aggregate incoming PVCs from multiple RT locations to the port purchased by CARRIER on the AT&T-13STATE Aggregator.
- 4.4 **Aggregator Cross-Connect to Collocation:** An Aggregator Cross-Connect to Collocation will be required to extend the Aggregator Port Termination to either a CARRIER virtual or physical collocation arrangement. This cross-connect will be offered at two (2) speeds: OC-3c and DS3c consistent with the Aggregator Port Termination above.

5.0 Network Service Arrangements:

- 5.1 The ABBS network service arrangements fall into two categories: the DLE-HFS; and the CO Infrastructure.
- 5.2 The DLE-HFS consists of three individual network elements: the copper facility, the SAI cross connect, and the Permanent Virtual Circuit that provides connectivity from the ABBS enabled RT to the Aggregator located in the SWC.

5.2.1 **DLE-HFS:**

- 5.2.1.1 The DLE-HFS consists in part of the copper facility that is comprised of the distribution portion of the loop facility beginning at the SAI and extending to the demarcation point at the end user customer premise.
- 5.2.1.2 The copper facility and the PVC will be allocated on a per-ADSL-Line-Card-port basis to provide data connectivity from the end user customer premises to the Aggregator Port purchased by CARRIER in the AT&T-13STATE CO.
- 5.2.1.3 CARRIER will purchase the DLE-HFS as part of the ABBS to provide xDSL-based services over the Broadband Architecture. The voice portion of this loop facility (the narrowband) will belong to AT&T-13STATE. This option will not be available to CARRIER where the retail voice (POTS) service is provided by any carrier other than AT&T-13STATE, including those situations where the voice service is provided by any

other carrier on a resale or leased basis (e.g., what has been known as the UNE Platform) or is providing service over its own facilities.

5.2.1.4 The Aggregator Port Termination and Aggregator Cross-Connect to Collocation must be in place two (2) business days prior to CARRIER's placing of service orders for the DLE-HFS.

5.2.2 DLE- HFS PVC:

5.2.2.1 The DLE-HFS PVC network service arrangement will consist of a Permanent Virtual Circuit to transmit the data signal from the Broadband Architecture equipped RT over the OC-3c fiber facility to the Aggregator in the CO and subsequently aggregate traffic through the Aggregator to the CARRIER Aggregator Port Termination.

5.2.2.2 This network service arrangement will consist of a port on the ADSL Line Card in the Broadband Architecture equipped RT site and a virtual connection from the Broadband Architecture equipped RT to the end office Aggregator and subsequent CARRIER purchased Aggregator Port Termination. Virtual cross-connects will be established from the ADSL Line Card port routing the data traffic through the Broadband Architecture to the OC-3c transport facility. An additional virtual cross-connect will be established in the Aggregator to route traffic through the Aggregator to the CARRIER Aggregator Port Termination. All of the virtual connections mentioned above are included in the DLE-PVC network service arrangement.

5.2.3 **Class of Service or "Cos":** AT&T-13STATE will offer only an ADSL Class of Service PVC at this time.

5.2.3.1 AT&T-13STATE will make available to CARRIER an Unspecified Bit Rate ("UBR") Quality of Service PVC for the establishment of CARRIER DSL service. One UBR PVC will be made available to CARRIER per end user service. The UBR PVC will be established using the process as outlined in the Provisioning section (Section 8) of this Agreement. CARRIER is restricted to the provision of Discrete Multi-Tone ("DMT") service in conjunction with the UBR PVC.

5.2.3.2 The maximum number of PVCs that can be provisioned over the Broadband Infrastructure is dependent upon the form of Aggregator Port Termination, as described below, purchased by CARRIER. Additionally, upstream and downstream bandwidth specified by CARRIER will further impact the volume of PVCs capable of being provisioned through the Aggregator. CARRIER will be responsible for ensuring that there is sufficient capacity on its Aggregator Ports (DS3c or OC-3c) purchased by CARRIER from AT&T-13STATE to support CARRIER-provided PVCs over this infrastructure.

5.2.3.3. In such instance as CARRIER traffic exceeds thresholds for port capacity published in AT&T-13STATE Technical Publications, AT&T-13STATE reserves the right to exercise the appropriate remedy to maintain the integrity and availability of services over the AT&T-13STATE Broadband Architecture. Potential remedies could include, but are not limited, to the discontinuation of service across the shared OC-3c facility and/or to require CARRIER to purchase additional ports or capacity prior to accepting orders for additional PVCs.

5.2.3.4 PVCs are configured in advance by ATM service providers between the end user customer and a single service provider. Under the terms of this Agreement, CARRIER represents the single service provider. CARRIER is responsible for providing the information necessary for AT&T-13STATE to provision the PVC over the AT&T-

13STATE Broadband Network Infrastructure. This information must be provided by the CARRIER to AT&T-13STATE pursuant to the CARRIER Information Form ("CLIF") process consistent with the CARRIER Profile Process outlined below in this Agreement and as addressed in the Broadband Ordering Guidelines and Broadband Ordering Profile ("BOP") User Guide, located within the applicable AT&T-13STATE Handbook.

5.2.3.5 AT&T-13STATE will be responsible for network monitoring of the use of the common OC-3c between the CO and the RT site. In the provisioning of the PVC, CARRIER will be restricted to upstream and downstream bandwidth, aggregate power and noise settings compatible with the card vintage deployed in the Broadband Architecture equipment. AT&T-13STATE will require from CARRIER an annual forecast of expected traffic through each shared OC-3c network service arrangement over which CARRIER establishes a PVC. In addition, a revised forecast will be required at any such time CARRIER anticipates a significant (i.e., 30% or more) increase or decrease in traffic. AT&T-13STATE will specify format or will provide format upon request by CARRIER.

5.2.3.6 AT&T-13STATE will not allocate PVCs by bandwidth, but reserves the right to modify this Agreement in order to do so, dependent upon traffic concerns over the shared OC-3c data facility should the amount of cumulative traffic over this shared facility from all ADSL providers exceed a threshold of 60 percent (60%) of the maximum capacity of the OC-3c bandwidth available for ADSL traffic.

5.2.4 Aggregator Port Termination:

5.2.4.1 The incoming dedicated OC-3c for data will terminate in the Aggregator. An Aggregator will be placed in each SWC where this product is made available. CARRIER will be required to purchase a port termination on the Aggregator. The Aggregator Port Termination will be provided at the DS3c or OC-3c rate as ports on the Aggregator.

5.2.4.2 In addition to the Aggregator Port Termination, CARRIER must purchase a physical Aggregator cross-connect. This cross-connect will be an optical cross-connect in the case of an OC-3c or electrical in the case of a DS3c. In either case, CARRIER must have established the necessary collocation arrangement capable of accepting this cross-connect prior to placing an order for the Aggregator Port Termination and Cross-Connect.

5.2.4.3 In the case of a DS3c port, the necessary collocation arrangement must consist of a physical piece of equipment capable of accepting a DS3c cross-connect and the necessary collocation facility from the AT&T-13STATE DSX location to the CARRIER virtual or physical collocation arrangement.

5.2.4.4 In the case of an OC-3c port, the necessary collocation arrangement must consist of a physical piece of equipment capable of accepting an OC-3c optical cross-connect and the necessary collocation facility from the FDF to the CARRIER virtual or physical collocation arrangement.

5.2.4.5 The Aggregator OC-3c or DS3c cross-connect consists of an optical or electrical cross-connect from the FDF or DSX location respectively, in the SWC that will allow for the Aggregator Port Termination to be extended to CARRIER's physical or virtual point of collocation.

5.2.4.6 The maximum number of PVCs capable of being provisioned through an Aggregator Port varies on the level of service being provisioned through such port. AT&T-13STATE technical specifications define these limits at 1000 PVCs per DS3c port and 2000 PVCs

per OC-3c port. However, CARRIER is responsible to monitor services offered by CARRIER through an Aggregator port purchased by CARRIER from AT&T-13STATE. AT&T-13STATE does not guarantee any specific number of PVCs being available through any OC-3 or DS3 Aggregator port.

5.2.4.7 CARRIER will be allotted one Aggregator Port Termination for live customer traffic and an optional second Aggregator Port Termination for redundancy. Additional Aggregator Ports will be provided only if and when CARRIER has reached a threshold utilizing 60 percent (60%) of available capacity on the existing CARRIER Aggregator Port Termination being used to provide live customer traffic.

5.2.4.8 AT&T-13STATE does not guarantee the availability of a specific level of Aggregator Port Termination, DS-3c or OC-3c, in any specific end office.

6.0 Availability of Future Features and Functionalities:

6.1 At this time only an ADSL/UBR QoS offering is available in conjunction with the ABBS configurations outlined in this Agreement. In the event that the vendor of the ABBS Broadband Architecture should develop in the future a feature or functionality for use with AT&T-13STATE DLE equipment deployed in RTs that is desired by CARRIER, AT&T-13STATE will evaluate deployment of such feature or functionality upon CARRIER's request; provided however, the Parties understand and agree that it is AT&T-13STATE's sole and exclusive right to determine whether and to what extent, if any, AT&T-13STATE will deploy such feature or functionality in connection with AT&T-13STATE's Broadband Architecture. Subject to Section 5.2 of the General Terms and Conditions of this Agreement, in the event that AT&T-13STATE upgrades a component or part of the Broadband Architecture as described in this ABBS Attachment and AT&T-13STATE makes such upgrade available to its advanced services affiliate in connection with AT&T-13STATE's ABBS offering, AT&T-13STATE will make such upgrade available to CARRIER on a nondiscriminatory basis e.g., ADSL 2+ service cards in a remote terminal. If and when AT&T-13STATE develops an RT Data only offering or any other related alternative commercial offerings become available, AT&T-13STATE will notify CARRIER and CARRIER may amend its agreement to incorporate rates, terms and conditions for such offering(s).

7.0 Aggregator Port Sharing:

7.1 AT&T-13STATE will permit CARRIER to share an Aggregator Port with a third party carrier that requests shared use of the CARRIER Aggregator Port Termination. Such arrangement shall be offered at the sole discretion of CARRIER; provided, however, any such third party carrier that plans to issue service orders for the provision of xDSL service through CARRIER's Aggregator Port Terminations must enter into its own ABBS Stand-Alone Commercial Agreement with AT&T-13STATE to provide xDSL service using the ABBS separate and apart from this Agreement. The third party carrier's separate ABBS Agreement must be in effect before the third party carrier issues any service orders for the provision of xDSL service through CARRIER's Aggregator Port Terminations. In addition, at least seven (7) business days in advance of any such third party carrier issuing service orders for the provision of xDSL service through CARRIER's Aggregator Port Terminations, CARRIER must provide to AT&T-13STATE a Letter of Authorization ("LOA") from CARRIER indicating CARRIER's agreement to provide such service to any such third party carrier.

8.0 Provisioning and Installation:

8.1 AT&T-13STATE will not guarantee that the arrangements provided in conjunction with this Agreement will perform as desired by CARRIER for xDSL-based or other advanced services, but will guarantee basic metallic loop parameters, including continuity, pair balance, and any required Conditioning to meet the appropriate ANSI Standards as necessary and as described in section 8.2. Any CARRIER-requested testing which AT&T-13STATE agrees to perform beyond these parameters shall be paid for by CARRIER on a time and materials basis, in 30-minute increments, at the applicable FCC tariffed

Maintenance of Service charges referenced in the ABBS Pricing Appendix. Any CARRIER-requested testing which AT&T-13STATE agrees to perform in off-hours shall be subject to Overtime or Premium time charges at Overtime time charges calculated at one and one half times the standard price and Premium time being calculated at two times the standard price of the applicable, referenced FCC tariffed Maintenance of Service Charges.

- 8.2 Conditioning: Conditioning may be necessary in association with the DLE-HFS. The DLE-HFS monthly recurring and nonrecurring rates set forth in the attached ABBS Pricing Appendix (Appendix "A") to this Agreement include the costs associated with AT&T-13STATE performing a mechanized loop qualification on Carrier's behalf (as more specifically addressed in Section 10.1 below) and any line Conditioning (i.e., excessive bridged tap, load coils and/or repeaters) performed by AT&T-13STATE that is required for the facility to meet applicable ANSI industry standards as necessary and as defined in the National Standard, Spectrum Management for Loop Transmission Systems, Issue 2, T1E1.4/2002-002R3, and as such standards may be modified from time to time ("ANSI Standards"). To the extent that Carrier requests via maintenance trouble ticket, and AT&T-13STATE agrees to perform conditioning in connection with the DLE-HFS to remove any non-excessive bridged tap (conditioning beyond that called for by the ANSI standards), CARRIER shall pay AT&T-13STATE for such work at the rates that are set forth on the attached ABBS Pricing Appendix. Nothing herein shall foreclose the Parties, at either Parties request, from working towards and agreeing to substantive improvements to the conditioning processes applicable under this Agreement. Any agreed-upon substantive improvements to the conditioning processes provided for herein during the Term of this Agreement will be memorialized by AT&T-13STATE via an Accessible Letter or individual CARRIER letter, when appropriate.
- 8.3 CARRIER may submit orders for the DLE-HFS using their existing, numeric profiles as described in section 9.0, where applicable. In the event that conditioning as described in section 8.2 is required, CARRIER may be required to submit a supplemental LSR or a maintenance ticket to authorize such conditioning.
- 8.4 Provisioning and installation of the network service arrangements and service configurations described in this Agreement will be provided for in two separate service orders: CARRIER infrastructure orders and CARRIER DLE-HFS specific orders.
- 8.5 Infrastructure Service Order:
- 8.5.1 The Infrastructure Service order is required for the establishment of data connectivity from the Aggregator to the CARRIER collocation arrangement and subsequent ATM network. This order consists of the Aggregator Port Termination and associated Cross-Connect to Collocation. Both of these service arrangements will be provided for on one Access Service Request ("ASR").
- 8.5.2 CARRIER must complete the necessary network infrastructure to support its DSL service in the DLE-HFS environment two (2) business days prior to placing an end user service order as defined below.
- 8.5.3 In conjunction with each ASR submitted, CARRIER must also submit a CARRIER Information Form ("CLIF") indicating virtual parameters that must be established in conjunction with the CARRIER purchased Aggregator Port Termination. These parameters include the following: Customer Address (Point of Presence or "POP" Location); Connection Speed (OC-3c or DS3c); Connection Type (UNI DCE or UNI DTE); Virtual Path Indicator ("VPI") and Virtual Channel Indicator ("VCI") Ranges; and Number of Connections.
- 8.5.4 Specific VPI/VCI values provided on the CLIF must be consistent with published parameters outlined in the AT&T-13STATE "ABBS Technical Publication". This document outlines the compatible VPI/VCI ordering ranges with AT&T-13STATE equipment deployed in conjunction with this architecture.

- 8.5.5 The provisioning and installation intervals for infrastructure as provided in this Agreement will vary by AT&T-13STATE ILEC.
- 8.5.6 Provisioning and installation intervals for DS3c and OC-3c Aggregator Port Terminations, in AT&T MIDWEST REGION 5-STATE, AT&T-2STATE and AT&T CONNECTICUT will be agreed upon by the Parties on an individual case basis.
- 8.5.7 AT&T SOUTHWEST REGION 5-STATE only: The provisioning and installation intervals for DS3c Aggregator Port Terminations, in AT&T SOUTHWEST REGION 5-STATE, will be ten (10) business days from the receipt of an accurate and valid ASR. Five (5) business days are required for facilities verification and five (5) business days are required for the provision of service. Provisioning and installation intervals for OC-3 Aggregator Port Terminations, in AT&T SOUTHWEST REGION 5-STATE will be negotiated and agreed upon by the Parties on an individual case basis.
- 8.6 DLE-HFS Service Order:
- 8.6.1 CARRIER's DLE-HFS service orders will consist solely of the DLE-HFS and will be ordered on one Local Service Request ("LSR").
- 8.6.2 CARRIER's LSR will designate which speed profile the customer will be provided based upon the virtual parameters established previously as part of the CARRIER's Broadband Ordering Profile ("BOP").
- 8.6.3 The provisioning and installation interval for the DLE-HFS service arrangement provided for in this Agreement where no conditioning is required, shall be three (3) business days on orders for 1-20 DLE-HFS arrangements per order for a single end-user location, unless CARRIER is notified otherwise via existing jeopardy notification process.
- 8.6.4 Orders for more than 20 DLE-HFS arrangements per order for a single end user customer location, where no conditioning is required will have a provisioning and installation interval of fifteen (15) business days, or as agreed upon by the Parties, unless CARRIER is notified otherwise via existing jeopardy notification process. In the event the end user customer requires conditioning during non-working hours, the due date may be adjusted consistent with end user release of circuit and Premium and/or Overtime charges may apply at the applicable FCC tariffed time and material charges referenced in Section 8.1 above.
- 9.0 Carrier Profile:
- 9.1 Prior to ordering service at an end-user location as provided in this Agreement, CARRIER must establish a CARRIER Profile in the BOP graphical user interface. This interface will provide CARRIER with the capability to establish values associated with each end user's service in the Network Management System ("NMS") controlling both the Aggregator and the NGDLC in the RT site. CARRIER'S profile will be driven by CARRIER's AECN and will consist of different combinations of upstream and downstream minimum and maximum bandwidth settings.
- 9.2 CARRIER is restricted to valid combinations compatible with the DLE-HFS equipment deployed by AT&T-13STATE. Such values are outlined in the applicable AT&T-13STATE "ABBS Technical Publication."
- 9.3 AT&T-13STATE does not guarantee any amount of upstream or downstream minimum or maximum bandwidth as established by CARRIER in a specific service profile.
- 9.4 An initial Profile must be built by CARRIER five (5) business days prior to issuing any LSRs associated with end user service as provided in this Agreement. The CARRIER Profile of services as established via the BOP interface will encompass the entire AT&T-13STATE region.

- 9.5 CARRIER will have the ability to make changes to the CARRIER Profile. The changed CARRIER profile will be available to CARRIER when CARRIER orders new DLE-HFS'. However, previously established DLE-HFS' will not be automatically changed by the change of CARRIER Profile. Instead, should the CARRIER desire to change the CARRIER Profile for existing DLE-HFS', CARRIER must submit a "change" order for the existing xDSL service establishing the DLE-HFSe under the new Profile parameters. The standard charges for processing service orders that are set forth on the attached ABBS Pricing Appendix shall apply for all change orders. The provisioning and installation interval for each "change" order shall be one (1) business day. Currently, a maintenance process exists whereby CARRIER may submit a trouble ticket to the Local Operations Center in the event of an out-of-service condition, where it is suspected that the previously selected speed profile is the cause of trouble. Should a change in profile resolve the trouble, CARRIER must submit a Local Service Request ("LSR") requesting the new assigned profile within 48 hours of trouble ticket in order for AT&T-13STATE to leave new profile in effect as outlined in Accessible Letter CLECALL04-026, as such letter may be modified from time to time. In the event of any future changes to this process, AT&T-13STATE will notify carrier via subsequent accessible letter. AT&T-13STATE does not offer a CARRIER-to-CARRIER conversion of service or non-intrusive change of service profile values on a line-by-line basis.
- 9.6 AT&T-13STATE developed the BOP interface to encompass parameter values consistent across all vintages of the Broadband Architecture.
- 9.7 AT&T-13STATE reserves the right to restrict the number of service profiles that CARRIER is provided in conjunction with this offering due to technical considerations involving the vintage of the Broadband Architecture deployed in the AT&T-13STATE network. Due to such concerns, CARRIER may not establish more than ten (10) individual service profiles without AT&T-13STATE's advance express written authorization obtained through CARRIER's Account Manager.
- 9.8 Additional instructions relating to the BOP system can be found in the "BOP User Guide" which is available in the applicable AT&T-13STATE Handbook.
- 10.0 **Loop Make-Up Information and Ordering:**
- 10.1 Upon AT&T-13STATE's receipt of an LSR for the DLE-HFS from CARRIER, AT&T-13STATE will perform a loop qualification internally. Should such internal loop qualification indicate that the DLE infrastructure and thus an RT site is not available for that end user's loop facility AT&T-13STATE will reject such order. If the results of the loop qualification indicate that Conditioning is required, or if disturbers are detected by AT&T-13STATE during provisioning, AT&T-13STATE will perform Conditioning to remove excessive bridged tap, load coils and/or repeaters to meet appropriate ANSI standards, so long as such Conditioning will not significantly degrade AT&T-13STATE's voice service being provided by AT&T-13STATE to the end-user customer on the same facility, as more specifically set forth in Section 8.2 above. In the event that AT&T-13STATE determines that the required Conditioning would significantly degrade AT&T-13STATE's voice service being provided by AT&T-13STATE to the end-user customer over the same facility, the Parties understand and agree that AT&T-13STATE shall have the right to reject Carrier's LSR on that basis.
- 11.0 **Maintenance/Service Assurance:**
- 11.1 Narrowband/voice service: In regards to the line shared service configuration as outlined above, if the narrowband, or voice, portion of the DLE-HFS arrangement becomes significantly degraded due to the xDSL-based service being deployed over the DLE-HFS arrangement, certain procedures as detailed below will be followed to restore the narrowband, or voice service. Should only the narrowband or voice service be reported as significantly degraded or out of service, AT&T-13STATE shall repair the narrowband portion of the DLE-HFS arrangement without disturbing the broadband portion of the DLE-HFS if possible. In any case, AT&T-13STATE shall attempt to notify the end user customer and

CARRIER for permission any time AT&T-13STATE repair effort has the potential of affecting service on the broadband portion of the DLE-HFS. AT&T-13STATE may proceed with repair of the voice circuit if unable to reach end-user or CARRIER after a reasonable attempt has been made to contact both the end-user and CARRIER. When connected facility assignment or additional point of termination (CFA/APOT) change is required due to trouble, the pair change will be completed during the standard offered repair interval.

- 11.2 If CARRIER opens a trouble ticket for the network service arrangements offered in conjunction with the ABBS to AT&T-13STATE and the problem is determined to be in CARRIER's network, CARRIER will pay AT&T-13STATE the applicable FCC Maintenance of Service charges referenced in Section 8.1 above for trouble isolation, maintenance, and repair upon closing the trouble ticket.
- 11.3 Maintenance, other than assuring loop continuity and balance and the completion of any required Conditioning to remove excessive bridged tap, load coils and/or repeaters to meet appropriate ANSI standards, will only be provided on a time and material basis at the FCC tariffed time and material charges referenced in Section 8.1 above.
- 11.4 AT&T-13STATE will not guarantee that the DLE-HFS arrangement ordered will perform as desired by CARRIER for xDSL-based or other advanced services, but will guarantee basic metallic loop parameters, including continuity, pair balance, and any required Conditioning to meet the appropriate ANSI Standards as described in Section 8.2 above. CARRIER-requested testing beyond these parameters that AT&T-13STATE agrees to perform will be billed by AT&T-13STATE and paid by Carrier at the FCC tariffed time and material charges referenced in Section 8.1 above.
- 11.5 CARRIER shall not rearrange or modify the retail-POTS within its equipment in any way without first coordinating with AT&T-13STATE.
- 12.0 **Forecasts:**
- 12.1 In order for AT&T-13STATE to effectively manage network capacity through the Aggregator and the shared OC-3c facility from the RT to the Aggregator, CARRIER shall provide AT&T-13STATE a forecast to include, at a minimum a list of wire centers in which CARRIER is expected to purchase Aggregator ports and the type of port (OC-3c or DS3c) expected to be ordered on wire center-by-wire center basis. Additionally, CARRIER shall provide AT&T-13STATE a forecast of expected volume of PVCs to be provisioned through each Aggregator port on a wire center-by-wire center basis.
- 12.2 AT&T-13STATE will use such information only for the purposes of managing network capacity and will not divulge any such information to any third party or affiliate of AT&T-13STATE. Such forecast will be non-binding for both AT&T-13STATE and CARRIER. CARRIER agrees to provide such forecast upon such time as specific instructions are made available by AT&T-13STATE.
- 13.0 **Pricing:** The prices for the ABBS are set forth on the ABBS Pricing Schedule, which is attached hereto and incorporated herein by this reference.
- 14.0 **Disconnect of AT&T-13STATE's Retail POTS Service:** CARRIER will be notified when AT&T-13STATE's retail voice service in an ABBS arrangement is disconnected. Upon receipt of such notification, CARRIER will have the option to order a full stand alone xDSL loop, if such a loop is available to the end-user and such an xDSL loop is available under a separate agreement between CARRIER and the applicable AT&T-13STATE ILEC in that state or commission-approved tariffs, as applicable.

**LINE SHARE ONE ("LS ONE") ATTACHMENT
TO COMMERCIAL AGREEMENT**

1.0 Introduction:

- 1.1 The Parties understand and agree that this Attachment and associated Pricing Appendix set forth the rates, terms and conditions under which AT&T-13STATE will make available to Carrier its dedicated interstate internet information access service, known as the Line Share One service for Carrier to provide Digital Subscriber Line ("xDSL")-based services over AT&T-13STATE's copper facilities. The rates, terms and conditions set forth in this LS One Attachment to the Parties' Commercial Agreement are specific to LS One and do not apply to AT&T-13STATE's ABBS service or any other products and/or services made available under this Agreement, which is/are addressed in a separate Attachment(s) to this Agreement. CARRIER agrees that it will not purchase or otherwise obtain the use of any Line Share One services or any equivalent service, directly or indirectly, from AT&T-13STATE in the AT&T-13STATE Service Area except solely pursuant to the rates, terms and conditions set forth in this Attachment. Any breach of this provision shall be deemed a material breach of this Agreement. The General Terms and Conditions of this Agreement shall apply and are integral to, all of the rates, terms and conditions set forth in this LS One Attachment; provided, however, to the extent of any conflict between the General Terms and Conditions of this Agreement and this LS One Attachment, then this LS One Attachment shall control but only as to the LS One service.
- 1.2 The network service arrangements associated with the LS One service are all integrated to one another and as such, are being offered as an end-to-end access service offering and are not available on an individual or unbundled basis.
- 1.3 CARRIER hereby warrants and represents that CARRIER's usage of the LS One service will be used solely and exclusively for traffic that is interstate in nature, or for jurisdictionally mixed traffic of which at least ten percent (10%) or more is interstate in nature.
- 1.4 This Attachment shall apply between the Parties, and each Party shall be bound to its provisions, in each and every AT&T-13STATE state in which CARRIER elects to provide xDSL-based services via the LS One service provided under this Attachment and Agreement.
- 1.5 The facilities utilized by AT&T-13STATE to provide the LS One service under the provisions of this Attachment and Agreement shall remain the property of AT&T-13STATE.
- 1.6 The Parties understand and agree that no performance measures and remedies shall apply as to the LS One service and under this Attachment.
- 1.7 The Parties acknowledge and agree that the provisions set forth in this Attachment and Agreement are not subject to Sections 251/252 of the Act and are not subject to negotiation and/or arbitration under Section 252 of the Act unless both Parties otherwise voluntarily agree in a writing signed by both Parties.
- 1.8 AT&T-13STATE will make available to CARRIER its dedicated interstate internet information access service, known as LS One, for CARRIER to provide xDSL-based services over the high frequency spectrum of a copper facility originating out of an AT&T-13STATE central office (CO-HFS). The network service arrangements associated with LS One are all integrated to one another and as such, are being offered as an end-to-end service offering and are not available on an individual or unbundled basis. LS One will be available only in those instances where AT&T-13STATE is providing retail POTS, retail analog Centrex or retail analog POTS to the PBX voice services, where available, over the same facility, with the voice portion of the facility (the narrowband) belonging to AT&T-13STATE. This option will not be available to CARRIER where the retail voice service is provided by any carrier other than AT&T-13STATE, including those situations where the voice service is provided by any other carrier on a resale or leased basis (e.g., what has been known as the UNE Platform) or where such carrier is providing service over its own facilities.
- 1.9 LS One is an end-to-end service that will be provided by AT&T-13STATE to CARRIER which will consist of the following components: CO-HFS, Cross-Connects to CARRIER-provided splitter, mechanized line qualification, line conditioning, and if necessary a line and station transfer (LST). Manual line qualification

will only be performed by AT&T-13STATE in response to a CARRIER's request, and in such case, CARRIER will be billed and shall pay for any requested manual line qualification AT&T-13STATE performs on CARRIER's behalf at the rate referenced in the LS One Pricing Appendix.

- 2.0 **Deployment of xDSL Technologies:** AT&T-13STATE will provide LS One for CARRIER to deploy xDSL technologies presumed acceptable for deployment, as defined in the LS One Carrier Guidebook.
- 3.0 AT&T-13STATE will not guarantee that its LS One service will perform as desired by CARRIER for xDSL-based services, but will guarantee that it will provide CARRIER in connection with such service, the CO-HFS of a copper facility that meets basic metallic parameters, including continuity and pair balance and that conditioning has been performed to the extent provided for in Section 6.5 below.
- 4.0 **Disconnect of AT&T-13STATE's Retail POTS Service:** CARRIER will be notified when AT&T-13STATE's retail voice service in a LS One arrangement is disconnected. Upon receipt of such notification, CARRIER will have the option to convert the xDSL based service from LS One to a full stand alone xDSL loop if available under a separate agreement between CARRIER and the applicable AT&T-13STATE ILEC in that state or commission-approved tariffs, as applicable. If CARRIER does not elect to purchase the stand-alone xDSL loop (to the extent available), AT&T-13STATE's mechanized loss notification process for the LS One CO-HFS shall apply, which will provide CARRIER with notice that its CO-HFS and associated data service being provided over such facility has been disconnected. Further details concerning this process can be found in the LS One CARRIER Guidebook.
- 5.0 **Line Makeup Information and Ordering:** Upon AT&T-13STATE's receipt of an LSR for the CO-HFS from CARRIER, AT&T-13STATE will perform a mechanized line qualification internally. Should such internal, mechanized line qualification indicate that AT&T-13STATE's retail voice service is not being provided over a copper facility, and there is not a copper facility available to serve the end user customer, AT&T-13STATE will reject such order. If the known results of this line qualification reflect that excessive bridged tap and/or load coils are present on the CO-HFS, AT&T-13STATE will, prior to provisioning the CO-HFS, condition the CO-HFS to remove the excessive bridged tap and/or load coils if and only to the extent necessary for the CO-HFS to meet appropriate ANSI standards. CARRIER may request conditioning that is not reflected from the mechanized line qualification performed by AT&T-13STATE internally and additional conditioning if, and to the extent available, in accordance with Section 6.5 below. Should such internal, mechanized line qualification indicate that AT&T-13STATE's retail voice service is not being provided over a copper facility and CARRIER's LSR for the CO-HFS is rejected, then CARRIER may follow the processes set forth under a separate agreement between CARRIER and the applicable AT&T-13STATE ILEC in that state or commission-approved tariffs, if and as applicable, to order a stand-alone xDSL loop if and when available.
- 6.0 **Provisioning and Installation:**
- 6.1 AT&T-13STATE offers CARRIER two options for purchasing LS One:
- 6.1.1 **New End User:** (i.e., new end-users whose DSL transport is provided by CARRIER over LS One who are not migrated from another carrier and who are not a CARRIER embedded-base end-user); and
- 6.1.2 **Migration End User:** LS One end users that have been either: (i) migrated between two carriers i.e., from carrier A to carrier B; or (ii) migrated from a third party carrier's grandfathered HFPL product to LS One; or (iii) a CARRIER embedded-base line sharing end-user customer that CARRIER was serving via a prior line sharing arrangement with AT&T-13STATE in an AT&T-13STATE state prior to the Effective Date of this Agreement and who was migrated to be served under this LS One service and Agreement as of the Effective Date of this Agreement. Further migration scenarios are listed in the Line Share One Carrier Guidebook.
- 6.2 AT&T-13STATE's provisioning intervals per LS One order per end-user location shall be three (3) business days (which includes conditioning performed by AT&T-13STATE to remove excessive bridged tap and/or load coils that AT&T-13STATE's mechanized line qualification information reflects is present on the CO-HFS if and only to the extent necessary for the CO-HFS to meet appropriate ANSI standards). To the extent that CARRIER may wish to request conditioning of the CO-HFS if and to the extent available, it may

request such conditioning in accordance with Section 6.5 below. Grandfathered or embedded-base customers are automatically transitioned to the LS One agreement, with no need for additional provisioning.

- 6.3 **Expedites:** Expedites on LS One will not be allowed unless they meet the criteria stated in the LS One Carrier Guidebook. If CARRIER submits an expedited order that complies with the criteria set forth in the LS One Carrier Guidebook, the non-recurring fee set forth in the attached LS One Pricing Appendix shall apply to each expedited order that AT&T-13STATE handles on CARRIER's behalf.
- 6.4 **Line and Station Transfer ("LST"):** AT&T-13STATE, at its sole option, may perform an LST to establish a working CO-HFS in lieu of performing conditioning to remove excessive bridged tap and/or load coils as provided in Sections 5 and 6 above), during the initial provisioning of the CO-HFS.
- 6.5 **Line Conditioning:**
- 6.5.1 Conditioning may be necessary in association with the CO-HFS. To the extent AT&T-13STATE's mechanized line qualification information should reflect that excessive bridged tap and/or load coils are present on the CO-HFS, then AT&T-13STATE will condition the CO-HFS to remove any excessive bridged tap and/or load coils that are present on the CO-HFS if and only to the extent necessary for such CO-HFS to meet appropriate ANSI standards. To the extent CARRIER should wish to request that AT&T-13STATE perform conditioning to remove any load coils and/or excessive bridged tap not removed by AT&T-13STATE in the provisioning phase and/or repeaters and/or non-excessive bridged tap on the CO-HFS, CARRIER may request that such line conditioning be performed following provisioning of the CO-HFS (i.e., upon completion of the Local Service Request ("LSR") for a newly installed or migrated CO-HFS), via trouble ticket.
- 6.5.2 To the extent that CARRIER requests that AT&T-13STATE remove any non-excessive bridged tap from the CO-HFS, for newly installed or migrated facilities, CARRIER shall be billed and shall pay for such conditioning work at the rates set forth in the LS One Pricing Appendix for the removal of non-excessive bridged tap.
- 6.6 **Line Conditioning Intervals:** Upon AT&T-13STATE's acceptance of a trouble ticket for conditioning from CARRIER or internally generated trouble ticket, the work specified will be completed in 5 business days or less. Nothing herein shall foreclose the Parties, at either Party's request, from working towards and agreeing to substantive improvements to the conditioning intervals or the associated processes under this Agreement. Any agreed-upon substantive improvements to the conditioning intervals and/or associated processes during the Term of this Agreement will be memorialized by AT&T-13STATE via an Accessible Letter or individual CARRIER letter, when appropriate.
- 7.0 **Maintenance/Service Assurance:** AT&T-13STATE shall provide Maintenance Repair and Testing in accordance with the following:
- 7.1 Narrowband/voice service: In regards to the line shared service configuration as outlined above, if the narrowband or voice, portion of the CO-HFS arrangement becomes significantly degraded due to the xDSL-based service being deployed over the CO-HFS, certain procedures as detailed below will be followed to restore the narrowband, or voice service. Should only the narrowband or voice service be reported as significantly degraded or out of service, AT&T-13STATE shall repair the narrowband portion of the CO-HFS without disturbing the broadband portion of the CO-HFS if possible. In any case, AT&T-13STATE shall attempt to notify the end user customer and CARRIER for permission any time AT&T-13STATE repair effort has the potential of affecting service on the broadband portion of the CO-HFS. AT&T-13STATE may proceed with repair of the voice circuit if unable to reach end-user or CARRIER after a reasonable attempt has been made to do so. When connected facility assignment or additional point of termination (CFA/APOT) is encountered, the CARRIER will be required to submit an LSR to request the new facility.
- 7.2 If CARRIER opens a trouble ticket for the network service arrangements offered in conjunction with AT&T-13STATE LS One and the problem is determined to be in CARRIER's network, CARRIER will pay AT&T-13STATE the applicable, FCC tariffed time and material charges for trouble isolation, maintenance, and repair upon closing the trouble ticket, as referenced in the LS One Pricing Appendix.

- 7.3 Maintenance, other than assuring continuity and balance of the facility and the completion of any necessary conditioning as provided hereinabove, will only be provided on a time and material basis at the applicable, FCC tariffed time and material charges referenced in the LS One Pricing Appendix.
- 7.4 AT&T-13STATE will not guarantee that the CO-HFS arrangement ordered will perform as desired by CARRIER for xDSL-based or other advanced services, but will guarantee basic metallic parameters, including continuity and pair balance. CARRIER-requested testing beyond these parameters that AT&T-13STATE agrees to perform will be billed by AT&T-13STATE and paid by CARRIER at the applicable, FCC tariffed time and material charges referenced in the LS One Pricing Appendix.
- 7.5 CARRIER shall not rearrange or modify the retail voice service within its equipment in any way without first coordinating with AT&T-13STATE.
- 8.0 **Testing:** AT&T-13STATE will provide CARRIER with access to its Mechanized Loop Testing (MLT) system and its inherent testing functions in connection with LS One. Prior to CARRIER utilizing MLT intrusive test scripts, CARRIER must have established xDSL-based service on the CO-HFS and have specifically informed the end-user that service testing will interrupt both the CARRIER's xDSL-based service and AT&T-13STATE's voice service on the facility. CARRIER may not perform intrusive testing without having first obtained the express permission of the end-user and having documented the name of such end-user on the applicable screen or on CARRIER's trouble documentation for non-mechanized tests.
- 9.0 **Spectrum Management:** The Parties shall comply with the FCC's lawful and effective spectrum management rules, 47 C.F.R. §51.231-233, as such rules may be modified from time to time. CARRIER will advise AT&T-13STATE on the ordering form of the Power Spectral Density ("PSD") mask approved or proposed by T1.E1 that reflects the service performance parameters of the technology that CARRIER intends to provision, and CARRIER will notify AT&T-13STATE if and when a change in PSD mask is made. AT&T-13STATE shall use such PSD information solely for inventory and spectrum management purposes and in all cases, will manage the spectrum and differing xDSL services in a competitively neutral manner consistent with all relevant industry standards. In the event that the FCC or the industry establishes long-term standards, practices and policies relating to spectrum compatibility and management that differ from those referenced in this Agreement, the Parties shall comply with such standards, practices and policies and will establish a mutually agreeable transition plan and timeframe for implementation; provided, however, if CARRIER is providing xDSL technologies for which there was previously no standard, then CARRIER must begin the process of bringing its deployed xDSL technology(ies) and equipment into compliance with such standards at its own expense within thirty (30) days after general availability.
- 10.0 **Collocation:** Collocation in each end office in which CARRIER desires to provide xDSL-based service via the LS One service is required as the means of access to the network service configuration outlined herein. CARRIER is responsible to ensure that any necessary collocation arrangement, whether virtual and/or physical, and any subsequent collocation augments are completed and in place in each serving wire center in which CARRIER desires to place an order for any of the network service arrangements described within this Agreement.
- 11.0 **Splitters:** CARRIER shall own and have sole responsibility to forecast, purchase, install, inventory, provision and maintain splitters for purposes of providing xDSL-based service to its customers via the LS One service, and shall collocate such splitters in accordance with Section 10 above, and consistent with AT&T-13STATE's standard collocation practices and procedures. With respect to any CARRIER physical collocation arrangement in which a CARRIER splitter is located, CARRIER will have test access to the line side of its splitter (assuming CARRIER has provisioned splitter cards that provide test port capabilities). CARRIER-owned splitters shall be provisioned using standard AT&T-13STATE configuration cabling and wiring in AT&T-13STATE locations and shall adhere to established industry and national standards. CARRIER's Connecting Block layouts will reflect standard recognizable arrangements that work in conjunction with AT&T-13STATE's OSS.
- 11.1 AT&T-13STATE will offer CARRIER access to line splitters in the AT&T-13STATE's Service Area at the current state-specific per splitter rates. This access will be available until May 2, 2009 and is available only for AT&T-13STATE line splitters currently in use by CARRIER. All new orders will be provisioned on CARRIER-provided line splitters. The Parties will agree to an orderly transition schedule, with the goal of having CARRIER migrate from AT&T-13STATE-owned splitters to CARRIER owned-splitters beginning on

September 4, 2007 and concluding such transition by June 1, 2008. The splitter prices through June 1, 2008 are described in the LS One Pricing Appendix. If and to the extent CARRIER migrates off the AT&T-13STATE-owned splitters during this transition period, AT&T-13STATE will waive any non-recurring charges associated with the conversions with the exception of any administrative ordering charges. To the extent CARRIER fails to comply with the transition schedule and fails to transition off the AT&T-13STATE-owned splitters by June 1, 2008, CARRIER shall pay for any non-recurring charges associated with subsequent conversions and AT&T-13STATE shall increase the price for the AT&T-13STATE-owned splitters by 100% for each AT&T-13STATE-owned splitter effective June 1, 2008.

- 12.0 **Pricing:** The rates which shall apply under this Agreement for LS One are set forth on the attached LS One Pricing Appendix, which is incorporated herein by this reference.

Line Share One Pricing Appendix

- 1.1 This Line Sharing One Pricing Appendix shall become effective between the Parties under this Agreement on the Effective Date of this Agreement and shall apply until the Termination Date of this Agreement. The AT&T-13STATE monthly recurring and associated non-recurring rates for the Line Share One ("LS One") product are set forth below. The LS One monthly recurring rates set forth herein below include the high frequency spectrum of a copper facility, the SAI cross-connect, any Line Station Transfer which may be performed in the provisioning phase, AT&T-13STATE's mechanized line qualification on the Carrier's behalf and for newly installed CO-HFS' any required standard line conditioning performed by AT&T-13STATE (i.e. to remove excessive bridged tap, load coils and/or repeater) if and only to the extent necessary to meet appropriate ANSI standards, as such standards may be modified from time to time.
- 1.2 **Conditioning:**
- 1.2.1 Upon completion of the Local Service Request (LSR) for the LS One service, Carrier may submit, via trouble ticket, a request for AT&T-13STATE to condition the CO-HFS provisioned to Carrier under this Agreement. Carrier shall specify on its conditioning-related trouble ticket the specific conditioning work it is requesting that AT&T-13STATE perform on its behalf. For newly installed CO-HFS', Carrier will not be billed any additional charge for any conditioning work required for AT&T-13STATE to perform for the CO-HFS to meet appropriate ANSI Standards (i.e., for the removal of repeaters, excessive bridged taps and/or load coils).
- 1.2.2 To the extent Carrier requests and AT&T-13STATE performs non-industry standard conditioning to remove non-excessive bridged tap on either a newly installed or migrated CO-HFS, Carrier shall be billed and shall pay for such work at the rates set forth in Section 1.5 below under "Non-Standard Conditioning Charges" on a per occurrence basis; provided, however, AT&T-13STATE shall have no obligation to perform the requested conditioning if AT&T-13STATE determines it is not possible to remove the non-excessive bridged tap e.g., in those situations in which (i) municipalities will not grant rights of way to certain areas; or (ii) there are other issues associated with access to the subject facilities; or (iii) events, actions or circumstances exist or arise that are outside the sole control of AT&T-13STATE.
- 1.2.3 CO-HFS LST in lieu of conditioning and Industry Standard Conditioning for Migrated CO-HFS: In those instances where CARRIER opens a trouble ticket requesting Industry Standard (i.e., the removal of excessive bridged tap, load coils and/or repeaters remaining on the CO-HFS, if any) or non-standard conditioning (i.e., the removal of non-excessive or all bridged tap) in connection with a newly installed or a migrated CO-HFS, AT&T-13STATE shall have the right to perform a LST to resolve the reported case of trouble in lieu of the requested conditioning. In those instances where AT&T-13STATE performs LST in lieu of such conditioning on a newly installed CO-HFS or a migrated CO-HFS or performs Industry Standard conditioning on a CO-HFS migrated to this Agreement from the High Frequency Portion of the Loop ("HFPL") product offering, the rate set forth in Section 1.6.3 shall apply.
- 1.3 **FCC Tariffed Maintenance of Service Charges**
- 1.3.1 CLEC shall pay Maintenance of Service charges on a time and material basis, in 30-minute increments, associated with any work AT&T-13STATE performs in response to a Carrier-LS One-related trouble ticket, pursuant to the applicable, regional FCC tariffed rates set forth below, if:
- the LS One trouble ticket is opened, and it is later determined to be a 'No Trouble Found' (NTF) in AT&T-13STATE's portion of the network; or
 - the facility specific inhibitor information provided by Carrier to AT&T-13STATE requires a dispatch by AT&T-13STATE but is found to be incorrect upon subsequent investigation during the trouble ticket resolution process; or

- c) a retrip is involved with a LS One trouble ticket (when Carrier notifies **AT&T-13STATE** that the LS One service is not working properly after initial trouble resolution), and there is NTF in **AT&T-13STATE**'s portion of the network; or
- d) the need for a vendor meet is agreed upon by **AT&T-13STATE** and the Carrier technician is not equipped properly at the vendor meet site or the Carrier Technician is not at the site at the scheduled time or within ten (10) minutes thereafter.

***AT&T CALIFORNIA** only: Section 175-T and Section 13 Access Tariff of the FCC No. 1.

***AT&T MIDWEST REGION 5-STATE** only Section 13.2.6 of the FCC No. 2.

***AT&T NEVADA** only: Section 18.8.2 of the FCC No. 1.

***AT&T SOUTHWEST REGION 5-STATE** only: Sections 13.4.2 and 13.4.4 of the FCC No. 73.

***AT&T CONNECTICUT** only: Section 8-3 of the FCC Tariff No. 39.

* Rates subject to tariff changes, as such tariffs may be modified from time to time.

- 1.3.2 If, in response to a trouble ticket, **AT&T-13STATE** advises CARRIER that there is NTF or the problem is not **AT&T-13STATE**-related, and CARRIER believes that the source of the problem is **AT&T-13STATE**-related, CARRIER will so advise **AT&T-13STATE** for concurrence. In any such case where the Parties find that the problem was **AT&T-13STATE**-related, **AT&T-13STATE** will credit CARRIER for the tariffed time and material charges billed CARRIER in connection with its initial trouble ticket.

1.4 Pricing

1.4.1 Product Activity	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC)
Line Share One		
New Customers		
October 1, 2006 through May 1 2009	\$6.00	\$30.00
Embedded Base Customers		
October 1, 2006 through May 1, 2010	\$6.00	N/A
Service Order Activity Charges		
Change of CFA (manual handling in all regions)		\$30.00
Record		\$10.00

1.5 Non Standard Conditioning Charges- Removal of Non-Excessive Bridged Tap

	Non Recurring Charge (NRC) < 17,500 ft	Non Recurring Charge (NRC) > 17,500 ft (Per Element)
AT&T-12STATE	\$ 325.00	\$ 325.00
AT&T Connecticut¹	\$ 447.60	\$ 447.60

¹ The RABT NRC rates set forth above for AT&T Connecticut are subject to change upon sixty (60) days notice to CARRIER.

1.6 <u>Additional Charges</u>	Non Recurring Charge (NRC)
1.6.1 Expedite Charge	\$25.00
1.6.2 Manual Line Qualification Charge	\$50.00
1.6.3 CO-HFS LST in lieu of conditioning and Industry Standard Conditioning for Migrated CO-HFS	\$225.00

SPLITTER CHARGE (USOC UY2YX)

State	Splitter MRC Effective Date through May 31, 2008	Splitter MRC (June 1, 2008 through Termination Date)
Kansas	\$0.89	\$1.78
Missouri	\$0.89	\$1.78
Texas	\$1.06	\$2.12
Illinois	\$1.09	\$2.18
Indiana	\$0.76	\$1.52
Michigan	\$1.33	\$2.66
Ohio	\$0.94	\$1.88
Wisconsin	\$1.96	\$3.92
California	\$1.66	\$3.32
Connecticut	\$1.44	\$2.88
Nevada ²	N/A	N/A
Arkansas ³	N/A	N/A
Oklahoma ⁴	N/A	N/A

² Covad has no Embedded Base of end user customers being served via line sharing arrangements using AT&T-13state owned splitters in Nevada, Arkansas, and Oklahoma and Covad must use its own splitters in those states.

³ Covad has no Embedded Base of end user customers being served via line sharing arrangements using AT&T-13state owned splitters in Nevada, Arkansas, and Oklahoma and Covad must use its own splitters in those states.

⁴ Covad has no Embedded Base of end user customers being served via line sharing arrangements using AT&T-13state owned splitters in Nevada, Arkansas, and Oklahoma and Covad must use its own splitters in those states.

**LINE SHARE ATTACHMENT
TO COMMERCIAL AGREEMENT**

1.0 Introduction:

- 1.1 1.1 The Parties understand and agree that this Attachment and associated Line Share Pricing Appendix set forth the rates, terms and conditions under which AT&T-9STATE will make available to CARRIER its dedicated interstate internet information access service, known as the Line Share service for CARRIER to provide Digital Subscriber Line ("xDSL")-based services over AT&T-9STATE's copper facilities. The rates, terms and conditions set forth in this Line Share Attachment to the Parties' Commercial Agreement are specific to Line Share and do not apply to AT&T-9STATE's other products and/or services made available under this Agreement, which is/are addressed in a separate Attachment(s) to this Agreement, if any. CARRIER agrees that it will not purchase or otherwise obtain the use of any Line Share services or any equivalent service, directly or indirectly, from AT&T-9STATE in the AT&T-9STATE Service Area except solely pursuant to the rates, terms and conditions set forth in this Attachment. Any breach of this provision shall be deemed a material breach of this Agreement. The General Terms and Conditions of this Agreement shall apply and are integral to, all of the rates, terms and conditions set forth in this Line Share Attachment; provided, however, to the extent of any conflict between the General Terms and Conditions of this Agreement and this Line Share Attachment, then this Line Share Attachment shall control but only as to the Line Share service.
- 1.2 The network service arrangements associated with the Line Share service are all integrated to one another and as such, are being offered as an end-to-end access service offering and are not available on an individual or unbundled basis.
- 1.3 CARRIER hereby warrants and represents that CARRIER's usage of the Line Share service will be used solely and exclusively for traffic that is interstate in nature, or for jurisdictionally mixed traffic of which at least ten percent (10%) or more is interstate in nature.
- 1.4 This Attachment shall apply between the Parties, and each Party shall be bound to its provisions, in each and every AT&T-9STATE state in which CARRIER elects to provide xDSL-based services via the Line Share service provided under this Attachment and Agreement.
- 1.5 The facilities utilized by AT&T-9STATE to provide the Line Share service under the provisions of this Attachment and Agreement shall remain the property of AT&T-9STATE.
- 1.6 The Parties understand and agree that no performance measures or remedies shall apply as to the Line Share service and under this Attachment.
- 1.7 The Parties acknowledge and agree that the provisions set forth in this Attachment and Agreement are not subject to Sections 251/252 of the Act and are not subject to negotiation and/or arbitration under Section 252 of the Act unless both Parties otherwise voluntarily agree in a writing signed by both Parties.
- 1.8 AT&T-9STATE will make available to CARRIER its dedicated interstate internet information access service, known as Line Share, for CARRIER to provide xDSL-based services over the high frequency spectrum of a copper facility originating out of an AT&T-9STATE central office (CO-HFS). The network service arrangements associated with Line Share are all integrated to one another and as such, are being offered as an end-to-end service offering and are not available on an individual or unbundled basis. Line Share will be available only in those instances where AT&T-9STATE is providing retail POTS voice services, where available, over the same facility, with the voice portion of the facility (the narrowband) belonging to AT&T-9STATE. This option will not be available to CARRIER where the retail voice service is provided by any carrier other than AT&T-9STATE, including those situations where the voice service is provided by any other carrier on a resale or leased basis (e.g., what has been known as the UNE Platform) or where such carrier is providing service over its own facilities.
- 1.9 Line Share is an end-to-end service that will be provided by AT&T-9STATE to CARRIER which will consist of the following components: CO-HFS, Cross-Connects to CARRIER-provided splitter or loop modification.

Loop modification will only be performed by AT&T-9STATE in response to a CARRIER's request, and in such case, CARRIER will be billed and shall pay for any requested loop modification AT&T-9STATE performs on CARRIER's behalf at the rate referenced in the Line Share Pricing Appendix.

- 2.0 **Deployment of xDSL Technologies:** Line Sharing is intended to allow CARRIER the ability to provide Digital Subscriber Line (xDSL) data services to the end user for which AT&T-9STATE provides retail, tariffed analog voice services. Line Sharing shall only be available on central office based DSLAMs. When providing Line Sharing, AT&T-9STATE will make available to CARRIER the frequency range above the voiceband on a copper loop facility carrying analog circuit-switched voiceband transmissions. Line Sharing shall be available for any version of xDSL complying with Spectrum Management Class 5 of ANSI T1.417, American National Standard for Telecommunications, Spectrum Management for Loop Transmission Systems ("Spectrum Management Class 5"). AT&T-9STATE is permitted to have access to the low frequency portion of the loop spectrum (from 300 Hertz to at least 3000 Hertz, and potentially up to 3400 Hertz, depending on equipment and facilities) for the purposes of providing voice service. CARRIER shall only use xDSL technology that is within the PSD mask for Spectrum Management Class 5 as found in the above-mentioned document.
- 3.0 AT&T-9STATE will provide Line Sharing only on an unloaded, 2-wire copper loop.
- 4.0 Line Sharing shall be available only on loops for which AT&T-9STATE is also providing, and continues to provide, a retail analog voice service, via tariff or Services Agreement, directly to the End User. Line Sharing is not available on a resold voice line. In the event the End User terminates its AT&T-9STATE -provided voice service for any reason, or in the event AT&T-9STATE disconnects the end user's voice service pursuant to its tariffs, Service Agreements or applicable law, AT&T-9STATE shall be permitted to terminate or otherwise discontinue Line Sharing on such loop; provided that AT&T-9STATE will provide CARRIER the right of first refusal on the voice loop being disconnected by AT&T-9STATE. AT&T-9STATE will provide to CARRIER a line loss notification report on a daily basis. If CARRIER elects to exercise this right of first refusal, AT&T-9STATE will cooperate with CARRIER to migrate the Line Sharing line to a UNE-L reusing the AT&T-9STATE facilities.
- 5.0 **Line Makeup Information, Loop Modification, and Ordering:** AT&T-9STATE shall bill and CARRIER shall pay the charges listed in Line Share Pricing Appendix.
- 5.1 AT&T-9STATE will remove load coils only on copper loops that are less than 18,000 feet in length and bill CARRIER the rates in Line Share Pricing Appendix.
- 5.2 Any copper loop ordered by CARRIER which has over 6,000 feet of combined bridged tap will be modified, upon request from CARRIER, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional rate to CARRIER. Loop Modification orders that require the removal of bridged tap that serves no network design purpose on a copper loop that will result in a combined total of bridged tap between 2,500 and 6,000 feet will be performed at the rates set forth in Line Share Pricing Appendix.
- 5.3 CARRIER may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose), at rates pursuant to AT&T-9STATE Special Construction Process as mutually agreed to by the Parties.
- 5.4 AT&T-9STATE will not modify a loop in such a way that it no longer meets the technical parameters of the original loop type (e.g., voice grade, ADSL, etc.) being ordered.
- 5.5 If CARRIER requests Loop Modification on a reserved facility for a new loop order, AT&T-9STATE may perform a pair change and provision a different loop facility in lieu of the reserved facility with Loop Modification if feasible. The loop provisioned will meet or exceed specifications of the requested loop facility as modified. CARRIER will not be billed for Loop Modification if a different loop is provisioned.

- 5.6 AT&T-9STATE is not required to modify a loop for Line Sharing if modification of that loop degrades AT&T-9STATE voice service. If CARRIER requests that AT&T-9STATE modify a loop and such modification degrades the voice services on the loop, CARRIER shall pay for the loop to be restored to its original state.
- 5.7 To order Line Sharing on a particular loop, CARRIER must have a Digital Subscriber Line Access Multiplexer (DSLAM) collocated in the central office that serves the end user of such loop.
- 5.8 AT&T-9STATE will bill CARRIER an ordering charge for electronic (SOME) and manual (SOMAN) ordering at the rates in Line Share Pricing Appendix.
- 6.0 **Maintenance/Service Assurance:**
- 6.1 AT&T-9STATE will be responsible for repairing voice services and the physical line between the NID at the customer's premises and the Termination Point. CARRIER will be responsible for repairing its data services on the high frequency portion of the loop. Each Party will be responsible for maintaining its own equipment.
- 6.2 CARRIER shall inform its end users to direct data problems to CARRIER, unless both voice and data services are impaired, in which event the end users should call AT&T-9STATE.
- 6.3 Once a Party has isolated a trouble to the other Party's portion of the loop, the Party isolating the trouble shall notify the end user that the trouble is on the other Party's portion of the loop.
- 6.4 If CARRIER reports a trouble on a loop on which it is purchasing Line Sharing and AT&T-9STATE determines that no trouble exists on the loop, AT&T-9STATE will bill CARRIER for any dispatching and testing (both inside and outside the CO) required by AT&T-9STATE in order to confirm the working status. The rates for no trouble found (NTF) shall be as set forth in Line Share Pricing Appendix.
- 6.5 Notwithstanding anything else to the contrary in this Agreement, when AT&T-9STATE receives a voice trouble and isolates the trouble to the physical collocation arrangement belonging to CARRIER, AT&T-9STATE will notify CARRIER and bill CARRIER accordingly.
- 7.0 **Line Splitters:** AT&T-9STATE will offer CARRIER access to line splitters in the AT&T-9STATE region at the rates described in the Line Share Pricing Appendix associated with this document. This access will be available until May 2, 2009 and is available only for AT&T-9STATE line splitters currently in use by CARRIER. All new orders will be provisioned on CARRIER-provided line splitters. The Parties will agree to an orderly transition schedule, with the goal of having CARRIER migrate from AT&T-9STATE-owned splitters to CARRIER owned-splitters beginning on September 4, 2007 and concluding such transition by September 1, 2008. The splitter prices through September 1, 2008 are described in the Line Share Pricing Appendix. If and to the extent CARRIER migrates off the AT&T-9STATE-owned splitters during this transition period, AT&T-9STATE will waive any non-recurring charges associated with the conversions with the exception of any administrative ordering charges. To the extent CARRIER fails to comply with the transition schedule and fails to transition off the AT&T-9STATE-owned splitters by September 1, 2008, CARRIER shall pay for any non-recurring charges associated with subsequent conversions and AT&T-9STATE shall increase the price for the AT&T-9STATE-owned splitters by 100% for each AT&T-9STATE-owned splitter effective September 1, 2008.
- 8.0 **Pricing:** The rates which shall apply under this Agreement for Line Share are set forth on the attached AT&T-9STATE Line Share Pricing Appendix, which is incorporated herein by this reference.

LINE SHARE Pricing Appendix

SHE	CATEGORY	NOTES	Market Based Element	FIR	Mwim	Zone	BCS	USOC	RATES				Source	
									First	Adj1	Final	Adj1		
COST ID														
MARKET BASED														
TW			Line Sharing Splitter - per Splitter System 56-Line Capacity in the Central Office w/o Test Jack				ULS	ULSDA	\$240.00	\$466.60	\$0.00	\$90.11	0.00	MR
TW			Line Sharing Splitter - per Splitter System 24-Line Capacity in the Central Office w/o Test Jack				ULS	ULSDB	\$60.00	\$466.60	\$0.00	\$90.11	0.00	MR
TW			Line Sharing Splitter - per Splitter System 8-Line Capacity in the Central Office w/o Test Jack				ULS	ULSD6	\$20.00	\$466.60	\$0.00	\$90.11	0.00	MR
TW			Line Sharing CL-EC Coupled Splitter in CO-CEA activation-deactivation (per LSDD)				ULS	ULSDG	\$0.00	\$210.00	\$0.00	\$120.00	0.00	MR
TW			Line Sharing - per Line Activation in the Central Office				ULS	ULSDT	\$7.00	\$30.00	\$0.00	\$20.10	0.00	MR
TW			Line Sharing - per Subsequent Activity Per Line Rearrangement				ULS	ULSDS	\$0.00	\$15.00	\$0.00	\$0.00	0.00	MR
LOOP MODIFICATION														
TW			Unbounded Loop Modification - Load Coil / Equipment Removal > than 18K.						\$70.00	\$0.00	\$0.00	\$0.00	\$0.00	MR
TW			Unbounded Loop Modification - Bridged Tap Removal 2,500-5,000 feet						\$92.00	\$0.00	\$0.00	\$0.00	\$0.00	MR
MAINTENANCE														
TW			No Trouble Found - per 1/2 hour increments - Basic						\$80.00	\$0.00	\$0.00	\$0.00	\$0.00	MR
TW			No Trouble Found - per 1/2 hour increments - Overline						\$120.00	\$0.00	\$0.00	\$0.00	\$0.00	MR
TW			No Trouble Found - per 1/2 hour increments - Premium						\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	MR
ORDERING														
TW			Electronic OSS Charge, per LSR, submitted via BST's OSS interactive interfaces (Regional)					SOMEC	\$3.50	\$0.00	\$0.00	\$3.50		
TW			Electronic OSS Charge, per LSR, submitted via BST's OSS interactive interfaces (Regional)					SOMAN	\$19.99	\$0.00	\$0.00	\$19.99		