

ATTACHMENT 14

ALTERNATIVE DISPUTE RESOLUTION

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ALTERNATIVE DISPUTE RESOLUTION

1. Purpose
 - 1.1 Attachment 14 provides for the expeditious, economical, and equitable resolution of disputes between BellSouth and AT&T arising under this Agreement.
2. Exclusive Remedy
 - 2.1 Negotiation and arbitration under the procedures provided herein shall be the exclusive remedy for all disputes between BellSouth and AT&T arising under or related to this Agreement including its breach, except for: (i) disputes arising pursuant to Attachment 6, Connectivity Billing; and (ii) disputes or matters for which the Telecommunications Act of 1996 specifies a particular remedy or procedure. Except as provided herein, BellSouth and AT&T hereby renounce all recourse to litigation and agree that the award of the arbitrators shall be final and subject to no judicial review, except on one or more of those grounds specified in the Federal Arbitration Act (9 USC §§ 1 et seq.), as amended, or any successor provision thereto. The exclusive remedy set forth in this Section shall in no way limit either Party's right to bring a claim in another forum arising under Federal or state laws or statutes, including but not limited to any antitrust claim. (AT&T 12/9/99)
 - 2.1.1 If, for any reason, certain claims or disputes are deemed to be non-arbitrable, the non-arbitrability of those claims or disputes shall in no way affect the arbitrability of any other claims or disputes.
 - 2.1.2 If, for any reason, the Federal Communications Commission or any other federal or state regulatory agency exercises jurisdiction over and decides any dispute related to this Agreement or to any BellSouth tariff and, as a result, a claim is adjudicated in both an agency proceeding and an arbitration proceeding under this Attachment 14, the following provisions shall apply:
 - 2.1.2.1 To the extent required by law, the agency ruling shall be binding upon the Parties for the limited purposes of regulation within the jurisdiction and authority of such agency.
 - 2.1.2.2 The arbitration ruling rendered pursuant to this Attachment 14 shall be binding upon the Parties for purposes of establishing their respective contractual rights and obligations under this Agreement, and for all other purposes not expressly precluded by such agency ruling.
3. Informal Resolution of Disputes

- 3.1 The Parties to this Agreement shall submit any and all disputes between BellSouth and AT&T for resolution to an Inter-Company Review Board consisting of one representative from AT&T at the Director-or-above level and one representative from BellSouth at the Vice-President-or-above level (or at such lower level as each Party may designate).
- 3.2 The Parties may enter into a settlement of any dispute at any time.
4. Initiation of an Arbitration
- 4.1 Except for Disputes Affecting Service, if the Inter-Company Review Board is unable to resolve the dispute within thirty (30) days (or such longer period as agreed to in writing by the Parties) of such submission, and the Parties have not otherwise entered into a settlement of their dispute, either Party may initiate an arbitration in accordance with the CPR Institute for Dispute Resolution ("CPR") Rules for Non-Administered Arbitration and business disputes ("the CPR Rules").
- 4.2 If the Inter-Company Review Board provided for in Section 3 of this Attachment 14 is unable to resolve a Dispute Affecting Service within two (2) business days (or such longer period as agreed to in writing by the Parties) of such submission, and the Parties have not otherwise entered into a settlement of their dispute, either Party, may, through its representative on the Inter-Company Review Board, request arbitration of what in good faith is believed to be a Dispute Affecting Service in accordance with the requirements of Section 9 of this Attachment 14, with the consent of the other party, which consent shall not be unreasonably withheld. Any dispute not resolved in accordance with Section 9 of this Attachment 14 shall be resolved as if it were not a Dispute Affecting Service.
5. Governing Rules for Arbitration
- 5.1 The rules set forth below and the CPR Rules shall govern all arbitration proceedings initiated pursuant to this Attachment; however, such arbitration proceedings shall not be conducted under the auspices of the CPR Rules unless the Parties mutually agree. Where any of the rules set forth herein conflict with the rules of the CPR Rules, the rules set forth in this Attachment shall prevail.
6. Appointment and Removal of Arbitrators for the Disputes other than the Disputes Affecting Service Process
- 6.1 Each arbitration conducted pursuant to this Section shall be conducted before a panel of three Arbitrators, each of whom shall meet the qualifications set forth herein. Each Arbitrator shall be impartial, shall not have been employed by or affiliated with any of the Parties hereto or any of their respective

Affiliates and shall possess substantial legal, accounting, telecommunications, business or other professional experience relevant to the issues in dispute in the arbitration as stated in the notice initiating such proceeding. The panel of arbitrators shall be selected as provided in the CPR Rules.

- 6.2 The Parties may, by mutual written agreement, remove an Arbitrator at any time, and shall provide prompt written notice of removal to such Arbitrator.
- 6.3 In the event that an Arbitrator resigns, is removed pursuant to Section 6.2 of this Attachment 14, or becomes unable to discharge his or her duties, the Parties shall, by mutual written Agreement, appoint a replacement Arbitrator within thirty (30) days after such resignation, removal, or inability, unless a different time period is mutually agreed upon in writing by the Parties. Any matters pending before the Arbitrator at the time he or she resigns, is removed, or becomes unable to discharge his or her duties, will be assigned to the replacement Arbitrator as soon as the replacement Arbitrator is appointed.

7. Duties and Powers of the Arbitrators

- 7.1 The Arbitrators shall receive complaints and other permitted pleadings, oversee discovery, administer oaths and subpoena witnesses pursuant to the United States Arbitration Act, hold hearings, issue decisions, and maintain a record of proceedings. The Arbitrators shall have the power to award any remedy or relief that a court with jurisdiction over this Agreement could order or grant, including, without limitation, the awarding of damages, pre-judgment interest, specific performance of any obligation created under the Agreement, issuance of an injunction, or imposition of sanctions for abuse or frustration of the arbitration process, except that the Arbitrators may not: (i) award punitive damages; (ii) or any remedy rendered unavailable to the Parties pursuant to Section 10.3 of the General Terms and Conditions of the Agreement; or (iii) limit, expand, or otherwise modify the terms of this Agreement.

8. Discovery and Proceedings

- 8.1 BellSouth and AT&T shall attempt, in good faith, to agree on a plan for discovery. Should they fail to agree, either BellSouth or AT&T may request a joint meeting or conference call with the Arbitrators. The Arbitrators shall resolve any disputes between BellSouth and AT&T, and such resolution with respect to the scope, manner, and timing of discovery shall be final and binding.
- 8.2 The Parties shall facilitate the arbitration by: (i) making available to one another and to the Arbitrators, on as expedited a basis as is practicable, for examination, deposition, inspection and extraction all documents, books, records and personnel under their control if determined by the Arbitrators to

be relevant to the dispute; (ii) conducting arbitration hearings to the greatest extent possible on successive days; and (iii) observing strictly the time periods established by the CPR Rules or by the Arbitrators for submission of evidence or briefs.

9. Resolution of Disputes Affecting Service

9.1 Purpose

9.1.1 This Section 9 describes the procedures for an expedited resolution of disputes between BellSouth and AT&T arising under this Agreement which directly affect the ability of a Party to provide uninterrupted, high quality services to its customers at the time of the dispute and which cannot be resolved using the procedures for informal resolution of disputes contained in this attachment of the Agreement.

9.2 Appointment and Removal of Arbitrator

9.2.1 A sole Arbitrator will preside over each dispute submitted for arbitration under this Section 9.

9.2.2 The Parties shall appoint three (3) Arbitrators who will serve for the term of this Agreement, unless removed pursuant to Section 9.2.3 of this Attachment 14. The appointment and the order in which Arbitrators shall preside over Disputes Affecting Service will be made by mutual agreement in writing within thirty (30) days after the Effective Date.

9.2.3 The Parties may, by mutual written agreement, remove an Arbitrator at any time, and shall provide prompt written notice of removal to such Arbitrator.

9.2.4 In the event that an Arbitrator resigns, is removed pursuant to Section 9.2.3 of this Attachment 14, or becomes unable to discharge his or her duties, the Parties shall, by mutual written Agreement, appoint a replacement Arbitrator within thirty (30) days after such resignation, removal, or inability, unless a different time period is mutually agreed upon in writing by the Parties. Any matters pending before the Arbitrator at the time he or she resigns, is removed, or becomes unable to discharge his or her duties, will be assigned to the Arbitrator whose name appears next in the alphabet.

9.3 Initiation of Disputes Affecting Service Process.

9.3.1 A proceeding for arbitration under this Section 9 will be commenced by a Party ("Complaining Party") after following the process provided for in Section 4 of this Attachment 14 by filing a complaint with the Arbitrator and simultaneously providing a copy to the other Party ("Complainant").

- 9.3.2 Each Complaint will concern only the claims relating to an act or failure to act (or series of related acts or failures to act) of a Party which affect the Complaining Party's ability to offer a specific service (or group of related services) to its customers.
- 9.3.3 A Complaint may be in letter or memorandum form and must specifically describe the action or inaction of a Party in dispute and identify with particularity how the complaining Party's service to its customers is affected.
- 9.4 Response to Complaint
 - 9.4.1 A response to the Complaint must be filed within five (5) business days after service of the Complaint.
- 9.5 Reply to Complaint
 - 9.5.1 A reply is permitted to be filed by the Complaining Party within three (3) business days of service of the response. The reply must be limited to those matters raised in the response.
- 9.6 Discovery
 - 9.6.1 The Parties shall cooperate on discovery matters as provided in Section 8 of this Attachment 14, but following expedited procedures.
- 9.7 Hearing
 - 9.7.1 The Arbitrator will schedule a hearing on the Complaint to take place within twenty (20) business days after service of the Complaint. However, if mutually agreed to by the Parties, a hearing may be waived and the decision of the Arbitrator will be based upon the papers filed by the Parties.
 - 9.7.2 The hearing will be limited to four (4) days, with each Party allocated no more than two (2) days, including cross examination by the other Party, to present its evidence and arguments. For extraordinary reasons, including the need for extensive cross-examination, the Arbitrator may allocate more time for the hearing.
 - 9.7.3 In order to focus the issues for purposes of the hearing, to present initial views concerning the issues, and to facilitate the presentation of evidence, the Arbitrator has the discretion to conduct a telephone prehearing conference at a mutually convenient time, but in no event later than three (3) days prior to any scheduled hearing.
 - 9.7.4 Each Party may introduce evidence and call witnesses it has previously identified in its witness and exhibit lists. The witness and exhibit lists must be furnished to the other Party at least three (3) days prior to commencement of

the hearing. The witness list will disclose the substance of each witness' expected testimony. The exhibit list will identify by name (author and recipient), date, title and any other identifying characteristics the exhibits to be used at the arbitration. Testimony from witnesses not listed on the witness list or exhibits not listed on the exhibit list may not be presented in the hearing.

9.7.5 The Parties will make reasonable efforts to stipulate to undisputed facts prior to the date of the hearing.

9.7.6 Witnesses will testify under oath and a complete transcript of the proceeding, together with all pleadings and exhibits, shall be maintained by the Arbitrator.

9.8 Decision

9.8.1 The Arbitrator will issue and serve his or her decision on the Parties within five (5) business days of the close of the hearing or receipt of the hearing transcript, whichever is later.

9.8.2 The Parties agree to take the actions necessary to implement the decision of the Arbitrator immediately upon receipt of the decision.

10. Privileges

10.1 Although conformity to certain legal rules of evidence may not be necessary in connection arbitrations initiated pursuant to this Attachment, the Arbitrators shall, in all cases, apply the attorney-client privilege and the work product immunity.

10.2 At no time, for any purposes, may a Party introduce into evidence or inform the Arbitrators of any statement or other action of a Party in connection with negotiations between the Parties pursuant to the Informal Resolution of Disputes provision of this Attachment 14.

11. Location of Hearing

11.1 Unless both Parties agree otherwise, any hearing under this Attachment 14 shall take place in Atlanta, Georgia.

12. Decision

12.1 The Arbitrator(s) decision and award shall be final and binding, and shall be in writing unless the Parties mutually agree to waive the requirement of a written opinion. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Either Party may apply to the United States District Court for the district in which the hearing occurred for an order enforcing the decision. Except for Disputes Affecting Service, the Arbitrators shall make their decision within ninety (90) days of the initiation of

proceedings pursuant to Section 4 of this Attachment, unless the Parties mutually agree otherwise.

13. Fees

13.1 The Arbitrator(s) fees and expenses that are directly related to a particular proceeding shall be paid by the losing Party. In cases where the Arbitrator(s) determines that neither Party has, in some material respect, completely prevailed or lost in a proceeding, the Arbitrator(s) shall, in his or her discretion, apportion expenses to reflect the relative success of each Party. Those fees and expenses not directly related to a particular proceeding shall be shared equally. In the event that the Parties settle a dispute before the Arbitrator(s) reaches a decision with respect to that dispute, the Settlement Agreement must specify how the Arbitrator(s)' fees for the particular proceeding will be apportioned.

13.2 In an action to enforce or confirm a decision of the Arbitrator(s), the prevailing Party shall be entitled to its reasonable attorneys' fees, expert fees, costs, and expenses.

14. Confidentiality

14.1 BellSouth, AT&T, and the Arbitrator(s) will treat any arbitration proceeding, including the hearings and conferences, discovery, or other related events, as confidential, except as necessary in connection with a judicial challenge to, or enforcement of, an award, or unless otherwise required by an order or lawful process of a court or governmental body.

14.2 In order to maintain the privacy of all arbitration conferences and hearings, the Arbitrator(s) shall have the power to require the exclusion of any person, other than a Party, counsel thereto, or other essential persons.

14.3 To the extent that any information or materials disclosed in the course of an arbitration proceeding contains proprietary or confidential information of either Party, it shall be safeguarded in accordance with Section 18 of the General Terms and Conditions of the Agreement. However, nothing in Section 18 of the General Terms and Conditions of the Agreement shall be construed to prevent either Party from disclosing the other Party's Information to the Arbitrator in connection with or in anticipation of an arbitration proceeding. In addition, the Arbitrators may issue orders to protect the confidentiality of proprietary information, trade secrets, or other sensitive information.

15. Service of Process

15.1 Except as provided in Section 9.3.1 of this Attachment 14, service may be made by submitting one copy of all pleadings and attachments and any other

documents requiring service to each Party and one copy to the Arbitrator. Service shall be deemed made (i) upon receipt if delivered by hand; (ii) after three (3) business days if sent by first class U.S. mail; (iii) the next business day if sent by overnight courier service; or (iv) upon confirmed receipt if transmitted by facsimile. If service is by facsimile, a copy shall be sent the same day by hand delivery, first class U.S. mail, or overnight courier service.

- 15.2 Service by AT&T to BellSouth and by BellSouth to AT&T at the address designated for delivery of notices in this Agreement shall be deemed to be service to BellSouth or AT&T, respectfully.