

BELLSOUTH® / CLEC Agreement

Customer Name: Talk Now USA

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By and Between

BellSouth Telecommunications, Inc.

And

TZAK Wireless, Inc. d/b/a Talk Now USA

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AGREEMENT GENERAL TERMS AND CONDITIONS

THIS AGREEMENT is made by and between BellSouth Telecommunications, Inc., (“BellSouth”), a Georgia corporation, and TZAK Wireless, Inc. d/b/a Talk Now USA (“Talk Now USA”), a South Carolina corporation, and shall be deemed effective ten business days following the date of the last signature of both Parties (“Effective Date”). This Agreement may refer to either BellSouth or Talk Now USA or both as a “Party” or “Parties.”

W I T N E S S E T H

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

WHEREAS, Talk Now USA is or seeks to become a CLEC authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Talk Now USA wishes to resell BellSouth’s telecommunications services and other services; and

NOW THEREFORE, in consideration of the mutual agreements contained herein, BellSouth and Talk Now USA agree as follows:

Definitions

Affiliate is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or equivalent thereof) of more than 10 percent.

Commission is defined as the appropriate regulatory agency in each of BellSouth’s nine-state region, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

Competitive Local Exchange Carrier (CLEC) means a telephone company certificated by the Commission to provide local exchange service within BellSouth's franchised area.

End User means the ultimate user of the Telecommunications Service.

FCC means the Federal Communication Commission.

General Terms and Conditions means this document including all of the terms, provisions and conditions set forth herein.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Telecommunications Act of 1996 ("Act") means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47 U.S.C. Section 1 et. seq.).

1. CLEC Certification

- 1.1 Talk Now USA agrees to provide BellSouth in writing the certificate number or docket number, for the docket pending certification, for all states covered by this Agreement except Kentucky prior to BellSouth filing this Agreement with the appropriate commission for approval.
- 1.2 Additionally, Talk Now USA will notify BellSouth in writing when it becomes certified or has a docket pending certification to operate in any other state in the BellSouth region. Upon notification, BellSouth will file this Agreement with the appropriate commission for approval.

2. Term of the Agreement

- 2.1 The term of this Agreement shall be three years, beginning on the Effective Date and shall apply to the BellSouth territory in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.
- 2.2 The Parties agree that by no earlier than two hundred seventy (270) days and no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations for a new agreement to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").
- 2.3 If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section 2.2 above, the Parties are unable to negotiate new terms, conditions and prices for a Subsequent Agreement, either Party may petition the Commission to establish appropriate terms, conditions and prices for the Subsequent Agreement pursuant to 47 U.S.C. 252.

2.4 If as of the expiration of this Agreement, a Subsequent Agreement has not been executed by the Parties, this Agreement shall terminate. Upon termination of this Agreement, BellSouth shall continue to offer services to Talk Now USA pursuant to the terms, conditions and rates set forth in BellSouth's then current standard interconnection agreement. In the event that BellSouth's standard interconnection agreement becomes effective as between the Parties, the Parties may continue to negotiate a Subsequent Agreement or arbitrate disputed issues to reach a Subsequent Agreement as set forth in Section 2.3 above, and the terms of such Subsequent Agreement shall be effective as of the date of its execution.

3. **Operational Support Systems**

Talk Now USA shall pay charges for Operational Support Systems (OSS) as set forth in this Agreement in Attachment 1, as applicable.

4. **Parity**

When Talk Now USA purchases, pursuant to Attachment 1 of this Agreement, telecommunications services from BellSouth for the purposes of resale to end users, BellSouth shall provide said services so that the services are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that BellSouth provides to its affiliates, subsidiaries and end users.

5. **White Pages Listings**

5.1 BellSouth shall provide Talk Now USA and their customers access to white pages directory listings under the following terms:

5.2 Listings. Talk Now USA shall provide all new, changed and deleted listings on a timely basis and BellSouth or its agent will include Talk Now USA residential and business customer listings in the appropriate White Pages (residential and business) or alphabetical directories. Directory listings will make no distinction between Talk Now USA and BellSouth subscribers.

5.2.1 Rates. So long as Talk Now USA provides subscriber listing information to BellSouth in accordance with Section 5.3 below, BellSouth shall provide to Talk Now USA one (1) primary White Pages listing per Talk Now USA subscriber at no charge other than applicable service order charges as set forth in BellSouth's tariffs.

5.3 Procedures for Submitting Talk Now USA Subscriber Information are found in The BellSouth Business Rules for Local Ordering.

5.4 Notwithstanding any provision(s) to the contrary, Talk Now USA shall provide to BellSouth, and BellSouth shall accept, Talk Now USA's Subscriber Listing Information (SLI) relating to Talk Now USA's customers in the geographic area(s) covered by this Interconnection Agreement. Talk Now USA authorizes BellSouth to release all such Talk Now USA SLI provided to BellSouth by Talk Now USA to qualifying third parties via either license agreement or BellSouth's Directory Publishers Database Service (DPDS), General Subscriber Services Tariff

(GSST), Section A38.2, as the same may be amended from time to time. Such Talk Now USA SLI shall be intermingled with BellSouth's own customer listings and listings of any other CLEC that has authorized a similar release of SLI. Where necessary, BellSouth will use good faith efforts to obtain Commission approval of any necessary modifications to Section A38.2 of its tariff to provide for release of third party directory listings, including modifications regarding listings to be released pursuant to such tariff and BellSouth's liability thereunder. BellSouth's obligation pursuant to this Section shall not arise in any particular state until the Commission of such state has approved modifications to such tariff.

- 5.4.1 No compensation shall be paid to Talk Now USA for BellSouth's receipt of Talk Now USA SLI, or for the subsequent release to third parties of such SLI. In addition, to the extent BellSouth incurs costs to modify its systems to enable the release of Talk Now USA's SLI, or costs on an ongoing basis to administer the release of Talk Now USA SLI, Talk Now USA shall pay to BellSouth its proportionate share of the reasonable costs associated therewith. At any time that costs may be incurred to administer the release of Talk Now USA's SLI, Talk Now USA will be notified. If Talk Now USA does not wish to pay its proportionate share of these reasonable costs, Talk Now USA may instruct BellSouth that it does not wish to release its SLI to independent publishers, and Talk Now USA may amend its interconnection agreement accordingly. Such amendment would become effective at such time that both Parties have signed, and Talk Now USA will be liable for all costs incurred up to that time.
- 5.4.2 Neither BellSouth nor any agent shall be liable for the content or accuracy of any SLI provided by Talk Now USA under this Agreement. Talk Now USA shall indemnify, hold harmless and defend BellSouth and its agents from and against any damages, losses, liabilities, demands, claims, suits, judgments, costs and expenses (including but not limited to reasonable attorneys' fees and expenses) arising from BellSouth's tariff obligations or otherwise and resulting from or arising out of any third party's claim of inaccurate Talk Now USA listings or use of the SLI provided pursuant to this Agreement. BellSouth may forward to Talk Now USA any complaints received by BellSouth relating to the accuracy or quality of Talk Now USA listings.
- 5.4.3 Listings and subsequent updates will be released consistent with BellSouth system changes and/or update scheduling requirements.
- 5.5 Unlisted/Non-Published Subscribers. Talk Now USA will be required to provide to BellSouth the names, addresses and telephone numbers of all Talk Now USA customers who wish to be omitted from directories. Unlisted/Non-Published Subscriber listings will be offered at tariff rates as set forth in the GSST.
- 5.6 Inclusion of Talk Now USA Customers in Directory Assistance Database. BellSouth will include and maintain Talk Now USA subscriber listings in BellSouth's Directory Assistance databases at no recurring charge and Talk Now USA shall provide such Directory Assistance listings at no recurring charge.

BellSouth and Talk Now USA will formulate appropriate procedures regarding lead-time, timeliness, format and content of listing information.

- 5.7 Listing Information Confidentiality. BellSouth will accord Talk Now USA's directory listing information the same level of confidentiality that BellSouth accords its own directory listing information, and BellSouth shall limit access to Talk Now USA's customer proprietary confidential directory information to those BellSouth employees or agents who are involved in the preparation of listings or directories.
- 5.8 Additional and Designer Listings. Additional and designer listings will be offered by BellSouth at tariffed rates as set forth in the General Subscriber Services Tariff.
- 5.9 Directories. BellSouth or its agent shall make available White Pages directories to Talk Now USA subscribers at no charge or as specified in a separate BAPCO agreement.

6. Court Ordered Requests for Call Detail Records and Other Subscriber Information

- 6.1 Subpoenas Directed to BellSouth. Where BellSouth provides resold services or local switching for Talk Now USA, BellSouth shall respond to subpoenas and court ordered requests delivered directly to BellSouth for the purpose of providing call detail records when the targeted telephone numbers belong to Talk Now USA end users. Billing for such requests will be generated by BellSouth and directed to the law enforcement agency initiating the request. BellSouth shall maintain such information for Talk Now USA end users for the same length of time it maintains such information for its own end users.
- 6.2 Subpoenas Directed to Talk Now USA. Where BellSouth is providing to Talk Now USA telecommunications services for resale or providing to Talk Now USA the local switching function, then Talk Now USA agrees that in those cases where Talk Now USA receives subpoenas or court ordered requests regarding targeted telephone numbers belonging to Talk Now USA end users, and where Talk Now USA does not have the requested information, Talk Now USA will advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to BellSouth for handling in accordance with 6.1 above.
- 6.3 In all other instances, where either Party receives a request for information involving the other Party's end user, the Party receiving the request will advise the law enforcement agency initiating the request to redirect such request to the other Party.

7. Liability and Indemnification

- 7.1 Talk Now USA Liability. In the event that Talk Now USA consists of two (2) or more separate entities as set forth in this Agreement and/or any Amendments

hereto, all such entities shall be jointly and severally liable for the obligations of Talk Now USA under this Agreement.

- 7.2 Liability for Acts or Omissions of Third Parties. BellSouth shall not be liable to Talk Now USA for any act or omission of another telecommunications company providing services to Talk Now USA.
- 7.3 Limitation of Liability
- 7.3.1 Except for any indemnification obligations of the Parties hereunder, each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorneys' fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.
- 7.3.2 Limitations in Tariffs. A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User 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 that applicable person for the service, product or function that gave rise to such loss and (ii) Consequential Damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such 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 limitations of liability that such other Party included in its own tariffs at the time of such loss.
- 7.3.3 Neither BellSouth nor Talk Now USA shall be liable for damages to the other Party's terminal location, equipment or End User premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a Party's negligence or willful misconduct or by a Party's failure to ground properly a local loop after disconnection.
- 7.3.4 Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

- 7.3.5 To the extent any specific provision of this Agreement purports to impose liability, or limitation of liability, on either Party different from or in conflict with the liability or limitation of liability set forth in this Section, then with respect to any facts or circumstances covered by such specific provisions, the liability or limitation of liability contained in such specific provision shall apply.
- 7.4 Indemnification for Certain Claims. The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving company's own communications, or (2) any claim, loss or damage claimed by the End User of the Party receiving services arising from such company's use or reliance on the providing company's services, actions, duties, or obligations arising out of this Agreement.
- 7.5 Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

8. Intellectual Property Rights and Indemnification

- 8.1 No License. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. Talk Now USA is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any BellSouth name, service mark or trademark (collectively, the "Marks"). The Marks of BellSouth include those Marks owned directly by BellSouth and those Marks that BellSouth has a legal and valid license to use.
- 8.2 Ownership of Intellectual Property. Any intellectual property that originates from or is developed by a Party shall remain the exclusive property of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of each Party to ensure at no additional cost to the other Party that it has obtained any necessary licenses in relation to intellectual property of third Parties used in its network that may be required to enable the other Party to use any facilities or equipment

(including software), to receive any service, or to perform its respective obligations under this Agreement.

- 8.3 Indemnification. The Party providing a service pursuant to this Agreement will defend the Party receiving such service or data provided as a result of such service against claims of infringement arising solely from the use by the receiving Party of such service in the manner contemplated under this Agreement and will indemnify the receiving Party for any damages awarded based solely on such claims in accordance with Section 7 preceding.
- 8.4 Claim of Infringement. In the event that use of any facilities or equipment (including software), becomes, or in the reasonable judgment of the Party who owns the affected network is likely to become, the subject of a claim, action, suit, or proceeding based on intellectual property infringement, then said Party shall promptly and at its sole expense and sole option, but subject to the limitations of liability set forth below:
- 8.4.1 modify or replace the applicable facilities or equipment (including software) while maintaining form and function, or
- 8.4.2 obtain a license sufficient to allow such use to continue.
- 8.4.3 In the event Section 8.4.1 or 8.4.2 are commercially unreasonable, then said Party may, terminate, upon reasonable notice, this contract with respect to use of, or services provided through use of, the affected facilities or equipment (including software), but solely to the extent required to avoid the infringement claim.
- 8.5 Exception to Obligations. Neither Party's obligations under this Section shall apply to the extent the infringement is caused by: (i) modification of the facilities or equipment (including software) by the indemnitee; (ii) use by the indemnitee of the facilities or equipment (including software) in combination with equipment or facilities (including software) not provided or authorized by the indemnitor, provided the facilities or equipment (including software) would not be infringing if used alone; (iii) conformance to specifications of the indemnitee which would necessarily result in infringement; or (iv) continued use by the indemnitee of the affected facilities or equipment (including software) after being placed on notice to discontinue use as set forth herein.
- 8.6 Exclusive Remedy. The foregoing shall constitute the Parties' sole and exclusive remedies and obligations with respect to a third party claim of intellectual property infringement arising out of the conduct of business under this Agreement.
- 8.7 Dispute Resolution. Any claim arising under this Section 8 shall be excluded from the dispute resolution procedures set forth in Section 10 and shall be brought in a court of competent jurisdiction.

9. **Proprietary and Confidential Information**

- 9.1 Proprietary and Confidential Information. It may be necessary for BellSouth and Talk Now USA, each as the “Discloser,” to provide to the other Party, as “Recipient,” certain proprietary and confidential information (including trade secret information) including but not limited to technical, financial, marketing, staffing and business plans and information, strategic information, proposals, request for proposals, specifications, drawings, maps, prices, costs, costing methodologies, procedures, processes, business systems, software programs, techniques, customer account data, call detail records and like information (collectively the “Information”). All such Information conveyed in writing or other tangible form shall be clearly marked with a confidential or proprietary legend. Information conveyed orally by the Discloser to Recipient shall be designated as proprietary and confidential at the time of such oral conveyance, shall be reduced to writing by the Discloser within forty-five (45) days thereafter, and shall be clearly marked with a confidential or proprietary legend.
- 9.2 Use and Protection of Information. Recipient agrees to protect such Information of the Discloser provided to Recipient from whatever source from distribution, disclosure or dissemination to anyone except employees of Recipient with a need to know such Information solely in conjunction with Recipient’s analysis of the Information and for no other purpose except as authorized herein or as otherwise authorized in writing by the Discloser. Recipient will not make any copies of the Information inspected by it.
- 9.3 Exceptions. Recipient will not have an obligation to protect any portion of the Information which:
- 9.3.1 (a) is made publicly available by the Discloser or lawfully by a nonparty to this Agreement; (b) is lawfully obtained by Recipient from any source other than Discloser; (c) is previously known to Recipient without an obligation to keep it confidential; or (d) is released from the terms of this Agreement by Discloser upon written notice to Recipient.
- 9.4 Recipient agrees to use the Information solely for the purposes of negotiations pursuant to 47 U.S.C. 251 or in performing its obligations under this Agreement and for no other entity or purpose, except as may be otherwise agreed to in writing by the Parties. Nothing herein shall prohibit Recipient from providing information requested by the FCC or a state regulatory agency with jurisdiction over this matter, or to support a request for arbitration or an allegation of failure to negotiate in good faith.
- 9.5 Recipient agrees not to publish or use the Information for any advertising, sales promotions, press releases, or publicity matters that refer either directly or indirectly to the Information or to the Discloser or any of its affiliated companies.
- 9.6 The disclosure of Information neither grants nor implies any license to the Recipient under any trademark, patent, copyright, or application which is now or may hereafter be owned by the Discloser.

- 9.7 Survival of Confidentiality Obligations. The Parties' rights and obligations under this Section 9 shall survive and continue in effect until two (2) years after the expiration or termination date of this Agreement with regard to all Information exchanged during the term of this Agreement. Thereafter, the Parties' rights and obligations hereunder survive and continue in effect with respect to any Information that is a trade secret under applicable law.
- 9.8 Assignments. Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate of the Party without the consent of the other Party; provided, however, that the assigning Party shall notify the other Party in writing of such assignment thirty (30) days prior to the Effective Date thereof and, provided further, if the assignee is an assignee of Talk Now USA, the assignee must provide evidence of Commission CLEC certification. The Parties shall amend this Agreement to reflect such assignments and shall work cooperatively to implement any changes required due to such assignment. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

10. **Resolution of Disputes**

Except as otherwise stated in this Agreement, if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the aggrieved Party shall petition the Commission for a resolution of the dispute. However, each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement.

11. **Taxes**

- 11.1 Definition. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.
- 11.2 Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.

- 11.2.1 Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.
- 11.2.2 Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.
- 11.3 Taxes and Fees Imposed on Purchasing Party But Collected And Remitted By Providing Party.
- 11.3.1 Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 11.3.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 11.3.3 If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.
- 11.3.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 11.3.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 11.3.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with

respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

- 11.3.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.
- 11.4 Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.
- 11.4.1 Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
- 11.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 11.4.3 If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
- 11.4.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 11.4.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 11.4.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorneys'

fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

11.4.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

11.5 Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

12. **Force Majeure**

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease.

13. **Adoption of Agreements**

BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to Talk Now USA any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252, provided a minimum of six months remains on the term of such agreement. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service or network element and any other rates, terms and conditions that are legitimately related to or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement. The term of the adopted agreement or provisions shall expire on the same date as set forth in the agreement that was adopted.

14. Modification of Agreement

14.1 If Talk Now USA changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of Talk Now USA to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.

14.2 No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.

14.3 In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of Talk Now USA or BellSouth to perform any material terms of this Agreement, Talk Now USA or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in this Agreement.

15. Non-waiver of Legal Rights

Execution of this Agreement by either Party does not confirm or imply that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).

16. Indivisibility

The Parties intend that this Agreement be indivisible and nonseverable, and each of the Parties acknowledges that it has assented to all of the covenants and promises in this Agreement as a single whole and that all of such covenants and promises, taken as a whole, constitute the essence of the contract. The Parties further acknowledge that this Agreement is intended to constitute a single transaction, that the obligations of the Parties under this Agreement are interdependent, and that payment obligations under this Agreement are intended to be recoupable against other payment obligations under this Agreement.

17. Waivers

A failure or delay of either Party to enforce any of the provisions hereof, to exercise any option which is herein provided, or to require performance of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or options, and each Party, notwithstanding such failure, shall have the

right thereafter to insist upon the performance of any and all of the provisions of this Agreement.

18. Governing Law

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

19. Arm's Length Negotiations

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

20. Notices

20.1 Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by overnight courier or by US mail postage prepaid, address to:

BellSouth Telecommunications, Inc.

Account Team
600 North 19th Street
Birmingham, Alabama 35203

and

General Attorney - COU
Suite 4300
675 W. Peachtree St.
Atlanta, GA 30375

TZAK Wireless, Inc. d/b/a Talk Now USA
Mr. Ryan McKnight
P. O. Box 61450
Charleston, South Carolina 29419

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

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

20.3 Notwithstanding the foregoing, BellSouth may provide Talk Now USA notice via Internet posting of price changes, changes to the terms and conditions of services available for resale per Commission Orders. BellSouth will also post changes to business processes and policies, notices of new service offerings, and changes to service offerings not requiring an amendment to this Agreement, notices required to be posted to BellSouth's website, and any other information of general applicability to CLECs.

21. Rule of Construction

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

22. Headings of No Force or Effect

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

23. Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

24. Implementation of Agreement

If Talk Now USA is a facilities based provider or a facilities based and resale provider, this section shall apply. Within 60 days of the execution of this Agreement, the Parties may adopt a schedule for the implementation of the Agreement. The schedule shall state with specificity time frames for submission of including but not limited to, network design, interconnection points, collocation arrangement requests, pre-sales testing and full operational time frames for the business and residential markets.

25. Filing of Agreement

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act, and the Parties shall share equally any filing fees therefor. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, Talk Now USA shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by Talk Now USA. Notwithstanding the foregoing, this Agreement shall not be submitted for approval by the appropriate state regulatory agency unless and until such time as Talk Now USA is duly certified as a local exchange carrier in such state, except as otherwise required by a Commission.

26. Compliance with Applicable Law

Each Party shall comply at its own expense with Applicable Law.

27. Necessary Approvals

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 persons that may be required in connection with the performance of its obligations under this Agreement. Each Party shall reasonably cooperate with the other Party in obtaining and maintaining any required approvals and rights for which such Party is responsible.

28. Good Faith Performance

Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

29. Nonexclusive Dealings

This Agreement does not prevent either Party from providing or purchasing services to or from any other person nor, except as provided in Section 252(i) of the Act, does it obligate either Party to provide or purchase any services (except insofar as the Parties are obligated to provide access to Interconnection, services and Network Elements to Talk Now USA as a requesting carrier under the Act).

30. Survival

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.

31. Establishment of Service

If BellSouth is informed that an unauthorized change in local service to Talk Now USA has occurred, BellSouth will reestablish service with the appropriate local service provider and will assess Talk Now USA as the CLEC initiating the alleged unauthorized change, the appropriate nonrecurring charges, as set forth in Section A4 of the General Subscriber Service Tariff. In accordance with FCC Slamming Liability Rules, the relevant governmental agency will determine if an unauthorized change has occurred. Resolution of all relevant issues shall be handled directly with the authorized CLEC and Talk Now USA.

32. Entire Agreement

32.1 This Agreement means the General Terms and Conditions and the Attachments identified in Section 32.2 below, all of which, when taken together, are intended to constitute one indivisible agreement. This Agreement sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained in this Agreement and merges all prior discussions between them. Any orders placed under prior agreements between the Parties shall be governed by the terms of this Agreement. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

32.2 This Agreement includes Attachments with provisions for the following:

Resale
Pre-Ordering, Ordering and Provisioning, Maintenance and Repair
Billing and Billing Accuracy Certification
Performance Measurements
BellSouth Disaster Recovery Plan
Bona Fide Request/New Business Request Process

32.3 The following services are included as options for purchase by Talk Now USA pursuant to the terms and conditions set forth in this Agreement. Talk Now USA may elect to purchase said services by written request to its Account Manager if applicable:

Optional Daily Usage File (ODUF)
Enhanced Optional Daily Usage File (EODUF)
Line Information Database (LIDB) Storage

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written below.

BellSouth Telecommunications, Inc.

TZAK Wireless, Inc. d/b/a Talk Now USA

By: (Signature on File)

By: (Signature on File)

Name: G. R. Follensbee

Name: Walter Nadzak, III

Title: Senior Director

Title: President/CEO

Date: 3/18/02

Date: (No Date Entered)

Attachment 1

Resale

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RESALE

1. Discount Rates

- 1.1 The discount rates applied to Talk Now USA purchases of BellSouth Telecommunications Services for the purpose of resale shall be as set forth in Exhibit E. Such discounts have been determined by the applicable Commission to reflect the costs avoided by BellSouth when selling a service for wholesale purposes.
- 1.2 The telecommunications services available for purchase by Talk Now USA for the purposes of resale to Talk Now USA's End Users shall be available at BellSouth's tariffed rates less the discount set forth in Exhibit E to this Agreement and subject to the exclusions and limitations set forth in Exhibit A to this Agreement.

2. Definition of Terms

- 2.1 COMPETITIVE LOCAL EXCHANGE COMPANY (CLEC) means a telephone company certificated by the Commission to provide local exchange service within BellSouth's franchised area.
- 2.2 CUSTOMER OF RECORD means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as non-recurring, monthly recurring, toll, directory assistance, etc.
- 2.3 DEPOSIT means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by BellSouth.
- 2.4 END USER means the ultimate user of the Telecommunications Service.
- 2.5 END USER CUSTOMER LOCATION means the physical location of the premises where an End User makes use of the telecommunications services.
- 2.6 NEW SERVICES means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- 2.7 RESALE means an activity wherein a certificated CLEC, such as Talk Now USA, subscribes to the telecommunications services of BellSouth and then offers those telecommunications services to the public.

3. General Provisions

- 3.1 All of the negotiated rates, terms and conditions set forth in this Attachment pertain to the resale of BellSouth's retail telecommunications services and other

services specified in this Attachment. Subject to effective and applicable FCC and Commission rules and orders, BellSouth shall make available to Talk Now USA for resale those telecommunications services BellSouth makes available, pursuant to its General Subscriber Services Tariff and Private Line Services Tariff, to customers who are not telecommunications carriers.

- 3.1.1 When Talk Now USA provides Resale service in a cross boundary area (areas that are part of the local serving area of another state's exchange) the rates, regulations and discounts for the tariffing state will apply. Billing will be from the serving state.
- 3.1.2 In Tennessee, if Talk Now USA provides its own operator services and directory services, the discount shall be 21.56%. Talk Now USA must provide written notification to BellSouth within 30 days prior to providing its own operator services and directory services to qualify for the higher discount rate of 21.56%.
- 3.2 Talk Now USA may purchase resale services from BellSouth for its own use in operating its business. The resale discount will apply to those services under the following conditions:
 - 3.2.1 Talk Now USA must resell services to other End Users.
 - 3.2.2 Talk Now USA cannot be a competitive local exchange telecommunications company for the single purpose of selling to itself.
- 3.3 Talk Now USA will be the customer of record for all services purchased from BellSouth. Except as specified herein, BellSouth will take orders from, bill and receive payment from Talk Now USA for said services.
- 3.4 Talk Now USA will be BellSouth's single point of contact for all services purchased pursuant to this Agreement. BellSouth shall have no contact with the End User except to the extent provided for herein. Each Party shall provide to the other a nation wide (50 states) toll-free contact number for purposes of repair and maintenance.
- 3.5 BellSouth will continue to bill the End User for any services that the End User specifies it wishes to receive directly from BellSouth. BellSouth maintains the right to serve directly any End User within the service area of Talk Now USA. BellSouth will continue to market directly its own telecommunications products and services and in doing so may establish independent relationships with End Users of Talk Now USA. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.
 - 3.5.1 When an End User of Talk Now USA or BellSouth elects to change his/her carrier to the other Party, both Parties agree to release the End User's service to the other Party concurrent with the due date of the service order, which shall be established

based on the standard interval for the End User's requested service as set forth in the BellSouth Product and Services Interval Guide.

- 3.5.2 BellSouth and Talk Now USA will refrain from contacting an End User who has placed or whose selected carrier has placed on the End User's behalf an order to change the End User's service provider from BellSouth or Talk Now USA to the other Party until such time that the order for service has been completed.
- 3.6 Current telephone numbers may normally be retained by the End User and are assigned to the service furnished. However, neither Party nor the End User has a property right to the telephone number or any other call number designation associated with services furnished by BellSouth, and no right to the continuance of service through any particular central office. BellSouth reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever BellSouth deems it necessary to do so in the conduct of its business and in accordance with BellSouth practices and procedures on a nondiscriminatory basis.
- 3.7 Where BellSouth provides resold services to Talk Now USA, BellSouth will provide Talk Now USA with on line access to intermediate telephone numbers as defined by applicable FCC rules and regulations on a first come first served basis. Talk Now USA acknowledges that such access to numbers shall be in accordance with the appropriate FCC rules and regulations. Talk Now USA acknowledges that there may be instances where there is a shortage of telephone numbers in a particular Common Language Location Identifier Code (CLLIC); and in such instances, Talk Now USA shall return unused intermediate telephone numbers to BellSouth upon BellSouth's request. BellSouth shall make all such requests on a nondiscriminatory basis.
- 3.8 BellSouth will allow Talk Now USA to designate up to 100 intermediate telephone numbers per CLLIC, for Talk Now USA's sole use. Assignment, reservation and use of telephone numbers shall be governed by applicable FCC rules and regulations. Talk Now USA acknowledges that there may be instances where there is a shortage of telephone numbers in a particular CLLIC and BellSouth has the right to limit access to blocks of intermediate telephone numbers. These instances include: 1) where jeopardy status has been declared by the North American Numbering Plan (NANP) for a particular Numbering Plan Area (NPA); or 2) where a rate center has less than six months supply of numbering resources.
- 3.9 Service is furnished subject to the condition that it will not be used for any unlawful purpose.
- 3.10 Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.

- 3.11 BellSouth can refuse service when it has grounds to believe that service will be used in violation of the law.
- 3.12 BellSouth will cooperate with law enforcement agencies with subpoenas and court orders relating to Talk Now USA's End Users, pursuant to Section 6 of the General Terms and Conditions.
- 3.13 If Talk Now USA or its End Users utilize a BellSouth resold telecommunications service in a manner other than that for which the service was originally intended as described in BellSouth's retail tariffs, Talk Now USA has the responsibility to notify BellSouth. BellSouth will only provision and maintain said service consistent with the terms and conditions of the tariff describing said service.
- 3.14 Facilities and/or equipment utilized by BellSouth to provide service to Talk Now USA remain the property of BellSouth.
- 3.15 White page directory listings for Talk Now USA End Users will be provided in accordance with Section 5 of the General Terms and Conditions.
- 3.16 Service Ordering and Operational Support Systems (OSS)
- 3.16.1 Talk Now USA must order services through resale interfaces, i.e., the Local Carrier Service Center (LCSC) and/or appropriate Resale Account Teams pursuant to this Agreement. BellSouth has developed and made available the interactive interfaces by which Talk Now USA may submit a Local Service Request (LSR) electronically as set forth in Attachment 2 of this Agreement. Service orders will be in a standard format designated by BellSouth.
- 3.16.2 LSRs submitted by means of one of these interactive interfaces will incur an OSS electronic charge as set forth in Exhibit E to this Agreement. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON). LSRs submitted by means other than one of these interactive interfaces (Mail, fax, courier, etc.) will incur a manual order charge as set forth in Exhibit E to this Agreement. Supplements or clarifications to a previously billed LSR will not incur another OSS charge.
- 3.16.3 Denial/Restoral OSS Charge. In the event Talk Now USA provides a list of customers to be denied and restored, rather than an LSR, each location on the list will require a separate PON and therefore will be billed as one LSR per location.
- 3.16.4 Cancellation OSS Charge. Talk Now USA will incur an OSS charge for an accepted LSR that is later canceled.
- 3.16.5 Threshold Billing Plan. Talk Now USA will incur the mechanized rate for all LSRs, both mechanized and manual, if the percentage of mechanized LSRs to total LSRs meets or exceeds the threshold percentage of 90% in the year 2001. The threshold plan will be discontinued in 2002.

- 3.16.5.1 BellSouth will track the total LSR volume for each CLEC for each quarter. At the end of that time period, a Percent Electronic LSR calculation will be made for that quarter based on the LSR data tracked in the LCSC. If this percentage exceeds the threshold volume, all of that CLEC's future manual LSRs for the following quarter will be billed at the mechanized LSR rate. To allow time for obtaining and analyzing the data and updating the billing system, this billing change will take place on the first day of the second month following the end of the quarter (e.g. May 1 for 1Q, Aug 1 for 2Q, etc.). There will be no adjustments to the amount billed for previously billed LSRs.
- 3.17 Where available to BellSouth's End Users, BellSouth shall provide the following telecommunications services at a discount to allow for voice mail services:
- Message Waiting Indicator ("MWI"), stutter dialtone and message waiting light feature capabilities
 - Call Forward Busy Line ("CF/B")
 - Call Forward Don't Answer ("CF/DA")
- Further, BellSouth messaging services set forth in BellSouth's Messaging Service Information Package shall be made available for resale without the wholesale discount.
- 3.18 BellSouth shall provide branding for, or shall unbrand, voice mail services for Talk Now USA per the Bona Fide Request/New Business Request process as set forth in Attachment 6 of this Agreement.
- 3.19 BellSouth's Inside Wire Maintenance Service Plan is available for resale at rates, terms and conditions as set forth by BellSouth and without the wholesale discount.
- 3.20 In the event Talk Now USA acquires an end user whose service is provided pursuant to a BellSouth Special Assembly, BellSouth shall make available to Talk Now USA that Special Assembly at the wholesale discount at Talk Now USA's option. Talk Now USA shall be responsible for all terms and conditions of such Special Assembly including but not limited to termination liability if applicable.
- 3.21 BellSouth shall provide 911/E911 for Talk Now USA customers in the same manner that it is provided to BellSouth customers. BellSouth shall provide and validate Talk Now USA customer information to the PSAP. BellSouth shall use its service order process to update and maintain, on the same schedule that it uses for its customers, the Talk Now USA customer service information in the ALI/DMS (Automatic Location Identification/Location Information) databases used to support 911/E911 services.

- 3.22 BellSouth shall bill, and Talk Now USA shall pay, the End User line charge associated with implementing Number Portability as set forth in BellSouth's FCC No. 1 tariff. This charge is not subject to the wholesale discount.
- 3.23 Pursuant to 47 CFR Section 51.617, BellSouth shall bill to Talk Now USA, and Talk Now USA shall pay, the End User common line charges identical to the End User common line charges BellSouth bills its End Users.
- 4. BellSouth's Provision of Services to Talk Now USA**
- 4.1 Resale of BellSouth services shall be as follows:
- 4.1.1 The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions.
- 4.1.2 Hotel and Hospital PBX services are the only telecommunications services available for resale to Hotel/Motel and Hospital End Users, respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to Payphone Service Provider (PSP) customers. Shared Tenant Service customers can only be sold those local exchange access services available in BellSouth's A23 Shared Tenant Service Tariff in the states of Florida, Georgia, North Carolina and South Carolina, and in A27 in the states of Alabama, Kentucky, Louisiana, Mississippi and Tennessee.
- 4.1.3 BellSouth reserves the right to periodically audit services purchased by Talk Now USA to establish authenticity of use. Such audit shall not occur more than once in a calendar year. Talk Now USA shall make any and all records and data available to BellSouth or BellSouth's auditors on a reasonable basis. BellSouth shall bear the cost of said audit. Any information provided by Talk Now USA for purposes of such audit shall be deemed Confidential Information pursuant to the General Terms and Conditions of this Agreement.
- 4.2 Subject to Exhibit A hereto, resold services can only be used in the same manner as specified in BellSouth's Tariffs. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual End User of BellSouth in the appropriate section of BellSouth's Tariffs. Specific tariff features (e.g. a usage allowance per month) shall not be aggregated across multiple resold services.
- 4.3 Talk Now USA may resell services only within the specific service area as defined in its certificate of operation approved by the Commission.
- 4.4 If Talk Now USA cancels an order for resold services, any costs incurred by BellSouth in conjunction with provisioning of such order will be recovered in accordance with BellSouth's General Subscriber Services Tariffs and Private Line Services Tariffs.

5. Maintenance of Services

- 5.1 Services resold pursuant to this Attachment and BellSouth's General Subscriber Service Tariff and Private Line Service Tariff and facilities and equipment provided by BellSouth shall be maintained by BellSouth.
- 5.2 Talk Now USA or its End Users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by BellSouth except with the written consent of BellSouth.
- 5.3 Talk Now USA accepts responsibility to notify BellSouth of situations that arise that may result in a service problem.
- 5.4 Talk Now USA will contact the appropriate repair centers in accordance with procedures established by BellSouth.
- 5.5 For all repair requests, Talk Now USA shall adhere to BellSouth's prescreening guidelines prior to referring the trouble to BellSouth.
- 5.6 BellSouth will bill Talk Now USA for handling troubles that are found not to be in BellSouth's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.
- 5.7 BellSouth reserves the right to contact Talk Now USA's End Users, if deemed necessary, for maintenance purposes.

6. Establishment of Service

- 6.1 After receiving certification as a local exchange carrier from the applicable regulatory agency, Talk Now USA will provide the appropriate BellSouth account manager the necessary documentation to enable BellSouth to establish accounts for resold services ("master account"). Talk Now USA is required to provide the following before a master account is established: proof of PSC/PUC certification, the Application for Master Account, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable.
- 6.1.2 Talk Now USA shall provide to BellSouth a blanket letter of authorization ("LOA") certifying that Talk Now USA will have End User authorization prior to viewing the End User's customer service record or switching the End User's service. BellSouth will not require End User confirmation prior to establishing service for Talk Now USA's End User customer.
- 6.1.3 BellSouth will accept a request directly from the End User for conversion of the End User's service from Talk Now USA to BellSouth or will accept a request from another CLEC for conversion of the End User's service from Talk Now USA to

such other CLEC. Upon completion of the conversion BellSouth will notify Talk Now USA that such conversion has been completed.

7. Discontinuance of Service

7.1 The procedures for discontinuing service to an End User are as follows:

7.1.1 BellSouth will deny service to Talk Now USA's End User on behalf of, and at the request of, Talk Now USA. Upon restoration of the End User's service, restoral charges will apply and will be the responsibility of Talk Now USA.

7.1.2 At the request of Talk Now USA, BellSouth will disconnect a Talk Now USA End User customer.

7.1.3 All requests by Talk Now USA for denial or disconnection of an End User for nonpayment must be in writing.

7.1.4 Talk Now USA will be made solely responsible for notifying the End User of the proposed disconnection of the service.

7.1.5 BellSouth will continue to process calls made to the Annoyance Call Center and will advise Talk Now USA when it is determined that annoyance calls are originated from one of its End User's locations. BellSouth shall be indemnified, defended and held harmless by Talk Now USA and/or the End User against any claim, loss or damage arising from providing this information to Talk Now USA. It is the responsibility of Talk Now USA to take the corrective action necessary with its End Users who make annoying calls. (Failure to do so will result in BellSouth's disconnecting the End User's service.)

8. Operator Services (Operator Call Processing and Directory Assistance)

8.1 Operator Services provides: (1) operator handling for call completion (for example, collect, third number billing, and manual calling-card calls). (2) operator or automated assistance for billing after the end user has dialed the called number (for example, calling card calls); and (3) special services including but not limited to Busy Line Verification and Emergency Line Interrupt (ELI), Emergency Agency Call and Operator-assisted Directory Assistance.

8.2 Upon request for BellSouth Operator Call Processing, BellSouth shall:

8.2.1 Process 0+ and 0- dialed local calls

8.2.2 Process 0+ and 0- intraLATA toll calls.

8.2.3 Process calls that are billed to Talk Now USA end user's calling card that can be validated by BellSouth.

- 8.2.4 Process person-to-person calls.
- 8.2.5 Process collect calls.
- 8.2.6 Provide the capability for callers to bill a third party and shall also process such calls.
- 8.2.7 Process station-to-station calls.
- 8.2.8 Process Busy Line Verify and Emergency Line Interrupt requests.
- 8.2.9 Process emergency call trace originated by Public Safety Answering Points.
- 8.2.10 Process operator-assisted directory assistance calls.
- 8.2.11 Adhere to equal access requirements, providing Talk Now USA local end users the same IXC access that BellSouth provides its own operator service.
- 8.2.12 Exercise at least the same level of fraud control in providing Operator Service to Talk Now USA that BellSouth provides for its own operator service.
- 8.2.13 Perform Billed Number Screening when handling Collect, Person-to-Person, and Billed-To-Third-Party calls.
- 8.2.14 Direct customer account and other similar inquiries to the customer service center designated by Talk Now USA.
- 8.2.15 Provide call records to Talk Now USA in accordance with ODUF standards.
- 8.2.16 The interface requirements shall conform to the interface specifications for the platform used to provide Operator Services as long as the interface conforms to industry standards.
- 8.3 Directory Assistance Service
 - 8.3.1 Directory Assistance Service provides local end user telephone number listings with the option to complete the call at the caller's direction separate and distinct from local switching.
 - 8.3.2 Directory Assistance Service shall provide up to two listing requests per call. If available and if requested by Talk Now USA's end user. BellSouth shall provide caller-optional directory assistance call completion service at rates contained in Exhibit E to one of the provided listings.
 - 8.3.3 Directory Assistance Service Updates
 - 8.3.3.1 BellSouth shall update end user listings changes daily. These changes include:

- 8.3.3.1.1 New end user connections
- 8.3.3.1.2 End user disconnections
- 8.3.3.1.3 End user address changes
- 8.3.3.2 These updates shall also be provided for non-listed and non-published numbers for use in emergencies.
- 8.4 Branding for Operator Call Processing and Directory Assistance
 - 8.4.1 BellSouth's branding feature provides a definable announcement to Talk Now USA end users using Directory Assistance (DA)/ Operator Call Processing (OCP) prior to placing such end users in queue or connecting them to an available operator or automated operator system. This feature allows Talk Now USA's name on whose behalf BellSouth is providing Directory Assistance and/or Operator Call Processing. Rates for the branding features are set forth in Exhibit E.
 - 8.4.2 BellSouth offers three (3) service levels of branding to Talk Now USA when ordering BellSouth's Directory Assistance and Operator Call Processing.
 - 8.4.2.1 Service Level 1 - BellSouth Branding
 - 8.4.2.2 Service Level 2 - Unbranding
 - 8.4.2.3 Service Level 3 - Custom Branding
 - 8.4.3 Where Talk Now USA resells BellSouth's services and utilizes an operator services provider other than BellSouth, BellSouth will route Talk Now USA's end user calls to that provider through Selective Carrier Routing.
 - 8.4.4 Branding Options
 - 8.4.4.1 Selective Call Routing using Line Class Codes (SCR-LCC) provides the capability for Talk Now USA to have its OCP/DA calls routed to BellSouth's OCP/DA platform for BellSouth provided Custom Branded or Unbranded OCP/DA or to its own or an alternate OCP/DA platform for Self-Branded OCP/DA. SCR-LCC is only available if line class code capacity is available in the requested BellSouth end office switches.
 - 8.4.4.2 Custom Branding for Directory Assistance is not available for certain classes of service, including but not limited to Hotel/Motel services, WATS service and certain PBX services.
 - 8.4.4.3 Where available, Talk Now USA specific and unique line class codes are programmed in each BellSouth end office switch were Talk Now USA intends to service end users with customized OCP/DA branding. The line class codes

specifically identify Talk Now USA's end users so OCP/DA calls can be routed over the appropriate trunk group to the request OCP/DA platform. Additional line class codes are required in each end office if the end office serves multiple NPAs (i.e., a unique LCC is required per NPA), and/or if the end office switch serves multiple rate areas and Talk Now USA intends to provide Talk Now USA-branded OCP/DA to its end users in these multiple rate areas.

- 8.4.4.4 BellSouth Branding is the Default Service Level.
- 8.4.4.5 SCR-LCC supporting Custom Branding and Self Branding require Talk Now USA to order dedicated trunking from each BellSouth end office identified by Talk Now USA, either to the BellSouth Traffic Operator Position System (TOPS) for Custom Branding or to the Talk Now USA Operator Service Provider for Self Branding. Separate trunk groups are required for Operator Services and for Directory Assistance. Rates for trunks are set for in applicable BellSouth Tariffs.
- 8.4.4.6 Unbranding-Unbranded Directory Assistance and/or Operator Call Processing calls ride common trunk groups provisioned by BellSouth from those end offices identified by Talk Now USA to the BellSouth Tops. The calls are routed to "No Announcement."
- 8.4.4.7 The rates for SCR-LCC are as set forth in Exhibit E of this Attachment. There is a nonrecurring charge for the establishment of each Line Class Code in each BellSouth central office.
- 8.4.4.8 In addition to the branding methods described in this Section, Unbranding and Custom Branding are also available for Directory Assistance, Operator Call Processing or both via Originating Line Number Screening (OLNS) software. When utilizing this method of Unbranding or Custom Branding, Talk Now USA shall not be required to purchase direct trunking.
- 8.4.4.9 For Bellsouth to provide Unbranding or Custom Branding via OLNS software for Operator Call Processing or for Directory Assitance, Talk Now USA must have its Operating Company Number ("OCN(s)") and telephone numbers reside in BellSouth's LIDB; however, a BellSouth LIDB Storage Agreement is not required. To implement Unbranding and Custom Branding via OLNS software, Talk Now USA must submit a manual order form which requires, among other things, Talk Now USA's OCN and a forecast for the traffic volume anticipated for each BellSouth TOPS during the peak busy hour. Talk Now USA shall provide updates to such forecast on a quarterly basis and at any time such forecasted traffic volumes are expected to change significantly. Upon Talk Now USA's purchase of Unbranding or Custom Branding using OLNS software for any particular TOPS, all Talk Now USA end users served by that TOPS will receive the Unbranded "no announcement" or the Custom Branded announcement.

8.4.4.10 Rates for Unbranding and Custom Branding via OLNS software for Directory Assistance and for Operator Call Processing are as set forth in Exhibit E of this Attachment. Notwithstanding anything to the contrary in this Agreement, to the extent BellSouth is unable to bill Talk Now USA applicable charges currently, BellSouth shall track such charges and will bill the same retroactively at such time as a billing process is implemented. In addition to the charges for Unbranding and Custom Branding via OLNS software, Talk Now USA shall continue to pay BellSouth applicable labor and other charges for the use of BellSouth's Directory Assistance and Operator Call Processing platforms as set forth in Exhibit E of this Attachment.

9. Line Information Database (LIDB)

9.1 BellSouth will store in its Line Information Database (LIDB) records relating to service only in the BellSouth region. The LIDB Storage Agreement is included in this Attachment as Exhibit B.

9.2 BellSouth will provide LIDB Storage upon written request to Talk Now USA's Account Manager stating a requested activation date.

10. RAO Hosting

10.1 RAO Hosting is not required for resale in the BellSouth region.

11. Optional Daily Usage File (ODUF)

11.1 The Optional Daily Usage File (ODUF) Agreement with terms and conditions is included in this Attachment as Exhibit C. Rates for ODUF are as set forth in Exhibit E of this Attachment.

11.2 BellSouth will provide ODUF service upon written request to its Account Manager stating a requested activation date.

12. Enhanced Optional Daily Usage File (EODUF)

12.1 The Enhanced Optional Daily Usage File (EODUF) service Agreement with terms and conditions is included in this Attachment as Exhibit D. Rates for EODUF are as set forth in Exhibit E of this Attachment.

12.2 BellSouth will provide EODUF service upon written request to its Account Manager stating a requested activation date.

EXCLUSIONS AND LIMITATIONS ON SERVICES AVAILABLE FOR RESALE (Note 5)

Type of Service	AL		FL		GA		KY		LA		MS		NC		SC		TN	
	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount	Resale	Discount
1 Grandfathered Services (Note 1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Promotions - > 90 Days(Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3
3 Promotions - ≤ 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
4 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 4	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
5 911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6 N11 Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes
7 MemoryCall® Service	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
8 Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
9 Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10 Non-RecurCharges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
11 End User Line Chg-Number Portability	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12 Public Telephone Access Svc(PTAS)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
13 Inside Wire Maint Service Plan	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Applicable Notes:																		
1.	Grandfathered services can be resold only to existing subscribers of the grandfathered service.																	
2.	Where available for resale, promotions will be made available only to End Users who would have qualified for the promotion had it been provided by BellSouth directly.																	
3.	In Tennessee, long-term promotions (offered for more than ninety (90) days) may be obtained at one of the following rates:																	
	(a) the stated tariff rate, less the wholesale discount;																	
	(b) the promotional rate (the promotional rate offered by BellSouth will not be discounted further by the wholesale discount rate)																	
4.	Lifeline/Link Up services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers of these services as set forth in Sections A3 and A4 of the BellSouth General Subscriber Services Tariff.																	
5.	Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.																	

LINE INFORMATION DATA BASE (LIDB)

RESALE STORAGE AGREEMENT

I. Definitions (from Addendum)

- A. Billing number - a number used by BellSouth for the purpose of identifying an account liable for charges. This number may be a line or a special billing number.
- B. Line number - a ten-digit number assigned by BellSouth that identifies a telephone line associated with a resold local exchange service, or with a SPNP arrangement.
- C. Special billing number - a ten-digit number that identifies a billing account established by BellSouth in connection with a resold local exchange service or with a SPNP arrangement.
- D. Calling Card number - a billing number plus PIN number assigned by BellSouth.
- E. PIN number - a four-digit security code assigned by BellSouth that is added to a billing number to compose a fourteen-digit calling card number.
- F. Toll billing exception indicator - associated with a billing number to indicate that it is considered invalid for billing of collect calls or third number calls or both, by Talk Now USA.
- G. Billed Number Screening - refers to the activity of determining whether a toll billing exception indicator is present for a particular billing number.
- H. Calling Card Validation - refers to the activity of determining whether a particular calling card number exists as stated or otherwise provided by a caller.
- I. Billing number information - information about billing number or Calling Card number as assigned by BellSouth and toll billing exception indicator provided to BellSouth by Talk Now USA.

II. General

- A. This Agreement sets forth the terms and conditions pursuant to which BellSouth agrees to store in its LIDB certain information at the request of Talk Now USA and pursuant to which BellSouth, its LIDB customers and Talk Now USA shall have access to such information. In addition, this Agreement sets forth the terms and conditions for Talk Now USA's provision of billing number information to BellSouth

for inclusion in BellSouth's LIDB. Talk Now USA understands that BellSouth provides access to information in its LIDB to various telecommunications service providers pursuant to applicable tariffs and agrees that information stored at the request of Talk Now USA, pursuant to this Agreement, shall be available to those telecommunications service providers. The terms and conditions contained herein shall hereby be made a part of this Interconnection/Resale Agreement upon notice to Talk Now USA's account team to activate this LIDB Storage Agreement. The General Terms and Conditions of the Interconnection/Resale Agreement shall govern this LIDB Storage Agreement. The terms and conditions contained in the attached Addendum are hereby made a part of this LIDB Storage Agreement as if fully incorporated herein.

B. BellSouth will provide responses to on-line, call-by-call queries to billing number information for the following purposes:

1. Billed Number Screening

BellSouth is authorized to use the billing number information to determine whether Talk Now USA has identified the billing number as one that should not be billed for collect or third number calls.

2. Calling Card Validation

BellSouth is authorized to validate a 14-digit Calling Card number where the first 10 digits are a line number or special billing number assigned by BellSouth, and where the last four digits (PIN) are a security code assigned by BellSouth.

3. Fraud Control

BellSouth will provide seven days per week, 24-hours per day, fraud monitoring on Calling Cards, bill-to-third and collect calls made to numbers in BellSouth's LIDB, provided that such information is included in the LIDB query. BellSouth will establish fraud alert thresholds and will notify Talk Now USA of fraud alerts so that Talk Now USA may take action it deems appropriate.

III. Responsibilities of the Parties

A. BellSouth will administer all data stored in the LIDB, including the data provided by Talk Now USA pursuant to this Agreement, in the same manner as BellSouth's data for BellSouth's End User customers. BellSouth shall not be responsible to Talk Now USA for any lost revenue which may result from BellSouth's administration of the LIDB pursuant to its established practices and procedures as they exist and as they may be changed by BellSouth in its sole discretion from time to time.

B. Billing and Collection Customers

BellSouth currently has in effect numerous billing and collection agreements with various interexchange carriers and billing clearing houses and as such these billing and collection customers (“B&C Customers”) query BellSouth’s LIDB to determine whether to accept various billing options from End Users. Until such time as BellSouth implements in its LIDB and its supporting systems the means to differentiate Talk Now USA’s data from BellSouth’s data, the following shall apply:

- (1) Talk Now USA will accept responsibility for telecommunications services billed by BellSouth for its B&C Customers for Talk Now USA’s End User accounts which are resident in LIDB pursuant to this Agreement. Talk Now USA authorizes BellSouth to place such charges on Talk Now USA’s bill from BellSouth and shall pay all such charges, including, but are not limited to, collect and third number calls.
- (2) Charges for such services shall appear on a separate BellSouth bill page identified with the name of the B&C Customers for which BellSouth is billing the charge.
- (3) Talk Now USA shall have the responsibility to render a billing statement to its End Users for these charges, but Talk Now USA shall pay BellSouth for the charges billed regardless of whether Talk Now USA collects from Talk Now USA’s End Users.
- (4) BellSouth shall have no obligation to become involved in any disputes between Talk Now USA and B&C Customers. BellSouth will not issue adjustments for charges billed on behalf of any B&C Customer to Talk Now USA. It shall be the responsibility of Talk Now USA and the B&C Customers to negotiate and arrange for any appropriate adjustments.

C. SPNP ARRANGEMENTS

1. BellSouth will include billing number information associated with resold exchange lines or SPNP arrangements in its LIDB. Talk Now USA will request any toll billing exceptions via the Local Service Request (LSR) form used to order resold exchange lines, or the SPNP service request form used to order SPNP arrangements.
2. Under normal operating conditions, BellSouth shall include the billing number information in its LIDB upon completion of the service order establishing either the resold local exchange service or the SPNP arrangement, provided that BellSouth shall not be held responsible for any delay or failure in performance to the extent such delay or failure is caused by circumstances or conditions beyond BellSouth’s reasonable control. BellSouth will store in its LIDB an unlimited volume of the working telephone numbers associated with either the resold local exchange lines or the SPNP arrangements. For resold local exchange lines or for SPNP arrangements, BellSouth will issue line-based calling cards only in the name of Talk Now USA. BellSouth will not issue line-based calling cards in the name of Talk Now USA’s individual End Users. In the event that Talk Now USA wants to

include calling card numbers assigned by Talk Now USA in the BellSouth LIDB, a separate agreement is required.

IV. Fees for Service and Taxes

- A. Talk Now USA will not be charged a fee for storage services provided by BellSouth to Talk Now USA, as described in this LIDB Resale Storage Agreement.
- B. Sales, use and all other taxes (excluding taxes on BellSouth's income) determined by BellSouth or any taxing authority to be due to any federal, state or local taxing jurisdiction with respect to the provision of the service set forth herein will be paid by Talk Now USA in accordance with the tax provisions set forth in the General Terms and Conditions of this Agreement.

Optional Daily Usage File

1. Upon written request from Talk Now USA, BellSouth will provide the Optional Daily Usage File (ODUF) service to Talk Now USA pursuant to the terms and conditions set forth in this section.
2. Talk Now USA shall furnish all relevant information required by BellSouth for the provision of the Optional Daily Usage File.
3. The ODUF feed will contain billable messages that were carried over the BellSouth Network and processed in the BellSouth Billing System, but billed to a Talk Now USA customer.

Charges for delivery of the Optional Daily Usage File will appear on Talk Now USA's monthly bills. The charges are as set forth in Exhibit E to this Attachment.

4. The ODUF feed will contain both rated and unrated messages. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.
5. Messages that error in Talk Now USA's billing system will be the responsibility of Talk Now USA. If, however, Talk Now USA should encounter significant volumes of errored messages that prevent processing by Talk Now USA within its systems, BellSouth will work with Talk Now USA to determine the source of the errors and the appropriate resolution.
6. The following specifications shall apply to the ODUF feed.

6.1 **Usage To Be Transmitted**

- 6.1.1 The following messages recorded by BellSouth will be transmitted to Talk Now USA:
- Message recording for per use/per activation type services (examples: Three Way Calling, Verify, Interrupt, Call Return, etc.)
 - Measured billable Local
 - Directory Assistance messages
 - IntraLATA Toll

 - WATS and 800 Service

- N11
 - Information Service Provider Messages
 - Operator Services Messages
 - Operator Services Message Attempted Calls (UNE only)
 - Credit/Cancel Records
 - Usage for Voice Mail Message Service
- 6.1.2 Rated Incollects (originated in BellSouth and from other companies) can also be on Optional Daily Usage File. Rated Incollects will be intermingled with BellSouth recorded rated and unrated usage. Rated Incollects will not be packed separately.
- 6.1.3 BellSouth will perform duplicate record checks on records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to Talk Now USA.
- 6.1.4 In the event that Talk Now USA detects a duplicate on Optional Daily Usage File they receive from BellSouth, Talk Now USA will drop the duplicate message (Talk Now USA will not return the duplicate to BellSouth).
- 6.2 Physical File Characteristics
- 6.2.1 The Optional Daily Usage File will be distributed to Talk Now USA via an agreed medium with CONNECT:Direct being the preferred transport method. The ODUF feed will be a variable block format (2476) with an LRECL of 2472. The data on the ODUF feed will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays). Details such as dataset name and delivery schedule will be addressed during negotiations of the distribution medium. There will be a maximum of one dataset per workday per OCN.
- 6.2.2 Data circuits (private line or dial-up) will be required between BellSouth and Talk Now USA for the purpose of data transmission. Where a dedicated line is required, Talk Now USA will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. Talk Now USA will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on an individual case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to Talk Now USA. Additionally, all message toll charges associated with the use of the dial circuit by Talk Now USA will be the responsibility of Talk Now USA. Associated equipment on the BellSouth end,

including a modem, will be negotiated on an individual case basis between the Parties. All equipment, including modems and software, that is required on Talk Now USA end for the purpose of data transmission will be the responsibility of Talk Now USA.

6.3 Packing Specifications

6.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.

6.3.2 The OCN, From RAO, and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to Talk Now USA which BellSouth RAO is sending the message. BellSouth and Talk Now USA will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by Talk Now USA and resend the data as appropriate.

THE DATA WILL BE PACKED USING ATIS EMI RECORDS.

6.4 Pack Rejection

6.4.1 Talk Now USA will notify BellSouth within one business day of rejected packs (via the mutually agreed medium). Packs could be rejected because of pack sequencing discrepancies or a critical edit failure on the Pack Header or Pack Trailer records (i.e. out-of-balance condition on grand totals, invalid data populated). Standard ATIS EMI Error Codes will be used. Talk Now USA will not be required to return the actual rejected data to BellSouth. Rejected packs will be corrected and retransmitted to Talk Now USA by BellSouth.

6.5 Control Data

Talk Now USA will send one confirmation record per pack that is received from BellSouth. This confirmation record will indicate Talk Now USA received the pack and the acceptance or rejection of the pack. Pack Status Code(s) will be populated using standard ATIS EMI error codes for packs that were rejected by Talk Now USA for reasons stated in the above section.

6.6 Testing

6.6.1 Upon request from Talk Now USA, BellSouth shall send test files to Talk Now USA for the Optional Daily Usage File. The Parties agree to review and discuss the file's content and/or format. For testing of usage results, BellSouth shall request that Talk Now USA set up a production (LIVE) file. The live test may consist of Talk Now USA's employees making test calls for the types of services Talk Now USA requests on the Optional Daily Usage File. These test calls are logged by Talk Now USA, and the logs are provided to BellSouth. These logs will be used to verify the files. Testing

will be completed within 30 calendar days from the date on which the initial test file was sent.

Enhanced Optional Daily Usage File

1. Upon written request from Talk Now USA, BellSouth will provide the Enhanced Optional Daily Usage File (EODUF) service to Talk Now USA pursuant to the terms and conditions set forth in this section. EODUF will only be sent to existing ODUF subscribers who request the EODUF option.
2. Talk Now USA shall furnish all relevant information required by BellSouth for the provision of the Enhanced Optional Daily Usage File.
3. The Enhanced Optional Daily Usage File (EODUF) will provide usage data for local calls originating from resold Flat Rate Business and Residential Lines.
4. Charges for delivery of the Enhanced Optional Daily Usage File will appear on Talk Now USA's monthly bills. The charges are as set forth in Exhibit E to this Attachment.
5. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.
6. Messages that error in the billing system of Talk Now USA will be the responsibility of Talk Now USA. If, however, Talk Now USA should encounter significant volumes of errored messages that prevent processing by Talk Now USA within its systems, BellSouth will work with Talk Now USA to determine the source of the errors and the appropriate resolution.
7. The following specifications shall apply to the ODUF feed.

7.1 Usage To Be Transmitted

- 7.1.1 The following messages recorded by BellSouth will be transmitted to Talk Now USA:

Customer usage data for flat rated local call originating from Talk Now USA's End User lines (1FB or 1FR). The EODUF record for flat rate messages will include:

Date of Call

From Number

To Number

Connect Time

Conversation Time

Method of Recording

From RAO

Rate Class

Message Type

Billing Indicators

Bill to Number

7.1.2 BellSouth will perform duplicate record checks on EODUF records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to Talk Now USA.

7.1.3 In the event that Talk Now USA detects a duplicate on Enhanced Optional Daily Usage File they receive from BellSouth, Talk Now USA will drop the duplicate message (Talk Now USA will not return the duplicate to BellSouth).

7.2 Physical File Characteristics

7.2.1 The EODUF feed will be distributed to Talk Now USA over their existing Optional Daily Usage File (ODUF) feed. The EODUF messages will be intermingled among Talk Now USA's Optional Daily Usage File (ODUF) messages. The EODUF will be a variable block format (2476) with an LRECL of 2472. The data on the EODUF will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays).

7.2.2 Data circuits (private line or dial-up) may be required between BellSouth and Talk Now USA for the purpose of data transmission. Where a dedicated line is required, Talk Now USA will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. Talk Now USA will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on an individual case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to Talk Now USA. Additionally, all message toll charges associated with the use of the dial circuit by Talk Now USA will be the responsibility of Talk Now USA. Associated equipment on the BellSouth end, including a modem, will be negotiated on an individual case basis between the Parties.

All equipment, including modems and software, that is required on Talk Now USA's end for the purpose of data transmission will be the responsibility of Talk Now USA.

7.3 Packing Specifications

7.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.

7.3.2 The Operating Company Number (OCN), From Revenue Accounting Office (RAO), and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to Talk Now USA which BellSouth RAO is sending the message. BellSouth and Talk Now USA will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by Talk Now USA and resend the data as appropriate.

THE DATA WILL BE PACKED USING ATIS EMI RECORDS.

RESALE DISCOUNTS AND RATES

	ALABAMA	FLORIDA	GEORGIA	KENTUCKY	LOUISIANA	MISSISSIPPI	NORTH CAROLINA	SOUTH CAROLINA	TENNESSEE
APPLICABLE DISCOUNTS									
RESIDENCE	16.3%	21.83%	20.3%	16.79%	20.72%	15.75%	21.5%	14.8%	16%
BUSINESS	16.3%	16.81%	17.3%	15.54%	20.72%	15.75%	17.6%	14.8%	16%
CSAs*					9.05%			8.98%	
* Unless noted in this row, the discount for Business will be the applicable discount rate for CSAs.									
OPERATIONAL SUPPORT SYSTEMS (OSS) RATES									
<u>ELEMENT</u>	<u>USOC</u>								
Electronic LSR	SOME C	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50
Manual LSR	SOMAN	\$19.99	\$19.99	\$19.99	\$19.99	\$19.99	\$19.99	\$19.99	\$19.99
ODUF/EODUF/CMD S RATES									
ENHANCED OPTION DAILY USAGE FILE (EODUF)									
EODUF: Message Processing, per message	\$0.004	0.229109	\$0.0034555	\$0.004	\$0.250015	\$0.250424	\$0.004	\$0.004	\$0.004
OPTIONAL DAILY USAGE FILE (ODUF)									
ODUF: Recording, per message	\$0.0002	0.0000071	\$0.0001275	\$0.0008611	\$0.0000117	\$0.0000063	\$0.0003	\$0.0002862	\$0.0000044
ODUF: Message Processing, per message	\$0.0033	0.006835	\$0.0082548	\$0.0032357	\$0.004641	\$0.004707	\$0.0032	\$0.0032344	\$0.0027366
ODUF: Message Processing, per Magnetic Tape provisioned	\$55.19	48.96	\$28.85	\$55.68	\$48.45	\$49.04	\$54.61	\$54.72	\$52.75
ODUF: Data Transmission (CONNECT:DIRECT), per msg	\$0.00004	0.00010811	\$0.0000434	\$0.0000365	\$0.00010568	\$0.00010669	\$0.0004	\$0.0000357	\$0.0000339

RESALE DISCOUNTS AND RATES

	ALABAMA	FLORIDA	GEORGIA	KENTUCKY	LOUISIANA	MISSISSIPPI	NORTH CAROLINA	SOUTH CAROLINA	TENNESSEE
CUSTOM BRANDING ANNOUNCEMENT (CBA)									
DIRECTORY ASSISTANCE (DA) CBA via OLNS SOFTWARE									
Recording of DA CBA	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
Loading of DA CBA per DRAM Card/Switch per OCN	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00
DIRECTORY ASSISTANCE (DA) UNBRANDING via OLNS SOFTWARE									
Loading of DA per OCN (1 OCN per Order)	\$420.00	\$420.00	\$420.00	\$420.00	\$420.00	\$420.00	\$420.00	\$420.00	\$420.00
Loading of DA per Switch, per OCN	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00
OPERATOR ASSISTANCE (OA) CBA via OLNS SOFTWARE									
<u>ELEMENT</u>	<u>USOC</u>								
Recording of OA CBA	NA	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00
Loading of OA CBA per shelf/ NAV per OCN	NA	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Loading of DA CBA per DRAM Card/Switch per OCN		\$1,170.00	\$1,170.00	\$1,170.00	\$1,170.00	\$1,170.00	\$1,170.00	\$1,170.00	\$1,170.00
OPERATOR ASSISTANCE (OA) UNBRANDING via OLNS SOFTWARE									
Loading of OA per OCN - Regional		\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00

Attachment 2
Pre-Ordering, Ordering and Provisioning,
Maintenance and Repair

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PRE-ORDERING, ORDERING AND PROVISIONING, MAINTENANCE AND REPAIR

1. QUALITY OF PRE-ORDERING, ORDERING AND PROVISIONING, MAINTENANCE AND REPAIR

1.1 BellSouth shall provide pre-ordering, ordering and provisioning and maintenance and repair services to Talk Now USA that are equivalent to the pre-ordering, ordering and provisioning and maintenance and repair services BellSouth provides to itself or any other CLEC, where technically feasible. The guidelines for pre-ordering, ordering and provisioning and maintenance and repair are set forth in the various guides and business rules, as appropriate, and as they are amended from time to time during this Agreement. The guides and business rules are found at <http://www.interconnection.bellsouth.com> and are incorporated herein by reference.

1.2 For purposes of this Agreement, BellSouth's regular working hours for provisioning are defined as follows:

Monday – Friday – 8:00 a.m. – 5:00 p.m. (Excluding Holidays)

Saturday - 8:00 a.m. – 5:00 p.m. (Excluding Holidays)

1.2.1 The above hours represent the hours, either Eastern or Central Time, of where the physical work is being performed.

1.2.2 To the extent Talk Now USA requests provisioning of service to be performed outside BellSouth's regular working hours, or the work so requested requires BellSouth's technicians to work outside regular working hours, overtime billing charges shall apply. Notwithstanding the foregoing, if such work is performed outside of regular working hours by a BellSouth technician during his or her scheduled shift and BellSouth does not incur any overtime charges in performing the work on behalf of Talk Now USA, BellSouth will not assess Talk Now USA additional charges beyond the rates and charges specified in this Agreement.

2. ACCESS TO OPERATIONS SUPPORT SYSTEMS

2.1 BellSouth shall provide Talk Now USA access to operations support systems ("OSS") functions for pre-ordering, ordering and provisioning, maintenance and repair, and billing. BellSouth shall provide access to the OSS through manual and/or electronic interfaces as described in this Attachment. It is the sole responsibility of Talk Now USA to obtain the technical capability to access and utilize BellSouth's OSS interfaces. Specifications for Talk Now USA's access

and use of BellSouth's electronic interfaces are set forth at www.interconnection.bellsouth.com and are incorporated herein by reference.

- 2.1.1 Pre-Ordering. In accordance with FCC and Commission rules and orders, BellSouth will provide electronic access to the following pre-ordering functions: service address validation, telephone number selection, service and feature availability, due date information, customer record information and loop makeup information. Access is provided through the Local Exchange Navigation System (LENS) interface and the Telecommunications Access Gateway (TAG) interface. Customer record information includes customer specific information in CRIS and RSAG. In addition, Talk Now USA shall provide to BellSouth access to customer record information including electronic access where available. Otherwise, Talk Now USA shall provide paper copies of customer record information within the same intervals that BellSouth provides paper copies to Talk Now USA. The Parties agree not to view, copy, or otherwise obtain access to the customer record information of any customer without that customer's permission. Talk Now USA will obtain access to customer record information only in strict compliance with applicable laws, rules, or regulations of the State in which the service is provided. BellSouth reserves the right to audit Talk Now USA's access to customer record information. If a BellSouth audit of Talk Now USA's access to customer record information reveals that Talk Now USA is accessing customer record information without having obtained the proper End User authorization, BellSouth upon reasonable notice to Talk Now USA may take corrective action, including but not limited to suspending or terminating Talk Now USA's electronic access to BellSouth's OSS functionality. All such information obtained through an audit shall be deemed Information covered by the Proprietary and Confidential Information section in the General Terms and Conditions of this Agreement.
- 2.1.2 Service Ordering. BellSouth will make available the Electronic Data Interchange (EDI) interface and the TAG ordering interface for the purpose of exchanging order information, including order status and completion notification, for non-complex and certain complex resale requests and certain network elements. Talk Now USA may integrate the EDI interface or the TAG ordering interface with the TAG pre-ordering interface. In addition, BellSouth will provide integrated pre-ordering and ordering capability through the LENS interface for resale and certain complex resale service requests.
- 2.1.3 Maintenance and Repair. Talk Now USA may report and monitor service troubles and obtain repair services from BellSouth via electronic interfaces. BellSouth provides several options for electronic trouble reporting. For exchange services, BellSouth will offer Talk Now USA non-discriminatory access to the Trouble Analysis Facilitation Interface (TAFI). In addition, BellSouth will offer an industry standard, machine-to-machine Electronic Communications Trouble Administration (ECTA) Gateway interface. For designed services, BellSouth will provide non-discriminatory trouble reporting via the ECTA Gateway. BellSouth will provide Talk Now USA an estimated time to repair, an appointment time or a commitment time, as appropriate, on trouble reports. Requests for trouble repair will be billed

in accordance with the provisions of this Attachment. BellSouth and Talk Now USA agree to adhere to BellSouth's Operational Understanding, as amended from time to time during this Agreement and as incorporated herein by reference. The Operational Understanding may be accessed via the Internet at <http://www.interconnection.bellsouth.com>.

- 2.2 Change Management. BellSouth provides a collaborative process for change management of the electronic interfaces through the Change Control Process (CCP). Guidelines for this process are set forth in the CCP document as amended from time to time during this Agreement. The CCP document may be accessed via the Internet at <http://www.interconnection.bellsouth.com>.
- 2.3 BellSouth's Versioning Policy for Electronic Interfaces. BellSouth's Versioning Policy is part of the Change Control Process (CCP). Pursuant to the CCP, BellSouth will issue new software releases for new industry standards for its EDI and TAG electronic interfaces. The Versioning Policy, including the appropriate notification to Talk Now USA, is set forth in the CCP document as amended from time to time during this Agreement. The CCP document may be accessed via the Internet at <http://www.interconnection.bellsouth.com>.
- 2.4 Rates. Charges for use of OSS shall be as set forth in Attachment 1 of this Agreement and are incorporated herein by reference.

3. MISCELLANEOUS

- 3.1 Pending Orders. Orders placed in the hold or pending status by Talk Now USA will be held for a maximum of thirty (30) days from the date the order is placed on hold. After such time, Talk Now USA shall be required to submit a new service order. Incorrect or invalid orders returned to Talk Now USA for correction or clarification will be held for ten (10) days. If Talk Now USA does not return a corrected order within ten (10) days, BellSouth will cancel the order.
- 3.2 Single Point of Contact. Talk Now USA will be the single point of contact with BellSouth for ordering activity for network elements and other services used by Talk Now USA to provide services to its end users, except that BellSouth may accept an order directly from another CLEC, or BellSouth, acting with authorization of the affected end user. Talk Now USA and BellSouth shall each execute a blanket letter of authorization with respect to customer orders. The Parties shall each be entitled to adopt their own internal processes for verification of customer authorization for orders, provided, however, that such processes shall comply with applicable state and federal law including, until superseded, the FCC guidelines and orders applicable to Presubscribed Interexchange Carrier (PIC) changes, including Un-PIC. BellSouth will notify Talk Now USA that such an order has been processed, but will not be required to notify Talk Now USA in advance of such processing.

- 3.3 Use of Facilities. When a customer of Talk Now USA elects to discontinue service and transfer service to another local exchange carrier, including BellSouth, BellSouth shall have the right to reuse the facilities provided to Talk Now USA by BellSouth. In addition, BellSouth may disconnect and reuse facilities when the facility is in a denied state and BellSouth has received an order to establish new service or transfer of service from a customer or a customer's CLEC at the same address served by the denied facility. BellSouth will notify Talk Now USA that such an order has been processed after the disconnect order has been completed.
- 3.4 Contact Numbers. The Parties agree to provide one another with toll-free nationwide (50 states) contact numbers for the purpose of ordering, provisioning and maintenance of services.
- 3.5 Subscription Functions. In cases where BellSouth performs subscription functions for an interexchange carrier ("IXC") (i.e. PIC and LPIC changes via Customer Account Record Exchange (CARE)), BellSouth will provide the affected IXCs with the Operating Company Number (OCN) of the local provider for the purpose of obtaining end user billing account and other end user information required under subscription requirements.
- 3.6 Cancellation Charges. If Talk Now USA cancels an order for Network Elements or other services, any costs incurred by BellSouth in conjunction with the provisioning of that order will be recovered in accordance with BellSouth's Private Line Tariff or BellSouth's FCC No. 1 Tariff, Section 5, as applicable.
- 3.7 Service Date Advancement Charges (a.k.a.Expedites). For Service Date Advancement requests by Talk Now USA, Service Date Advancement charges will apply for intervals less than the standard interval as outlined in the BellSouth Product and Services Interval Guide. The charges as outlined in BellSouth's Private Line Tariff or BellSouth's FCC No. 1 Tariff, Section 5, will apply as applicable.

Attachment 3
Billing

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BILLING

1. PAYMENT AND BILLING ARRANGEMENTS

The terms and conditions set forth in this Attachment shall apply to all services ordered and provisioned pursuant to this Agreement.

1.1 Billing. BellSouth will bill through the Customer Records Information System (CRIS) depending on the particular service(s) provided to Talk Now USA under this Agreement. BellSouth will format all bills in or CLUB/EDI format, depending on the type of service provided. For those services where standards have not yet been developed, BellSouth's billing format will change as necessary when standards are finalized by the applicable industry forum.

1.1.1 Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, BellSouth.

1.1.2 BellSouth will render bills each month on established bill days for each of Talk Now USA's accounts. If either Party requests multiple billing media or additional copies of bills, the Billing Party will provide these at a reasonable cost.

1.1.3 BellSouth will bill Talk Now USA in advance for all services to be provided during the ensuing billing period except charges associated with service usage, which will be billed in arrears. Charges will be calculated on an individual End User account level, including, if applicable, any charge for usage or usage allowances. BellSouth will also bill Talk Now USA, and Talk Now USA will be responsible for and remit to BellSouth, all charges applicable to resold services including but not limited to 911 and E911 charges, End Users common line charges, federal subscriber line charges, telecommunications relay charges (TRS), and franchise fees.

1.1.4 BellSouth will not perform billing and collection services for Talk Now USA as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within BellSouth.

1.2 Payment Responsibility. Payment of all charges will be the responsibility of Talk Now USA. Talk Now USA shall make payment to BellSouth for all services billed. Payments made by Talk Now USA to BellSouth as payment on account will be credited to Talk Now USA's accounts receivable master account.

1.2.1 BellSouth will not become involved in billing disputes that may arise between Talk Now USA and Talk Now USA's End User customers relating to resold services. If a dispute does arise that cannot be settled without the involvement of BellSouth, Talk Now USA shall contact the designated Service Center for resolution. BellSouth will assist in the resolution of the dispute and will work with Talk Now USA to resolve the matter in as timely a manner as possible. Talk Now USA may be required to submit documentation to substantiate the claim.

- 1.3 Payment Due. Payment for services provided will be due on or before the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by BellSouth.
- 1.3.1 If the payment due date falls on a Sunday or on a Holiday that is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment charge, as set forth in Section 1.5, below, shall apply.
- 1.4 Tax Exemption. Upon BellSouth's receipt of tax exemption certificate, the total amount billed to Talk Now USA will not include those taxes or fees from which Talk Now USA is exempt. Talk Now USA will be solely responsible for the computation, tracking, reporting and payment of all taxes and like fees associated with the services provided to the end user of Talk Now USA.
- 1.5 Late Payment. If any portion of the payment is received by BellSouth after the payment due date as set forth preceding, or if any portion of the payment is received by BellSouth in funds that are not immediately available to BellSouth, then a late payment charge shall be due to BellSouth. The late payment charge shall be the portion of the payment not received by the payment due date multiplied by a late factor and will be applied on a per bill basis. The late factor shall be as set forth in Section A2 of the General Subscriber Services Tariff and Section B2 of the Private Line Service Tariff, as appropriate. In addition to any applicable late payment charges, Talk Now USA may be charged a fee for all returned checks as set forth in Section A2 of the General Subscriber Services Tariff or pursuant to the applicable state law.
- 1.6 Discontinuing Service to Talk Now USA. The procedures for discontinuing service to Talk Now USA are as follows:
- 1.6.1 BellSouth reserves the right to suspend or terminate service in the event of prohibited, unlawful or improper use of BellSouth facilities or service, abuse of BellSouth facilities, or any other violation or noncompliance by Talk Now USA of the rules and regulations of BellSouth's tariffs.
- 1.6.2 BellSouth reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the bill date in the month after the original bill date, BellSouth will provide written notice to Talk Now USA that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment is not received by the fifteenth day following the date of the notice. In addition, BellSouth may, at the

same time, provide written notice to the person designated by Talk Now USA to receive notices of noncompliance that BellSouth may discontinue the provision of existing services to Talk Now USA if payment is not received by the thirtieth day following the date of the initial notice.

- 1.6.3 In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due.
- 1.6.4 If BellSouth does not discontinue the provision of the services involved on the date specified in the thirty days notice and Talk Now USA's noncompliance continues, nothing contained herein shall preclude BellSouth's right to discontinue the provision of the services to Talk Now USA without further notice.
- 1.6.5 Upon discontinuance of service on Talk Now USA's account, service to Talk Now USA's end users will be denied. BellSouth will reestablish service for Talk Now USA upon payment of all past due charges and the appropriate connection fee subject to BellSouth's normal application procedures. Talk Now USA is solely responsible for notifying the end user of the proposed service disconnection. If within fifteen (15) days after Talk Now USA has been denied and no arrangements to reestablish service have been made consistent with this subsection, Talk Now USA's service will be disconnected.
- 1.7 Deposit Policy. Talk Now USA shall complete the BellSouth Credit Profile and provide information to BellSouth regarding credit worthiness. Based on the results of the credit analysis, BellSouth reserves the right to secure the account with a suitable form of security deposit. Such security deposit shall take the form of cash, an Irrevocable Letter of Credit (BellSouth form), Surety Bond (BellSouth form) or, in BellSouth's sole discretion, some other form of security. Any such security deposit shall in no way release Talk Now USA from its obligation to make complete and timely payments of its bill. Talk Now USA shall pay any applicable deposits prior to the inauguration of service. If, in the sole opinion of BellSouth, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the level of security deposit, BellSouth reserves the right to request additional security and/or file a Uniform Commercial Code (UCC-1) security interest in Talk Now USA's "accounts receivables and proceeds." Interest on a security deposit, if provided in cash, shall accrue and be paid in accordance with the terms in the appropriate BellSouth tariff. Security deposits collected under this Section shall not exceed two months' estimated billing. In the event Talk Now USA fails to remit to BellSouth any deposit requested pursuant to this Section, service to Talk Now USA may be terminated in accordance with the terms of Section 1.6 of this Attachment, and any security deposits will be applied to Talk Now USA's account(s).
- 1.7.1 The fact that a security deposit has been made in no way relieves Talk Now USA from complying with BellSouth's regulations as to advance payments. Any such

security deposit shall in no way release Talk Now USA from its obligation to make complete and timely payments of its bills.

- 1.8 Notices. Notwithstanding anything to the contrary in this Agreement, all bills and notices regarding billing matters, including notices relating to security deposits, disconnection of services for nonpayment of charges, and rejection of additional orders from Talk Now USA, shall be forwarded to the individual and/or address provided by Talk Now USA in establishment of its billing account(s) with BellSouth, or to the individual and/or address subsequently provided by Talk Now USA as the contact for billing information. All monthly bills and notices described in this Section shall be forwarded to the same individual and/or address; provided, however, upon written notice from Talk Now USA to BellSouth's billing organization, a final notice of disconnection of services purchased by Talk Now USA under this Agreement shall be sent via certified mail to the individual(s) listed in the Notices provision of the General Terms and Conditions of this Agreement at least 30 days before BellSouth takes any action to terminate such services.

2. BILLING DISPUTES

- 2.1 Each Party agrees to notify the other Party in writing upon the discovery of a billing dispute. Talk Now USA shall report all billing disputes to BellSouth using the Billing Adjustment Request Form (RF 1461) provided by BellSouth. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the notification date. If the Parties are unable within the 60 day period to reach resolution, then the aggrieved Party may pursue dispute resolution in accordance with the General Terms and Conditions of this Agreement.
- 2.2 For purposes of this Section 2, a billing dispute means a reported dispute of a specific amount of money actually billed by either Party. The dispute must be clearly explained by the disputing Party and supported by written documentation, which clearly shows the basis for disputing charges. By way of example and not by limitation, a billing dispute will not include the refusal to pay all or part of a bill or bills when no written documentation is provided to support the dispute, nor shall a billing dispute include the refusal to pay other amounts owed by the billed Party until the dispute is resolved. Claims by the billed Party for damages of any kind will not be considered a billing dispute for purposes of this Section. If the billing dispute is resolved in favor of the billing Party, the disputing Party will make immediate payment of any of the disputed amount owed to the billing Party or the billing Party shall have the right to pursue normal treatment procedures. Any credits due to the disputing Party, pursuant to the billing dispute, will be applied to the disputing Party's account by the billing Party immediately upon resolution of the dispute.

- 2.3 If a Party disputes a charge and does not pay such charge by the payment due date, or if a payment or any portion of a payment is received by either Party after the payment due date, or if a payment or any portion of a payment is received in funds which are not immediately available to the other Party, then a late payment charge and interest, where applicable, shall be assessed. For bills rendered by either Party for payment, the late payment charge for both Parties shall be calculated based on the portion of the payment not received by the payment due date multiplied by the late factor as set forth in the following BellSouth tariffs: for services purchased from the General Subscribers Services Tariff for purposes of resale and for ports and non-designed loops, Section A2 of the General Subscriber Services Tariff and for services purchased from the Private Line Tariff for purposes of resale, Section B2 of the Private Line Service Tariff. The Parties shall assess interest on previously assessed late payment charges only in a state where it has the authority pursuant to its tariffs.

ATTACHMENT 4

PERFORMANCE MEASUREMENTS

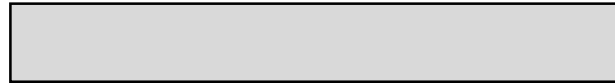
PERFORMANCE MEASUREMENTS

Upon a particular Commission's issuance of an Order pertaining to Performance Measurements in a proceeding expressly applicable to all CLECs generally, BellSouth shall implement in that state such Performance Measurements as of the date specified by the Commission.

Attachment 5

BellSouth Disaster Recovery Plan

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1.0 PURPOSE

In the unlikely event of a disaster occurring that affects BellSouth's long-term ability to deliver traffic to a Competitive Local Exchange Carrier (CLEC), general procedures have been developed to hasten the recovery process. Since each location is different and could be affected by an assortment of potential problems, a detailed recovery plan is impractical. However, in the process of reviewing recovery activities for specific locations, some basic procedures emerge that appear to be common in most cases.

These general procedures should apply to any disaster that affects the delivery of traffic for an extended time period. Each CLEC will be given the same consideration during an outage and service will be restored as quickly as possible.

This document will cover the basic recovery procedures that would apply to every CLEC.

2.0 SINGLE POINT OF CONTACT

When a problem is experienced, regardless of the severity, the BellSouth Network Management Center (NMC) will observe traffic anomalies and begin monitoring the situation. Controls will be appropriately applied to insure the sanity of BellSouth's network; and, in the event that a switch or facility node is lost, the NMC will attempt to circumvent the failure using available reroutes.

BellSouth's NMC will remain in control of the restoration efforts until the problem has been identified as being a long-term outage. At that time, the NMC will contact BellSouth's Emergency Control Center (ECC) and relinquish control of the recovery efforts. Even though the ECC may take charge of the situation, the NMC will continue to monitor the circumstances and restore traffic as soon as damaged network elements are revitalized.

The telephone number for the BellSouth Network Management Center in Atlanta, as published in Telcordia's National Network Management Directory, is 404-321-2516.

3.0 IDENTIFYING THE PROBLEM

During the early stages of problem detection, the NMC will be able to tell which CLECs are affected by the catastrophe. Further analysis and/or first hand observation will determine if the disaster has affected CLEC equipment only; BellSouth equipment only or a combination. The initial restoration activity will be largely determined by the equipment that is affected.

Once the nature of the disaster is determined and after verifying the cause of the problem, the NMC will initiate reroutes and/or transfers that are jointly agreed upon by the affected CLECs' Network Management Center and the BellSouth NMC. The type and percentage of controls used will depend upon available network capacity. Controls necessary to stabilize the situation will be invoked and the NMC will attempt to re-establish as much traffic as possible.

For long term outages, recovery efforts will be coordinated by the Emergency Control Center (ECC). Traffic controls will continue to be applied by the NMC until facilities are re-established. As equipment is made available for service, the ECC will instruct the NMC to begin removing the controls and allow traffic to resume.

3.1 SITE CONTROL

In the total loss of building use scenario, what likely exists will be a smoking pile of rubble. This rubble will contain many components that could be dangerous. It could also contain any personnel on the premises at the time of the disaster. For these reasons, the local fire marshal with the assistance of the police will control the site until the building is no longer a threat to surrounding properties and the companies have secured the site from the general public.

During this time, the majority owner of the building should be arranging for a demolition contractor to mobilize to the site with the primary objective of reaching the cable entrance facility for a damage assessment. The results of this assessment would then dictate immediate plans for restoration, both short term and permanent.

In a less catastrophic event, i.e., the building is still standing and the cable entrance facility is usable, the situation is more complex. The site will initially be controlled by local authorities until the threat to adjacent property has diminished. Once the site is returned to the control of the companies, the following events should occur.

An initial assessment of the main building infrastructure systems (mechanical, electrical, fire and life safety, elevators, and others) will establish building needs. Once these needs are determined, the majority owner should lead the building restoration efforts. There may be situations where the site will not be totally restored within the confines of the building. The companies must individually determine their needs and jointly assess the cost of permanent restoration to determine the overall plan of action.

Multiple restoration trailers from each company will result in the need for designated space and installation order. This layout and control is required to maximize the amount of restoration equipment that can be placed at the site, and the priority of placements.

Care must be taken in this planning to insure other restoration efforts have logistical access to the building. Major components of telephone and building equipment will need to be removed and replaced. A priority for this equipment must also be jointly established to facilitate overall site restoration. (Example: If the AC switchgear has sustained damage, this would be of the highest priority in order to regain power, lighting, and HVAC throughout the building.)

If the site will not accommodate the required restoration equipment, the companies would then need to quickly arrange with local authorities for street closures, rights of way or other possible options available.

3.2 ENVIRONMENTAL CONCERNS

In the worse case scenario, many environmental concerns must be addressed. Along with the police and fire marshal, the state environmental protection department will be on site to monitor the situation.

Items to be concerned with in a large central office building could include:

1. Emergency engine fuel supply. Damage to the standby equipment and the fuel handling equipment could have created "spill" conditions that have to be handled within state and federal regulations.
2. Asbestos containing materials that may be spread throughout the wreckage. Asbestos could be in many components of building, electrical, mechanical, outside plant distribution, and telephone systems.
3. Lead and acid. These materials could be present in potentially large quantities depending upon the extent of damage to the power room.
4. Mercury and other regulated compounds resident in telephone equipment.
5. Other compounds produced by the fire or heat.

Once a total loss event occurs at a large site, local authorities will control immediate clean up (water placed on the wreckage by the fire department) and site access.

At some point, the companies will become involved with local authorities in the overall planning associated with site clean up and restoration. Depending on the clean up approach taken, delays in the restoration of several hours to several days may occur.

In a less severe disaster, items listed above are more defined and can be addressed individually depending on the damage.

In each case, the majority owner should coordinate building and environmental restoration as well as maintain proper planning and site control.

4.0 THE EMERGENCY CONTROL CENTER (ECC)

The ECC is located in the Colonnade Building in Birmingham, Alabama. During an emergency, the ECC staff will convene a group of pre-selected experts to inventory the damage and initiate corrective actions. These experts have regional access to BellSouth's personnel and equipment and will assume control of the restoration activity anywhere in the nine-state area.

In the past, the ECC has been involved with restoration activities resulting from hurricanes, ice storms and floods. They have demonstrated their capabilities during these calamities as well as during outages caused by human error or equipment failures. This group has an excellent record of restoring service as quickly as possible.

During a major disaster, the ECC may move emergency equipment to the affected location, direct recovery efforts of local personnel and coordinate service restoration activities with the CLECs. The ECC will attempt to restore service as quickly as possible using whatever means is available; leaving permanent solutions, such as the replacement of damaged buildings or equipment, for local personnel to administer.

Part of the ECC's responsibility, after temporary equipment is in place, is to support the NMC efforts to return service to the CLECs. Once service has been restored, the ECC will return control of the network to normal operational organizations. Any long-term changes required after service is restored will be made in an orderly fashion and will be conducted as normal activity.

5.0 RECOVERY PROCEDURES

The nature and severity of any disaster will influence the recovery procedures. One crucial factor in determining how BellSouth will proceed with restoration is whether or not BellSouth's equipment is incapacitated. Regardless of who's equipment is out of service, BellSouth will move as quickly as possible to aid with service recovery; however, the approach that will be taken may differ depending upon the location of the problem.

5.1 CLEC OUTAGE

For a problem limited to one CLEC (or a building with multiple CLECs), BellSouth has several options available for restoring service quickly. For those CLECs that have agreements with other CLECs, BellSouth can immediately start directing traffic to a provisional CLEC for completion. This alternative is dependent upon BellSouth having concurrence from the affected CLECs.

Whether or not the affected CLECs have requested a traffic transfer to another CLEC will not impact BellSouth's resolve to re-establish traffic to the original destination as quickly as possible.

5.2 BELLSOUTH OUTAGE

Because BellSouth's equipment has varying degrees of impact on the service provided to the CLECs, restoring service from damaged BellSouth equipment is different. The outage will probably impact a number of Carriers simultaneously. However, the ECC will be able to initiate immediate actions to correct the problem.

A disaster involving any of BellSouth's equipment locations could impact the CLECs, some more than others. A disaster at a Central Office (CO) would only impact the delivery of traffic to and from that one location, but the incident could affect many Carriers. If the Central Office is a Serving Wire Center (SWC), then traffic from the entire area to those Carriers served from that switch would also be impacted. If the switch functions as an Access Tandem, or there is a tandem in the building, traffic from every CO to every CLEC could be interrupted. A disaster that destroys a facility hub could disrupt various traffic flows, even though the switching equipment may be unaffected.

The NMC would be the first group to observe a problem involving BellSouth's equipment. Shortly after a disaster, the NMC will begin applying controls and finding re-routes for the completion of as much traffic as possible. These reroutes may involve delivering traffic to alternate Carriers upon receiving approval from the CLECs involved. In some cases, changes in

translations will be required. If the outage is caused by the destruction of equipment, then the ECC will assume control of the restoration.

5.2.1 Loss of a Central Office

When BellSouth loses a Central Office, the ECC will

- a) Place specialists and emergency equipment on notice;
- b) Inventory the damage to determine what equipment and/or functions are lost;
- c) Move containerized emergency equipment and facility equipment to the stricken area, if necessary;
- d) Begin reconnecting service for Hospitals, Police and other emergency agencies; and
- e) Begin restoring service to CLECs and other customers.

5.2.2 Loss of a Central Office with Serving Wire Center Functions

The loss of a Central Office that also serves as a Serving Wire Center (SWC) will be restored as described in Section 5.2.1.

5.2.3 Loss of a Central Office with Tandem Functions

When BellSouth loses a Central Office building that serves as an Access Tandem and as a SWC, the ECC will

- a) Place specialists and emergency equipment on notice;
- b) Inventory the damage to determine what equipment and/or functions are lost;
- c) Move containerized emergency equipment and facility equipment to the stricken area, if necessary;
- d) Begin reconnecting service for Hospitals, Police and other emergency agencies;
- e) Re-direct as much traffic as possible to the alternate access tandem (if available) for delivery to those CLECs utilizing a different location as a SWC;
- f) Begin aggregating traffic to a location near the damaged building. From this location, begin re-establishing trunk groups to the CLECs for the delivery of traffic normally found on the direct trunk groups. (This aggregation point may be the alternate access tandem location or another CO on a primary facility route.)
- g) Begin restoring service to CLECs and other customers.

5.2.4 Loss of a Facility Hub

In the event that BellSouth loses a facility hub, the recovery process is much the same as above. Once the NMC has observed the problem and administered the appropriate controls, the ECC will assume authority for the repairs. The recovery effort will include

- a) Placing specialists and emergency equipment on notice;
- b) Inventorying the damage to determine what equipment and/or functions are lost;
- c) Moving containerized emergency equipment to the stricken area, if necessary;
- d) Reconnecting service for Hospitals, Police and other emergency agencies; and
- e) Restoring service to CLECs and other customers. If necessary, BellSouth will aggregate the traffic at another location and build temporary facilities. This alternative would be viable for a location that is destroyed and building repairs are required.

5.3 COMBINED OUTAGE (CLEC AND BELLSOUTH EQUIPMENT)

In some instances, a disaster may impact BellSouth's equipment as well as the CLECs'. This situation will be handled in much the same way as described in Section 5.2.3. Since BellSouth and the CLECs will be utilizing temporary equipment, close coordination will be required.

6.0 T1 IDENTIFICATION PROCEDURES

During the restoration of service after a disaster, BellSouth may be forced to aggregate traffic for delivery to a CLEC. During this process, T1 traffic may be consolidated onto DS3s and may become unidentifiable to the Carrier. Because resources will be limited, BellSouth may be forced to "package" this traffic entirely differently than normally received by the CLECs. Therefore, a method for identifying the T1 traffic on the DS3s and providing the information to the Carriers is required.

7.0 ACRONYMS

- CO - Central Office (BellSouth)
- DS3 - Facility that carries 28 T1s (672 circuits)
- ECC - Emergency Control Center (BellSouth)
- CLEC - Competitive Local Exchange Carrier
- NMC - Network Management Center
- SWC - Serving Wire Center (BellSouth switch)
- T1 - Facility that carries 24 circuits

Hurricane Information

During a hurricane, BellSouth will make every effort to keep CLECs updated on the status of our network. Information centers will be set up throughout BellSouth Telecommunications. These centers are not intended to be used for escalations, but rather to keep the CLEC informed of network related issues, area damages and dispatch conditions, etc.

Hurricane-related information can also be found on line at http://www.interconnection.bellsouth.com/network/disaster/dis_resp.htm. Information concerning Mechanized Disaster Reports can also be found at this website by clicking on CURRENT MDR REPORTS or by going directly to <http://www.interconnection.bellsouth.com/network/disaster/mdrs.htm>.

BST Disaster Management Plan

BellSouth maintenance centers have geographical and redundant communication capabilities. In the event of a disaster removing any maintenance center from service another geographical center would assume maintenance responsibilities. The contact numbers will not change and the transfer will be transparent to the CLEC.

Attachment 6

Bona Fide Request and New Business Requests Process

BONA FIDE REQUEST AND NEW BUSINESS
REQUESTS PROCESS

- 1.0 The Parties agree that Talk Now USA is entitled to order any Network Element, Interconnection option, service option or Resale Service required to be made available by the Communications Act of 1934, as modified by the Telecommunications Act of 1996 (the "Act"), FCC requirements or State Commission requirements. Talk Now USA also shall be permitted to request the development of new or revised facilities or service options which are not required by the Act. Procedures applicable to requesting the addition of such facilities or service options are specified in this Attachment 12.
- 2.0 Bona Fide Requests ("BFR") are to be used when Talk Now USA makes a request of BellSouth to provide a new or modified network element, interconnection option, or other service option pursuant to the Act that was not previously included in the Agreement. New Business Requests ("NBRs") are to be used when Talk Now USA makes a request of BellSouth to provide a new or custom capability or function to meet Talk Now USA's business needs that was not previously included in the Agreement. The BFR/NBR process is intended to facilitate the two-way exchange of information between Talk Now USA and BellSouth, necessary for accurate processing of requests in a consistent and timely fashion.
- 3.0 A BFR shall be submitted in writing by Talk Now USA and shall specifically identify the required service date, technical requirements, space requirements and/or such specifications that clearly define the request such that BellSouth has sufficient information to analyze and prepare a response. Such a request also shall include a Talk Now USA's designation of the request as being (i) pursuant to the Telecommunications Act of 1996 (i.e. a "BFR") or (ii) pursuant to the needs of the business (i.e. a "NBR"). The request shall be sent to Talk Now USA's Account Executive.
- 4.0 Within thirty (30) business days of its receipt of a BFR or NBR from Talk Now USA, BellSouth shall respond to Talk Now USA by providing a preliminary analysis of such Interconnection, Network Element, or other facility or service option that is the subject of the BFR or NBR. The preliminary analysis shall confirm that BellSouth will either offer access to the Interconnection, Network Element, or other facility or service option, or provide an explanation of why it is not technically feasible and/or why the request does not qualify as an Interconnection, Network Element, or is otherwise not required to be provided under the Act.
- 5.0 Talk Now USA may cancel a BFR or NBR at any time. If Talk Now USA cancels the request more than three (3) business days after submitting it,

Talk Now USA shall pay BellSouth's reasonable and demonstrable costs of processing and/or implementing the BFR or NBR up to the date of cancellation. If Talk Now USA does not cancel a BFR or NBR, Talk Now USA shall pay BellSouth's reasonable and demonstrable costs of processing and implementing the request.

- 6.0 BellSouth shall propose a firm price quote and a detailed implementation plan within twenty-five (25) business days of Talk Now USA's acceptance of the preliminary analysis.
- 7.0 If Talk Now USA accepts the preliminary analysis, BellSouth shall proceed with Talk Now USA's BFR/NBR, and Talk Now USA agrees to pay the non-refundable amount identified in the preliminary analysis for the initial work required to develop the project plan, create the design parameters, and establish all activities and resources required to complete the BFR/NBR. These costs will be referred to as "development" costs. The development costs identified in the preliminary analysis are fixed. If Talk Now USA cancels a BFR/NBR after BellSouth has received Talk Now USA's acceptance of the preliminary analysis, Talk Now USA agrees to pay BellSouth the reasonable, demonstrable, and actual costs, if any, directly related to complying with Talk Now USA's BFR/NBR up to the date of cancellation, to the extent such costs were not included in the non-refundable amount set forth above.
- 8.0 If Talk Now USA believes that BellSouth's firm price quote is not consistent with the requirements of the Act, Talk Now USA may seek FCC or state Commission arbitration of its request, as appropriate. Any such arbitration applicable to Network Elements and/or Interconnection shall be conducted in accordance with standards prescribed in Section 252 of the Act.
- 9.0 Unless Talk Now USA agrees otherwise, all prices shall be consistent with the pricing principles of the Act, FCC and/or the State Commission.
- 10.0 If either Party to a BFR or NBR believes that the other Party is not requesting, negotiating, or processing the Bona Fide Request in good faith, or disputes a determination, or price or cost quote, such Party may seek FCC or state Commission resolution of the dispute, as appropriate.
- 11.0 Upon agreement to the terms of a BFR or NBR, an amendment to the Agreement may be required.