

ABS Agreement–SBC-13STATE
PAGE 1 OF 16
SBC-13STATE/AT&T/TCG
061203

ALTERNATE BILLED SERVICES “ABS” AGREEMENT

ABS Agreement–SBC-13STATE
PAGE 2 OF 16
SBC-13STATE/AT&T/TCG
061203

Table of Contents

1.0 DEFINITIONS..... 3

2.0 RESPONSIBILITY FOR INCOLLECT CALLS..... 4

3.0 DAILY USAGE EXTRACT FILE:..... 6

4.0 UNBILLABLES / REJECTS..... 7

5.0 BLOCKING..... 7

6.0 TERM OF THE AGREEMENT..... 8

7.0 DISPUTE RESOLUTION..... 9

8.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES..... 10

9.0 LIMITATION OF LIABILITY..... 10

10.0 INDEMNITY..... 11

11.0 RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR..... 13

12.0 NO THIRD PARTY BENEFICIARIES ; DISCLAIMER OF AGENCY..... 14

13.0 ASSIGNMENT..... 14

14.0 DELEGATION TO AFFILIATE..... 14

15.0 SUBCONTRACTING..... 14

16.0 NON-WAIVER..... 15

17.0 AMENDMENTS AND MODIFICATIONS..... 15

ABS Agreement–SBC-13STATE
PAGE 3 OF 16
SBC-13STATE/AT&T/TCG
061203

**BILLING AND SETTLEMENT AGREEMENT
FOR UNBUNDLED NETWORK ELEMENT PLATFORM (“UNE-P”)
ALTERNATE BILLED SERVICES TRAFFIC**

This Billing and Settlement Agreement for Unbundled Network Element Platform (“UNE-P”) Alternate Billed

Services (hereinafter “Agreement”) is made and entered effective as of the 1st day of May, 2003, (“service start

date”) by and between AT&T Communications, Inc., on behalf of the AT&T Corp. entities listed on the signature

page hereof (herein after referred to collectively as "AT&T") and ILEC (as defined herein) collectively referred to

herein as the “Parties.”

1.0 DEFINITIONS

1.1 “**Adjustments**” means either (1) any dollar amounts that are credited to AT&T’s End-User Customer as defined in Section 9, or (2) any charges or credits to AT&T’s Account for amounts declared as Unbillable and/or Uncollectible, as defined herein.

1.2 “**Alternate Billed Services**” (**ABS**) means a service that allows end-users to bill calls to accounts that may not be associated with the originating line. There are three types of ABS calls: calling card, collect and third number billed calls.

1.3 “**Daily Usage File**” (**DUF**) is a process whereby a CLEC receives usage sensitive records in the industry standard format, currently Exchange Message Interface (**EMI**).

1.4 “**End User**” means a third-party residence or business that subscribes to Telecommunications Services provided at retail by AT&T. As used herein, the term “End Users” does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.

1.5 The term “**ILEC**” in this Agreement references the **SBC** ILECs doing business in the regions more particularly described below:

1.5.1 **SBC Communications Inc. (SBC)** means the holding company which owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois¹, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana², Michigan Bell Telephone Company d/b/a SBC Michigan³, Nevada Bell Telephone Company d/b/a SBC Nevada⁴, The Ohio Bell Telephone Company d/b/a SBC Ohio⁵, Pacific Bell Telephone Company d/b/a SBC California⁶, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas⁷, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.⁸

¹ Illinois Bell Telephone Company is now doing business in Illinois as SBC Illinois.

² Indiana Bell Telephone Company Incorporated is now doing business in Indiana as SBC Indiana.

³ Michigan Bell Telephone Company is now doing business in Michigan as SBC Michigan.

⁴ Nevada Bell Telephone Company is now doing business in Nevada as SBC Nevada.

⁵ The Ohio Bell Telephone Company is now doing business in Ohio as SBC Ohio.

⁶ Pacific Bell Telephone Company is now doing business in California as SBC California.

⁷ On December 30, 2001, Southwestern Bell Telephone Company (a Missouri corporation) was merged with and into Southwestern Bell Texas, Inc. (a Texas corporation) and, pursuant to Texas law, was converted to Southwestern Bell Telephone, L.P., a Texas limited partnership.

Southwestern Bell Telephone, L.P. is now doing business in Texas as SBC Texas, in Arkansas as SBC Arkansas, in Kansas as SBC Kansas,

in Missouri as SBC Missouri, and in Oklahoma as SBC Oklahoma.

⁸ Wisconsin Bell, Inc. is now doing business in Wisconsin as SBC Wisconsin.

ABS Agreement–**SBC-13STATE**

PAGE 4 OF 16

SBC-13STATE/AT&T/TCG

061203

1.5.2 **SBC-13STATE** - As used herein, **SBC-13STATE** means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.6 “**Messages**” means the call detail information provided via the DUF (See Section 3.0)

1.7 “**Pre-paid Service**” means a program offered by **SBC-13STATE**’s Public Communications affiliate

that will allow AT&T's End Users to receive collect calls that originate from inmate facilities served by **SBC-13STATE**'s Public Communications affiliate when Selective Blocking has been imposed. Prepay Service allows the End Users to receive such calls by paying a pre-determined amount into a facility-specific account from which payment for future collect calls from that facility are deducted. Prepaid calls are billed at the same rate as collect calls. When the prepaid account is exhausted, calls are prevented from completing until additional amounts are deposited in the account. Any unused portion of a prepaid account is refunded upon request.

1.8 **"Rejects"** means Messages that fail to pass edits in AT&T's billing system, including, but not limited to, Messages that do not pass due to: (1) the age of the call; (2) missing information; (3) incomplete information, or (4) Automatic Number Identification "ANIs" that do not belong to AT&T at the time the calls was made. Rejects are considered "Unbillable" as defined herein.

1.9 **"Selective Blocking"** means a blocking functionality which selectively blocks calls that originate from certain inmate facilities that are served by **SBC-13STATE**'s Public Communications affiliate and that are billable to AT&T's UNE-P End-Users (that is certain inmate – originated collect calls terminating to AT&T's unbundled switch-port). Traffic originating from these inmate facilities will not complete to UNE-P End-Users, unless such End-Users have set up a pre-paid account, as described herein. **SBC-13STATE** will identify AT&T's OCNs and provide programming necessary to restrict inmate originated collect calls, which terminate to **SBC-13STATE** unbundled local switch ports.

1.10 **"Rated ABS Message"** means an ABS message originating from **SBC-13STATE** that is rated and listed on the DUF.

1.11 **"Third Party"** means any Person other than a Party.

1.12 **"Toll Billing Exception" (TBE)** means a blocking functionality which uses pre-existing Line Information Database "LIDB" that is currently available under the Interconnection Agreement to block CLEC's retail lines. CLEC orders TBE blocking via the service order process or an equivalent.

1.13 **"Unbillable"** means the rated value of an ABS Message that is not billable to AT&T's End-User because of missing information in the billing record or other billing error (not the result of an error by AT&T) that is returned to **SBC-13STATE** by means of the DUF.

1.14 **"Uncollectible"** means the rated value of an ABS Message for which charges are billed by AT&T to AT&T's end-user's telephone number and cannot be collected by AT&T from its End-User, despite AT&T's collection efforts.

2.0 RESPONSIBILITY FOR INCOLLECT CALLS

2.1 AT&T is responsible for payment of all charges for UNE-P ABS calls, excluding Unbillables and Rejects, as provided in Section 4 below. At the sole discretion of AT&T, it may bill its End Users for ABS calls transmitted by **SBC-13STATE** via the Daily Usage File ("DUF"). AT&T shall receive a forty percent (40%) accounts receivable discount (the "Accounts Receivable Discount") off the total amount of charges for SBC-originated ABS messages and applicable taxes (which requires that AT&T pay (a) sixty percent (60%) of the total amount of charges for SBC-originated ABS messages and applicable taxes, and (b) sixty percent (60%) of any ABS charges passed through SBC by Third Party ABS Agreement—**SBC-13STATE**

PAGE 5 OF 16

SBC-13STATE/AT&T/TCG
061203

LECs, that are included in a DUF Transmission as provided in Section 3). **SBC-13STATE** will credit AT&T a Billing and Collection Service (B&CS) fee of \$0.05 per billed message for billing its End Users according to the ABS messages transmitted via the DUF for ABS calls originated on SBC-13STATE's network.

2.2 At AT&T's option exercisable by delivery of a written request to **SBC-13STATE**, **SBC-13STATE** will

selectively block calls which originate from inmate facilities that are served by **SBC-13STATE**'s Public Communications unit that are billable to AT&T's End-Users. Once AT&T requests Selective Blocking, **SBC-13STATE** will identify AT&T's OCNs and provide the programming necessary to restrict inmate originated collect calls which terminate to **SBC-13STATE** unbundled local switch ports.

2.3 Settlement with AT&T

2.3.1 The amount due **SBC-13STATE** shall be the total of all billable charges, plus appropriate taxes submitted to AT&T, less:

a. All charges due AT&T under the Accounts Receivable Option of this Appendix minus the credit to AT&T of a Billing and Collection Service (B&CS) fee of \$0.05 per billed message for billing its End Users according to the ABS messages transmitted via the DUF for ABS calls originated on **SBC-13STATE**'s network. The Accounts Receivable Discount, as defined above, will be credited one month in arrears to Requesting Carrier's account;

b. Amounts declared Unbillable or Rejects as provided in Section 4.0 of this Agreement;

c. Late Payment Charges previously assessed for Unbillables and/or Rejects.

2.3.2 Once purchased as an Account Receivable, AT&T shall not adjust, deduct, debit, or otherwise attempt to recourse back to **SBC-13STATE** any Uncollectible ABS charges, regardless of whether the End User disputes the ABS charges accuracy, declares financial insolvency, or otherwise refuses to pay AT&T invoices.

2.3.3 Upon termination of this Agreement for any reason, all sums due to **SBC-13STATE** hereunder, adjusted in accordance with Section 2.4.2.1, shall be due and payable within thirty (30) days after the termination date.

2.4 Billing Services

2.4.1 Limited on-line support will be available for intraLATA ABS calls that originate from an inmate facility within the states of Texas, Oklahoma, Arkansas, Kansas and Missouri that is served by Public Communications, as mutually agreed upon by both Parties. For intraLATA ABS calls that originate from an inmate facility within the states of Ohio, Michigan, Indiana, Illinois, Wisconsin, California, Nevada or Connecticut and for non-inmate originated intraLATA ABS calls within the **SBC-13STATE** region, AT&T may launch an investigation using pccdispute, as provided in Section 2.4.2

2.4.2 AT&T is responsible for facilitating all end-user complaints, inquiries and disputes associated with ABS calls. SBC will work cooperatively with AT&T to address the End-User concerns by providing skilled assistance to AT&T, and the AT&T End-User. If AT&T is unable or unsure of how to sustain a call with an End-User and wants to launch further investigation on a specific call or a series of calls, they may send an email to pccdispute@sbc.com and the Dispute Command Center will perform the research necessary to either adjust the call or help AT&T sustain it with their end-user. The email, from a representative of AT&T should provide the inquiry details which include, but are not limited to, the telephone number, date of dispute/inquiry, charges and or the nature of the inquiry. Within five (5) business days of receipt of the email message, a response will be provided to an AT&T representative as to the ABS Agreement–**SBC-13STATE**

PAGE 6 OF 16

SBC-13STATE/AT&T/TCG

061203

disposition. The disposition could be an agreement to adjust the charges, an explanation for sustaining the call, or the request for additional information to assist SBC in completing the investigation. When all questions are answered and disposition provided, the appropriate credit is applied to the CLEC's Billing Account Number (BAN), as appropriate. Claim resolution is made within thirty (30) calendar days of receipt of claim. In the rare event that a claim cannot be processed within thirty (30) calendar days, notification is made to AT&T via phone or Email and the status will be provided periodically until it is resolved. Once a claim is resolved, a resolution Email is sent to AT&T advising of the action taken. If a claim or adjustment is approved, an adjustment is applied to the next account billing cycle. If a claim is denied, an explanation for the denial is provided. Once **SBC-13STATE** resolves the AT&T claim and the resolution letter is sent to AT&T, SBC considers the claim closed and the monies in dispute become collectible. If AT&T does not agree with **SBC-13STATE**'s resolution of the claim, it is AT&T's responsibility to invoke formal dispute. As an alternate, AT&T may facilitate a mutual call with its End-User and SBC, when deemed necessary. AT&T may either a) send an email to pccdispute@sbc.com requesting SBC's participation in a cooperative call, following the timelines outlined above; or b) AT&T may leave a voicemail message at the Dispute Center Hotline at 866-566-5055 if a quicker turn-around is required. Within two (2) business days of receipt of the voicemail message, a response will be provided to an AT&T representative as to the disposition.

3.0 DAILY USAGE FILE

3.1 **The Daily Usage File** (DUF) will be provided to AT&T in the industry standard format, currently Exchange Message Interface (EMI). The EMI format is established by the Ordering and Billing Forum (OBF), an industry body, sponsored by the Alliance for Telecommunications Solutions (ATIS), that is charged with creating voluntary guidelines for the exchange of information among Telecommunications Carriers. **SBC-13STATE** will provide AT&T with formatted records via the DUF for **SBC-13STATEs'** and Third Party LECs' rated messages for ABS calls in accordance with each Provider's requested rate.

3.2 In addition to any other records required to be transmitted in the DUF under AT&T's Interconnection Agreement, **SBC-13STATE** shall transmit **SBC-13STATEs'** and Third Party LECs' rated messages for ABS calls to AT&T on the DUF. The **SBC-13STATE** originated messages will be rated by **SBC-13STATE** and provided on the DUF. Third Party LEC's messages will be transmitted to AT&T as passed to **SBC-13STATE** from the Third Party LEC.

3.3 AT&T and **SBC-13STATE** have stipulated that a per message charge for **SBC-13STATEs'** transmission of ABS messages via the DUF to AT&T is applicable and **SBC-13STATE** will bill AT&T for the transmission Charge as outlined in the state specific Interconnection Agreement.

3.4 Notwithstanding the foregoing, AT&T shall not be liable for any Underbilled ABS Charges that originated on the **SBC-13STATE** network for which Customer Usage Data was not furnished by **SBC-13STATE** to AT&T within ninety (90) days of the date such usage was incurred. AT&T shall not be liable for any Underbilled charges passed through **SBC-13STATE** by a Third Party LEC for which customer usage data was not furnished by **SBC-13STATE** to AT&T within one-hundred twenty (120) days of the date such usage was incurred. Underbilled Charges means 1) ABS records that **SBC-13STATE** sends to AT&T via the DUF that are more than ninety (90) days of the call being made that originated on the **SBC-13STATE** network; and 2) ABS records that are passed through **SBC-13STATE** by a Third Party LEC to AT&T via the DUF that are more than one-hundred twenty (120) days of the call being made. SBC is unable to customize the Daily Usage File process to accommodate these terms. Therefore, rated messages that meet the requirements outlined above as Underbilled ABS Charges must be returned to **SBC-13STATE** by means of the DUF as an Unbillable record for an adjustment.

ABS Agreement–**SBC-13STATE**

PAGE 7 OF 16

SBC-13STATE/AT&T/TCG

061203

3.5 AT&T shall notify **SBC-13STATEs'** Information Systems "IS" Call Center within twenty-four (24) hours from the discovery of a problem with transmission of the DUF.

4.0 UNBILLABLES / REJECTS

4.1 **SBC-13STATE** shall adjust AT&T's ABS charges for timely and properly returned Unbillables and Rejects as defined herein within thirty (30) days or the next bill round, whichever comes first, after receipt of such Unbillables and Rejects.

4.2 AT&T may submit Unbillable and/or Reject claims to **SBC-13STATE** no later than sixty (60) days from the date the message was originally sent to AT&T through the DUF.

4.3 AT&T must return Unbillable and/or Reject claims to **SBC-13STATE** by means of the DUF using the appropriate EMI Guidelines. In the event that AT&T is not technically prepared to utilize the DUF return process to handle these charges upon execution of the Settlement Agreement, then AT&T will process Unbillable and/or Reject claims through a mutually agree upon format, not to exceed 9 months in duration.

4.4 Upon receipt of returned Unbillable and/or Reject claims, **SBC-13STATE** will first attempt to correct the message and re-send it to AT&T for End-User billing. If the record cannot be corrected, **SBC-13STATE** will process appropriate credits to AT&T's account.

4.5 In the rare event that duplicate records are received by AT&T, a separate adjustment procedure will be necessary. AT&T may notify SBC 13-STATE of one duplicate record or a series of duplicate records by submitting an email message to pcdispute@SBC.com. The Dispute Command Center will perform the research necessary to either adjust the call or help AT&T sustain it with their end-user. The email, from a representative of AT&T should provides the inquiry details which include, but are not limited to, the telephone number, date of dispute/inquiry, charges and or the nature of the inquiry. Within five (5) business days of receipt of the email message, a response will be provided to an AT&T representative as to the disposition. The disposition could be an agreement to adjust the charges, an explanation for

sustaining the call, or the request for additional information to assist SBC in completing the investigation. When all questions are answered and disposition provided, the appropriate credit is applied to the CLEC's Billing Account Number (BAN), as appropriate Claim resolution is made within thirty (30) calendar days of receipt initial receipt of claim. In the rare event that a claim cannot be processed within thirty (30) calendar days, notification is made to AT&T via phone or Email and the status will be provided periodically until it is resolved. Once a claim is resolved, a resolution Email is sent to AT&T advising of the action taken. If a claim or adjustment is approved, an adjustment is applied to the next account billing cycle. If a claim is denied, an explanation for the denial is provided. Once **SBC-13STATE** resolves the AT&T claim and the resolution letter is sent to AT&T, SBC considers the claim closed and the monies in dispute become collectible. If AT&T does not agree with **SBC-13STATE**'s resolution of the claim, it is AT&T's responsibility to invoke formal dispute.

5.0 BLOCKING

5.1 AT&T shall comply with all federal and state requirements to block End User access to ABS calls upon End User's request. AT&T shall also block End User access to ABS calls upon **SBC-13STATE**'s request, as set forth in the Guidelines as defined in Section 5.2 in this Agreement.

5.2 AT&T shall agree to cooperate with **SBC-13STATE** to investigate, minimize, and take corrective action in cases of fraud related to ABS calls. AT&T shall also block its End-User access to ABS calls upon **SBC-13STATE**'s request in the case of fraud. The failure of either Party to comply with the fraud detection and prevention provisions of the Interconnection Agreements will constitute a material default under this Agreement for which the Parties will have the remedies specified herein.

ABS Agreement–**SBC-13STATE**

PAGE 8 OF 16

SBC-13STATE/AT&T/TCG

061203

5.3 In connection with the selective blocking and TBE option, **SBC-13STATE** is unable to guarantee that its methodology will block 100% of the collect/Third Party calls. AT&T is responsible for any ABS charges that may occur due to AT&T's End User's acceptance of Collect/Third Party calls; provided, however, that if such charges arise on a line that AT&T requested be blocked but **SBC-13STATE** failed to provide such blocking, AT&T may launch an investigation on charges with **SBC-13STATE** for consideration of an adjustment. For such calls, AT&T may launch an investigation on an ABS charge or series of charges by sending an email to pccdspite@sbc.com. The Dispute Command Center will perform the research necessary to either adjust the call or help AT&T sustain it with their end-user. The email, from a representative of AT&T should provide the inquiry details which include, but are not limited to, the telephone number, date of dispute/inquiry, charges and or the nature of the inquiry. Within five (5) business days of receipt of the email message, a response will be provided to an AT&T representative as to the disposition. The disposition could be an agreement to adjust the charges, an explanation for sustaining the call, or the request for additional information to assist SBC in completing the investigation. When all questions are answered and disposition provided, the appropriate credit is applied to the CLEC's Billing Account Number (BAN), as appropriate. Claim resolution is made within thirty (30) calendar days of receipt initial receipt of claim. In the rare event that a claim cannot be processed within thirty (30) calendar days, notification is made to AT&T via phone or Email and the status will be provided periodically until it is resolved. Once a claim is resolved, a resolution Email is sent to AT&T advising of the action taken. If a claim or adjustment is approved, an adjustment is applied to the next account billing cycle. If a claim is denied, an explanation for the denial is provided. Once **SBC-13STATE** resolves the AT&T claim and the resolution letter is sent to AT&T, SBC considers the claim closed and the monies in dispute become collectible. If AT&T does not agree with **SBC-13STATE**'s resolution of the claim, it is AT&T's responsibility to invoke formal dispute. AT&T will not be charged for Selective Blocking for the term of this Agreement.

6.0 TERM OF THE AGREEMENT

6.1 The term of this Agreement shall commence on May 1, 2003 and shall expire on August 1, 2004 (the "**Term**"). No earlier than 90 days before the expiration date, either Party may serve notice of its intention to renegotiate the rates, terms and/or conditions of this Agreement. If either Party serves notice of such request for re-negotiation, the other Party shall have ten (10) calendar days to appoint a representative and respond to the request for re-negotiations. The Parties may agree to renew this Agreement on the exact same rates and terms, for a mutually agreed period, or to renegotiate some or all of the rates and terms.

6.2 AT&T shall respond to the request for re-negotiations by either: (a) agreeing to renegotiate an ABS Agreement; (b) adopting another ABS Agreement entered into between **SBC-13STATE** and a CLEC in that state pursuant to 252(i); or (c) establishing that a successor ABS Agreement is no longer necessary because AT&T has become a facilities based (i.e. switch-based) provider, or has otherwise withdrawn from local exchange service via UNEs or Resale.

6.3 Unless AT&T exercises its rights under 6.2 above, then the Parties shall engage in good faith renegotiations for a successor to this Agreement for as long as the Parties may wish, but in no event to exceed six (6) months. During renegotiations, the rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of (i) the effective date of its Successor Agreement, or (ii) the date that is six (6) months after the date on which either Party served a request for renegotiations. If the Parties do not reach agreement on the rates, terms or conditions of the Successor Agreement, either side remains free to arbitrate the disputed issues before the applicable State Commission (subject to reservation of rights provision in Section 18), which by agreement shall take effect on the sixth month after the renegotiations notice.

ABS Agreement–**SBC-13STATE**

PAGE 9 OF 16

SBC-13STATE/AT&T/TCG

061203

7.0 DISPUTE RESOLUTION

7.1 Finality of Disputes

7.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twenty-four (24) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

7.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges for which the Bill Due Date occurred within the twelve (12) months immediately preceding the date on which the other Party received notice of such Disputed Amounts.

7.2 Alternative to Litigation

7.2.1 The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

7.3 Commencing Dispute Resolution

7.3.1 Dispute Resolution shall commence upon one Party's receipt of written notice of a controversy or claim arising out of or relating to this Agreement or its breach. No Party may pursue any claim unless such written notice has first been given to the other Party.

7.4 Informal Resolution of Disputes

7.4.1 Upon receipt by one Party of notice of a dispute by the other Party pursuant to Section 7.3, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

7.5 Formal Dispute Resolution

7.5.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 7.4.1, then either Party may invoke the formal Dispute Resolution procedures described in this Section 7.5. Unless agreed among all Parties, formal Dispute Resolution procedures, including arbitration or other procedures as appropriate, may be invoked not earlier than sixty (60) calendar days after receipt of the letter initiating Dispute Resolution under Section 7.3.

7.5.2 Claims Subject to Elective Arbitration. Claims will be subject to elective arbitration pursuant to Section 7.6 if, and only if, the claim is not settled through informal Dispute Resolution and both Parties agree to arbitration. If both Parties do not agree to arbitration, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

ABS Agreement–**SBC-13STATE**

PAGE 10 OF 16

SBC-13STATE/AT&T/TCG

061203

7.5.3 Claims Not Subject to Arbitration. If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism.

7.5.3.1 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

7.5.3.2 Actions to compel compliance with the Dispute Resolution process.

7.5.3.3 All claims arising under federal or state statute(s), including antitrust claims.

7.6 Arbitration

7.6.1. Disputes subject to mandatory or elective arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. Each arbitration will be held in **Dallas, Texas (SBC-SWBT); Chicago, Illinois (SBC-AMERITECH), San Francisco, California (PACIFIC); Reno, Nevada (NEVADA); or New Haven, Connecticut (SNET)**, as appropriate, unless the Parties agree otherwise. The arbitration hearing will be requested to commence within sixty (60) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator will have no authority to award punitive damages, exemplary damages, Consequential Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

8.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

8.1 EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS AND SERVICES IT PROVIDES UNDER OR IS CONTEMPLATED TO PROVIDE UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR A PARTICULAR PURPOSE.

ADDITIONALLY, NO PARTY TO THIS AGREEMENT ASSUMES RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY ANY OTHER PARTY TO THIS AGREEMENT WHEN SUCH DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

9.0 LIMITATION OF LIABILITY

9.1 Except for indemnity obligations expressly set forth herein or as otherwise expressly provided in specific appendices, each Party's liability to the other Party for any Loss relating to or arising out of

ABS Agreement–**SBC-13STATE**

PAGE 11 OF 16

SBC-13STATE/AT&T/TCG

061203

such Party's performance under this Agreement, including any negligent act or omission (whether willful or inadvertent), whether in contract, tort or otherwise, including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement also constitute a violation of a statute, including the Act, shall not exceed in total the amount **SBC-13STATE** or AT&T has charged or would have charged to the other Party for the affected products and service(s) that were not performed or were improperly performed.

9.2 In the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.

9.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users or Third Parties that relate to any products and services provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such 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 the End User or Third Party for the products and services that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 9.3.

9.4 Neither AT&T nor **SBC-13STATE** shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 10 to indemnify, defend, and hold the other Party harmless against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 9.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by that Party's End User in connection with any affected products and services. Except as provided in the prior sentence, each Party ("**Indemnifying Party**") hereby releases and holds harmless the other Party ("**Indemnitee**") (and Indemnitee's Affiliates, and its respective officers, directors, employees and agents) against any Loss or Claim made by the Indemnifying Party's End User.

10.0 INDEMNITY

10.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the products and services which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party shall bear any responsibility for the products and services provided by the other Party, its agents, subcontractors, or others retained by such Parties.

10.2 Except as otherwise expressly provided herein or in specific appendices, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "**Indemnifying Party**") shall release, defend and indemnify the other Party (the "**Indemnified Party**") and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the negligence or willful ABS Agreement–**SBC-13STATE**

PAGE 12 OF 16

SBC-13STATE/AT&T/TCG

061203

misconduct ("**Fault**") of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party's provision of products and services under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing

duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.

10.3 In the case of any Loss alleged or claimed by a End User of either Party, the Party whose End User alleged or claimed such Loss (the “**Indemnifying Party**”) shall defend and indemnify the other Party (the “**Indemnified Party**”) against any and all such Claims or Losses by its End User regardless of whether the underlying product or service giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.

10.4 A Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party (“**Indemnified Party**”) against any Claim or Loss arising from the Indemnifying Party’s use of Interconnection, Resale Services, Network Elements, functions, facilities, products and services provided under this Agreement involving:

10.4.1 Any Claim or Loss arising from such Indemnifying Party’s use of Interconnection, Resale Services, Network Elements, functions, facilities, products and services offered under this Agreement, involving any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party’s or its End User’s use.

10.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement.

10.5 Indemnification Procedures

10.5.1 Whenever a claim shall arise for indemnification under this Section 10, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party’s ability to defend such claim.

10.5.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party.

10.5.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.

ABS Agreement–**SBC-13STATE**

PAGE 13 OF 16

SBC-13STATE/AT&T/TCG

061203

10.5.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

10.5.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party’s cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.

10.5.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.

10.5.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.

10.5.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.

10.5.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 11.

11.0 RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR

11.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

11.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of

one another, and neither Party shall have the right or power to bind or obligate the other. Nothing

ABS Agreement—**SBC-13STATE**

PAGE 14 OF 16

SBC-13STATE/AT&T/TCG

061203

herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

12.0 NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

12.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any Third Party beneficiary rights hereunder. This Agreement shall not provide any Person not a party hereto with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.

13.0 ASSIGNMENT

13.1 Neither AT&T nor **SBC-13STATE** may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third person without the prior written consent of **SBC-13STATE**; provided that either may assign or transfer this Agreement to its Affiliate

by providing ninety (90) calendar days' prior written notice to the other Party of such assignment or transfer; provided, further, that such assignment is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain proper Commission certification and approvals) or the terms and conditions of this Agreement; and provided, further that the assigning Party remains primarily liable under this Agreement. Notwithstanding the foregoing, neither Party may not assign or transfer this Agreement (or any rights or obligations hereunder) to its Affiliate if that Affiliate is a party to a separate agreement with the other Party under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void ab initio.

14.0 DELEGATION TO AFFILIATE

14.1 Each Party may without the consent of the other Party fulfill its obligations under this Agreement by itself or may cause its Affiliate(s) to take some or all of such actions to fulfill such obligations. Upon such delegation, the Affiliate shall become a primary obligor hereunder with respect to the delegated matter, but such delegation shall not relieve the delegating Party of its obligations as co-obligor hereunder. Any Party which elects to perform its obligations through an Affiliate shall cause its Affiliate to take all action necessary for the performance of such Party's obligations hereunder. Each Party represents and warrants that if an obligation under this Agreement is to be performed by an Affiliate, such Party has the authority to cause such Affiliate to perform such obligation and such Affiliate will have the resources required to accomplish the delegated performance.

15.0 SUBCONTRACTING

15.1 If either Party retains or engages any subcontractor to perform any of that Party's obligations under this

Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through subcontractors.

15.2 Each Party will be solely responsible for payments due that Party's subcontractors.

15.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.

ABS Agreement–**SBC-13STATE**

PAGE 15 OF 16

SBC-13STATE/AT&T/TCG

061203

15.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Interconnection, Resale Services, Network Elements, functions, facilities, products and services hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.

15.5 Any subcontractor that gains access to CPNI or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.

16.0 NON-WAIVER

16.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

17.0 AMENDMENTS AND MODIFICATIONS

17.1 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties. The rates, terms and conditions contained in the amendment shall become effective upon approval of such amendment by the appropriate Commissions.

17.2 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

18. RESERVATION OF RIGHTS

The Parties disagree as to whether or not the ABS Agreement is required by applicable law to be filed with the state commissions in the SBC 13-STATE area. As a compromise and settlement, the Parties have agreed to file the ABS Agreement as a standalone agreement for approval under Section 251 of the Telecommunications Act of 1996 with the state commissions in the SBC 13-STATE area, but each Party expressly reserves the right to contest in any appropriate court, agency or commission proceeding whether or not the state commissions have jurisdiction (including without limitation, through the application of sections 251 or 252 of the Telecommunications Act of 1996, as amended) over the subject mater of the ABS Agreement; provided, however, that AT&T will not oppose approval of the ABS Agreement by the state commission. The Parties expressly agree to the filing of the ABS Agreement as a result of a settlement of disputes between the Parties and such filing shall not constitute a concession or admission that the state commissions have jurisdiction over the ABS Agreement.

ABS Agreement-SBC-13STATE

PAGE 16 OF 16

SBC-13STATE/AT&T/TCG

061203

WITNESS the following signatures on the dates set forth.

- AT&T Communications of the Southwest, Inc.,**
- AT&T Communications of Texas, L.P.**
- AT&T Communications of California, Inc.,**
- AT&T Communications of Nevada, Inc.,**
- AT&T Communications of Illinois, Inc.,**
- AT&T Communications of Indiana, Inc.,**
- AT&T Communications of Michigan, Inc.,**
- AT&T Communications of Ohio, Inc.,**
- AT&T Communications of Wisconsin, L.P.,**
- AT&T Communications of New England, Inc.,**
- TCG Dallas,**
- Teleport Communications Houston, Inc.,**
- TCG Kansas City, Inc.,**
- TCG St. Louis,**
- TCG Kansas City,**
- TCG-Los Angeles,**
- TCG-San Diego,**
- TCG-San Francisco,**
- TCG Illinois & TCG Chicago,**
- TCG Indianapolis,**
- TCG Detroit,**
- TCG Milwaukee, Inc.,**
- TCG Connecticut**
- TCG Ohio**

By: _____

Name: _____

(Print or Type)

Title: _____

Date:

Illinois Bell Telephone Company d/b/a SBC Illinois,
Indiana Bell Telephone Company Incorporated d/b/a
SBC Indiana,
Michigan Bell Telephone Company d/b/a SBC

**Michigan,
Nevada Bell Telephone Company d/b/a SBC Nevada,
The Ohio Bell Telephone Company d/b/a SBC Ohio,
Pacific Bell Telephone Company d/b/a SBC
California,
The Southern New England Telephone Company,
Southwestern Bell Telephone, L.P. d/b/a SBC
Arkansas, SBC Kansas, SBC Missouri, SBC
Oklahoma and/or SBC Texas,
Wisconsin Bell, Inc. d/b/a SBC Wisconsin
By SBC Telecommunications, Inc.,
their authorized agent**

By: _____

Name: _____

(Print or Type)

Title: For/President – Industry Markets

Date: