**SBP AGREEMENT**

**FOR ACCESS TO**

**AT&T’s OSS**

**TABLE OF CONTENTS**

**Section Number Page Number**

[1.0 Introduction 3](#_Toc431981556)

[2.0 Definitions 3](#_Toc431981557)

[3.0 Effective Date, Term and Termination 4](#_Toc431981558)

[4.0 Interpretation 5](#_Toc431981559)

[5.0 Proper User of OSS Interfaces 5](#_Toc431981560)

[6.0 Service Bureau Provider Access to OSS 6](#_Toc431981561)

[7.0 Billing and Payment of Charges 6](#_Toc431981562)

[8.0 Disclaimer of Representations and Warranties 6](#_Toc431981563)

[9.0 Limitation of Liability 6](#_Toc431981564)

[10.0 Indemnity 7](#_Toc431981565)

[11.0 Intellectual Property/License 7](#_Toc431981566)

[12.0 Notices 7](#_Toc431981567)

[13.0 Publicity and Use of Trademarks or Service Marks 8](#_Toc431981568)

[14.0 No License 8](#_Toc431981569)

[15.0 Confidentiality 8](#_Toc431981570)

[16.0 Governing Law 9](#_Toc431981571)

[17.0 Relationship of the Parties/Independent Contractor 9](#_Toc431981572)

[18.0 No Third Party Beneficiaries; Disclaimer of Agency 9](#_Toc431981573)

[19.0 Assignment 9](#_Toc431981574)

[20.0 Delegation to Affiliate 10](#_Toc431981575)

[21.0 Subcontracting 10](#_Toc431981576)

[22.0 Force Majeure 10](#_Toc431981577)

[23.0 Non-Waiver 10](#_Toc431981578)

[24.0 Authority 11](#_Toc431981579)

[25.0 Counterparts 11](#_Toc431981580)

[26.0 Entire Agreement 11](#_Toc431981581)

**AGREEMENT TO ALLOW SBP**

**TO ESTABLISH ACCESS FOR CLEC AND/OR VOIP PROVIDER**

**TO AND USE OF AT&T’s OSS**

This Agreement (“Agreement”) is between <<txtCXRLegal>> (hereinafter **“**Service Bureau Provider” or “SBP”) a <<cboxStateInc>> <<cboxEntityType>>, having an office at <<txtNoticeAddress1>>, <<txtNoticeCity>>, <<cboxNoticeState>> <<txtNoticeZip>> and BellSouth Telecommunication, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA, and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS, Indiana Bell Telephone Company Incorporated d/b/a AT&T INDIANA, Michigan Bell Telephone Company d/b/a AT&T MICHIGAN, Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale, The Ohio Bell Telephone Company d/b/a AT&T OHIO, Pacific Bell Telephone Company d/b/a AT&T CALIFORNIA, Southwestern Bell Telephone Company d/b/a AT&T ARKANSAS, AT&T KANSAS, AT&T MISSOURI, AT&T OKLAHOMA, and AT&T TEXAS, and Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN (“AT&T”), (collectively the Parties).

**WHEREAS**, in order to facilitate access for CLECs and/or Interconnected VoIP Providers (“IVP”) to AT&T’s Operations Support Systems (“OSS”), the Parties wish to establish terms to allow SBP to connect to AT&T’s OSS for the exclusive purpose of processing transactions on behalf of its CLEC and/or IVP Customers, as more fully described herein.

**NOW**, **THEREFORE**, in consideration of the premises and the mutual covenants of this Agreement the Parties hereby agree as follows:

# Introduction

## This Agreement sets forth the terms and conditions under which AT&T agrees to provide SBP with a connection to AT&T OSS application-to-application interfaces, on a region by region basis, for the exclusive purpose of processing Customers’ permissible OSS transactions pursuant to the terms of the AT&T/Customer agreements.

## SBP acknowledges that this Agreement is entered into to facilitate Customers’ exercise of their rights under agreements with AT&T and that SBP is acting pursuant to a letter of authorization from its Customers to perform certain OSS functions under those agreements and must comply, to the extent reasonably necessary to fulfill its obligations under this Agreement with all provisions in such agreement(s), pertaining to OSS related access, (as further described in Section 5.1 and 5.2 below) as it performs under this Agreement, as well as comply with applicable law. AT&T can request and SBP shall promptly provide a copy of SBP’s authorization from Customer(s) to act as its behalf.

## The Parties acknowledge that this Agreement is not required by the Communications Act of 1934, as amended, nor any regulation or rule of the FCC or any state commission.

# Definitions

## “Affiliate” is as defined in the Act.

## “Customer(s)” means any CLEC(s) with an effective interconnection agreement with AT&T or any Interconnected VoIP Provider (IVP) with an effective VoIP OSS Agreement on whose behalf SBP is authorized to access AT&T’s OSS via application-to-application interfaces.

## “AT&T Inc (AT&T)” means the holding company which directly or indirectly owns the following ILECs: BellSouth Telecommunications, Inc. d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee; Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T Wholesale, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California,; Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas, and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin. As used in this Agreement, AT&T refers to the AT&T Inc. ILECs only.

## “AT&T” means the AT&T-owned ILEC(s) doing business in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin.

## “AT&T-12STATE” means the AT&T-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

## “AT&T-9STATE” means the AT&T-owned ILEC(s) doing business in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

## “AT&T ALABAMA” means the AT&T-owned ILEC doing business in Alabama.

## “AT&T ARKANSAS” means the AT&T-owned ILEC doing business in Arkansas.

## “AT&T FLORIDA” means the AT&T-owned ILEC doing business in Florida.

## “AT&T GEORGIA” means the AT&T-owned ILEC doing business in Georgia.

## “AT&T ILLINOIS” means the AT&T-owned ILEC doing business in Illinois.

## “AT&T INDIANA” means the AT&T-owned ILEC doing business in Indiana.

## “AT&T KENTUCKY” means the AT&T-owned ILEC doing business in Kentucky.

## “AT&T LOUISIANA” means the AT&T-owned ILEC doing business in Louisiana.

## “AT&T MICHIGAN” means the AT&T-owned ILEC doing business in Michigan.

## “AT&T MISSISSIPPI” means the AT&T-owned ILEC doing business in Mississippi.

## “AT&T MISSOURI” means the AT&T-owned ILEC doing business in Missouri.

## “AT&T NEVADA” means the AT&T-owned ILEC doing business in Nevada.

## “AT&T NORTH CAROLINA” means the AT&T-owned ILEC doing business in North Carolina.

## “AT&T OHIO” means the AT&T-owned ILEC doing business in Ohio.

## “AT&T OKLAHOMA” means the AT&T-owned ILEC doing business in Oklahoma.

## “AT&T SOUTH CAROLINA” means the AT&T-owned ILEC doing business in South Carolina.

## “AT&T TENNESSEE” means the AT&T-owned ILEC doing business in Tennessee.

## “AT&T TEXAS” means the AT&T-owned ILEC doing business in Texas.

## “AT&T WISCONSIN” means the AT&T–owned ILEC doing business in Wisconsin.

## “Interconnected VoIP Provider” or “IVP” as used in this Agreement is the entity set forth in the Preamble and that provides interconnected VoIP service as that term is defined in 47 U.S.C. § 153(57) and for the purposes of this Agreement, refers to a specific Interconnected VoIP Provider that is a Party to this Agreement.

## “SBP” as used in this Agreement is a company that has been engaged by a Customer (as defined above) to act on a Customer’s behalf for purposes of providing a means of access to AT&T’s OSS application-to-application interfaces via a dedicated connection and/or AT&T’s graphical user interface (GUI) over which multiple Customers’ transactions are transported.

# Effective Date, Term and Termination

## The Effective Date of this Agreement shall be the date on which the last Party executes this Agreement.

## The term of this Agreement shall commence on the Effective Date and shall continue in effect so long as SBP has an agreement with any Customer to provide that Customer with a connection to AT&T’s OSS application-to application interfaces. In the event that SBP no longer has an agreement to provide any Customer with a connection to AT&T’s OSS application-to-application interfaces, this agreement shall terminate. SBP shall provide prompt notice upon termination of its authorization to act on behalf of any Customer(s). When such a termination occurs, the Parties shall negotiate a transition plan to assist Customer(s) in obtaining alternate access to AT&T’s OSS.

## Notwithstanding any other provisions of this Agreement, either Party may terminate this Agreement upon no less than one hundred twenty (120) days’ notice. Provided however neither Party shall terminate this Agreement, except for cause or as provided in Section 3.2 above, during the first year. If such a termination occurs, the Parties shall negotiate a transition plan to assist Customers of the SBP to obtain alternate access to AT&T’s OSS. Any such transition plan shall include, as necessary, the continued use by Customers of SBP’s Exchange Link service or that of another SBP**.**

## Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any services provided pursuant to this Agreement, at its sole discretion, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and fails to cure such nonperformance or breach within sixty (60) calendar days after written notice thereof. Any termination of this Agreement pursuant to this Section 3.4 shall take effect sixty (60) days after delivery of written notice to the other Party that it failed to cure such nonperformance or breach within sixty (60) calendar days after written notice thereof.

## Upon termination or expiration of this Agreement:

### SBP shall promptly pay amounts owed under this Agreement, if any.

### Each Party’s confidentiality obligations shall survive; and

### Each Party’s indemnification obligations shall survive.

# Interpretation

## Joint Work Product

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

## Severability

### If any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.

# Proper Use of OSS Interfaces

## In addition, IVP shall be responsible for and indemnifies AT&T against any cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of AT&T’s OSS from IVP systems, workstations or terminals or by IVP employees, agents, or any Third Party gaining access through information and/or facilities obtained from or utilized by IVP and shall pay AT&T for any and all damages caused by such unauthorized entry. In addition, IVP agrees that such use will comply with AT&T’s Data Connection Security Requirements as identified in this Agreement. Failure to comply with such security guidelines or misuse of OSS interfaces will result in forfeiture of electronic access to OSS functionality, if such misuse is not cured after notice from AT&T in accordance with Sections 4.4 and 4.5.

### IVP’s access to pre-order functions for Services will only be used to view the Customer Proprietary Network Information (CPNI) of a carrier’s End User where IVP has obtained an authorization from the End User for release of CPNI.

#### IVP must maintain records of individual End Users’ authorizations for change in local Exchange Service and release of CPNI which adhere to all requirements of state and federal law, as applicable.

#### IVP is solely responsible for determining whether proper authorization has been obtained and holds AT&T harmless from any loss on account of IVP’s failure to obtain proper CPNI consent from an End User. The Parties agree not to view, copy or otherwise obtain access to the customer record information about any carrier’s End User without proper permission. IVP will obtain access to End User customer record information only in strict compliance with applicable laws, rules, or regulations for the state in which the service is provided.

##### AT&T shall be free to connect an End User to any IVP or carrier based upon that IVP or carrier’s request and that IVP’s or carrier’s assurance that proper End User authorization has been obtained. IVP shall make any such authorization it has obtained available to AT&T upon request and at no charge.

### By using electronic interfaces to access OSS functions, IVP agrees to perform accurate and correct ordering of the Services offered under this Agreement. IVP is also responsible for all actions of its employees using any of AT&T’s OSS systems. As such, IVP agrees to accept and pay all reasonable and substantiated additional direct costs or expenses incurred by AT&T caused by any and all inaccurate ordering or usage of the OSS. In addition, IVP agrees to indemnify and hold AT&T harmless against any claim made by an End User of IVP or Third Parties against AT&T caused by or related to IVP’s use of any AT&T OSS.

### Protection of OSS and the information in those systems is of the highest importance to AT&T. Failure by IVP to follow requirements for proper use of OSS will be grounds for immediate suspension of access as described herein. IVP agrees to use AT&T electronic interfaces, as described herein, solely for the purposes of pre-order and order activity necessary for obtaining Services.

#### In addition, IVP shall be responsible for and defend and indemnify AT&T against any Third Party claim, cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of AT&T’s OSS from IVP’s systems, workstations or terminals or by IVP’s employees, agents, or any Third Party gaining access through information and/or facilities obtained from or proprietary to IVP.

## In the event AT&T has good cause to believe that IVP has used AT&T OSS in a way that conflicts with this Agreement or applicable law, AT&T shall give IVP written notice describing the alleged misuse (“Notice of Misuse”). Misuse of OSS may involve, but is not limited to, improper access of pre-order applications to obtain CPNI or involve a violation of the security guidelines contained herein, or negatively affect another OSS user’s ability to use OSS. Upon Receipt of the Notice of Misuse, IVP shall immediately refrain from the conduct that is described in the Notice of Misuse. If IVP fails to immediately refrain from the alleged misuse, AT&T shall be entitled to suspend IVP’s access to all affected OSS interfaces until IVP demonstrates its present ability and intent to abide by the requirements of this Agreement and the Notice of Misuse.

## If IVP does not agree that its use of AT&T OSS is inconsistent with this Agreement or applicable law, then IVP shall provide a written response to the Notice of Misuse within twenty (20) calendar days after receipt of the Notice. Thereafter the Parties shall work together as necessary to address the proper use of AT&T’s OSS. If the Parties are unable to determine a mutually acceptable resolution to the issue of misuse within sixty (60) days after receipt of the Notice, either Party may terminate this Agreement with prior written Notice identifying an effective termination date.

## In the event IVP does not respond to the Notice of Misuse or does not agree that the IVP’s use of AT&T OSS is inconsistent with this Agreement or applicable law, then the Parties agree to the following steps:

### If such misuse involves improper access of pre-order applications or involves a violation of the security guidelines contained herein, or negatively affects another OSS user’s ability to use OSS, IVP shall continue to refrain from using the particular OSS functionality in the manner alleged by AT&T to be improper, until IVP has implemented a mutually agreeable remedy to the alleged misuse.

### To remedy the misuse for the balance of the Agreement, the Parties will work together as necessary to mutually determine a permanent resolution for the balance of the term of the Agreement.

## AT&T shall have the right to conduct an audit of IVP’s use of the AT&T OSS. Such audit shall be limited to auditing those aspects of IVP’s use of the AT&T OSS that relate to the allegation of misuse as set forth in the Notice of Misuse. AT&T shall give ten (10) calendar days advance written Notice of its intent to audit IVP (“Audit Notice”) under this Section, and shall identify the type of information needed for the audit. Such Audit Notice may not precede the Notice of Misuse. Within a reasonable time following the Audit Notice, but no less than fourteen (14) calendar days after the date of the Audit Notice (unless otherwise agreed by the Parties), IVP shall provide AT&T with access to the requested information in any reasonably requested format, at an appropriate IVP location, unless otherwise agreed to by the Parties. The audit shall be at AT&T’s expense. All information obtained through such an audit shall be deemed proprietary and/or confidential and subject to confidential treatment without necessity for marking such information confidential. AT&T agrees that it shall only use employees or outside parties to conduct the audit who do not have marketing, strategic analysis, any competitive iVoIP activity competitive assessment or similar responsibilities within AT&T. If IVP fails to cooperate in the audit, AT&T reserves the right to terminate IVP’s access to electronic processes.

## The IVP will use electronic ordering wherever such processes are available. Electronic processing is available via AT&T’s application-to-application interface or via AT&T’s Graphical User Interface (GUI).

## AT&T has the right to define Local Service Request (LSR) usage requirements according to the General Section 1.0, paragraph 1.4 of the practices in the OBF Local Service Ordering Guidelines (LSOG), which states: “Options described in this practice may not be applicable to individual providers tariffs; therefore, use of either the field or valid entries within the field is based on the providers tariffs/practices.” IVP can receive notification of AT&T’s planned changes to its LSOG-based documentation in the same manner as all other users of this documentation by subscribing to AT&T’s notification process.

## IVP is responsible for obtaining operating system software and hardware to access AT&T OSS functions as specified in documents or interface requirements generated by AT&T and published in CLEC Online or otherwise made available by AT&T.

# Service Bureau Provider Access to OSS

## AT&T will provide access to OSS via web-based GUIs and application-to-application interfaces. These GUIs and interfaces will allow SBP to perform pre-order, order, provisioning, maintenance and repair functions.

# Billing and Payment of Charges

## The Parties acknowledge that AT&T does not currently charge for OSS access and use. The Parties acknowledge that AT&T may choose to begin developing charges for providing SBPs with access to its OSS. Until such time as the Parties have agreed to charges as set forth in Section 9.2, the Parties agree that AT&T shall not charge SBP for providing access to its OSS pursuant to this Agreement.

## At such time as AT&T has developed charges as set forth in Section 9.1, which have been agreed to by the Parties, the Parties shall amend this Agreement to incorporate such charges and corresponding changes to other terms and conditions. Such amendments shall be completed no later than sixty (60) days after written notice from AT&T of its proposed changes, terms and conditions. Such changes shall be primarily composed of the connectivity charge that AT&T would charge to a Customer for a direct connection, but shall also take into consideration the benefit of the SBP relationship to both Parties.

## In the event that a Customer of Service Bureau Provider defaults on its account(s) with AT&T, or otherwise fails to make any payment or payments required under its agreement with AT&T in the manner and within the time required, SBP’s OSS access for that specific Customer’s pre-ordering, ordering, provisioning, maintenance and repair activities may be suspended, discontinued or terminated in accordance with the terms of the Customer’s agreement with AT&T.

# Disclaimer of Representations and Warranties

## EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, AT&T MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES IT PROVIDES UNDER OR IS CONTEMPLATED TO PROVIDE UNDER THIS AGREEMENT AND AT&T 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.

# Limitation of Liability

## Each Party’s liability to the other Party for any loss relating to or arising 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, shall not exceed in total the reasonable out-of-pocket expenses of the Party suffering such loss, or after charges have been incorporated into this Agreement pursuant to 9.0 above, the damages in total shall not exceed the amount AT&T has charged SBP for the affected services that were not performed or were improperly performed.

## Regarding 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. Neither Party shall have any liability to Customers for any loss caused in whole by any action of the other under this Agreement.

## Neither Party 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 Communications Act of 1934, as amended 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 this Agreement to indemnify the other Party.

# Indemnity

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

## Except as otherwise expressly provided herein or in specific appendices and subject to Limitation of Liability section above, and to the extent not prohibited by applicable law and not otherwise controlled by tariff, each Party (the “Indemnifying Party”) shall release, defend and indemnify the other Party (the “Indemnified Party”) and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the gross negligence, violation of applicable law or willful misconduct (“Fault”) of such Indemnifying Party, its agents, Customers, End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party’s provision of services and/or performance under this Agreement.

# Intellectual Property/License

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

## Except as otherwise expressly provided in this Agreement, no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

# Notices

## Notices given by SBP to AT&T under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

### delivered by electronic mail (email)

### delivered by facsimile.

## Notices given by AT&T to the SBP under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

### delivered by electronic mail (email) provided SBP has provided such information in Section 12.4 below;

### delivered by facsimile provided SBP has provided such information in Section 12.4 below.

## Notices will be deemed given as of the earliest of:

### the date of actual receipt

### notice by email shall be effective on the date it is officially recorded as delivered by delivery receipt and in the absence of such record of delivery, it shall be presumed to have been delivered on the date sent;

### on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient’s time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient’s time zone.

## Notices will be addressed to the Parties as follows:

|  |  |
| --- | --- |
| NOTICE CONTACT | SBP CONTACT |
| NAME/TITLE | <<txtNoticeName>>  <<txtNoticeTitle>> |
| STREET ADDRESS | <<txtNoticeAddress1>> |
| CITY, STATE, ZIP CODE | <<txtNoticeCity>>, <<cboxNoticeState>> |
| PHONE NUMBER\* | <<txtNoticePhone>> |
| FACSIMILE NUMBER | <<txtNoticeFax>> |
| EMAIL ADDRESS | <<txtCXREmail>> |
|  | |
|  | AT&T CONTACT |
| NAME/TITLE | Contract Management  ATTN: Notices Manager |
| FACSIMILE NUMBER | (214) 712-5792 |
| EMAIL ADDRESS | The current email address as provided on AT&T’s CLEC Online website |

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

## AT&T communicates official information to CLECs via its Accessible Letter, or other applicable, notification processes.  These processes involve electronic transmission and/or posting to the AT&T CLEC Online website, inclusive of a variety of subjects including declaration of a force majeure, changes on business processes and policies, and other product/service related notices not requiring an amendment to this Agreement.

# Publicity and Use of Trademarks or Service Marks

## Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party’s prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another’s name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly.

## Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

# No License

## Except at otherwise expressly provided in this Agreement, no license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

# Confidentiality

## Both Parties agree to treat Proprietary Information received from the other in accordance with the provisions of Section 222 of the Act.

## Unless otherwise agreed, the obligations of confidentiality and non-use do not apply to such Proprietary Information that:

### was at the time of receipt, already known to the Receiving Party, free of any obligation to keep confidential and evidenced by written records prepared prior to delivery by the Disclosing Party; or

### was at the time of receipt, already known to the Receiving Party, free of any obligation to keep confidential and evidenced by written records prepared prior to delivery by the Disclosing Party; or

### is, or becomes publicly known through no wrongful act of the Receiving Party; or

### is rightfully received from a Third Party having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such Third Party has any such obligation; or

### is independently developed by an agent, employee representative or Affiliate of the Receiving Party and such Party is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or

### is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party’s rights; or

### is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or

### is required to be made public or disclosed by the Receiving Party pursuant to Applicable Law or regulation or court order or lawful process.

# Governing Law

## Unless otherwise provided by applicable law, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

# Relationship of the Parties/Independent Contractor

## 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.

## 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 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.

# No Third Party Beneficiaries; Disclaimer of Agency

## 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.

# Assignment

## SBP may not assign or transfer this Agreement or any rights or obligations hereunder, whether by operation of law or otherwise, to a non-affiliated third party without the prior written consent of AT&T. Any attempted assignment or transfer that is not permitted is void ab initio.

## SBP may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to its Affiliate by providing sixty (60) calendar days’ advance written notice of such assignment or transfer to AT&T; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate’s obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement. Any attempted assignment or transfer that is not permitted is void ab initio.

# Delegation to Affiliate

## 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.

# Subcontracting

## 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.

## Each Party will be solely responsible for payments due that Party’s subcontractors. No subcontractor will be deemed a third party beneficiary for any purposes under this Agreement.

## 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.

# Force Majeure

## Neither Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable control of such Party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any governmental authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (individually or collectively, a “Force Majeure Event”) or any delaying event caused by the other Party or any other circumstances beyond the Party’s reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party’s obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform promptly once the causes are removed or cease.

# Non-Waiver

## 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.

# Authority

## The Parties represents and warrants that each is a corporation duly organized, validly existing and in good standing under the laws of their respective states of incorporation. Each Party represents and warrants that it has full power and authority to execute and deliver this Agreement.

# Counterparts

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

# Entire AgreemenT

## The terms contained in this Agreement and any attachments constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

# Data Connection Security Requirements

## SBP agrees to comply with AT&T data connection security procedures as set forth on the AT&T CLEC Online website as they may change from time to time, including but not limited to procedures on joint security requirements, information security, user identification and authentication, network monitoring, and software integrity. To the extent there is a conflict between this Section27.0 and the Competitive Local Exchange Carrier (CLEC) Operations Support Systems (OSS) Procedures, the CLEC OSS Interconnection Procedures shall govern.

## SBP agrees that interconnection of SBP data facilities with AT&T data facilities for access to OSS will be in compliance with AT&T’s “Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures” document, which is revised from time to time and posted to the AT&T CLEC Online website.

## Joint Security Requirements:

### Both Parties will maintain accurate and auditable records that monitor user authentication and machine integrity and confidentiality (e.g., password assignment and aging, chronological logs configured, system accounting data, etc.).

### Both Parties shall maintain accurate and complete records detailing the individual data connections and systems to which they have granted the other Party access or interface privileges. These records will include, but are not limited to, user ID assignment, user request records, system configuration, time limits of user access or system interfaces. These records should be kept until the termination of this Agreement or the termination of the requested access by the identified individual. Either Party may initiate a compliance review of the connection records to verify that only the agreed to connections are in place and that the connection records are accurate.

### SBP shall immediately notify AT&T when an employee user ID is no longer valid (e.g. employee termination or movement to another department).

### The Parties shall use an industry standard virus detection software program at all times. The Parties shall immediately advise each other by telephone upon actual knowledge that a virus or other malicious code has been transmitted to the other Party.

### All physical access to equipment and services required to transmit data will be in secured locations. Verification of authorization will be required for access to all such secured locations. A secured location is where walls and doors are constructed and arranged to serve as barriers and to provide uniform protection for all equipment used in the data connections which are made as a result of the user’s access to either the SBP’s or AT&T’s network. At a minimum, this shall include access doors equipped with card reader control or an equivalent authentication procedure and/or device, and egress doors which generate a real-time alarm when opened and which are equipped with tamper resistant and panic hardware as required to meet building and safety standards.

### The Parties shall maintain accurate and complete records on the card access system or lock and key administration to the rooms housing the equipment utilized to make the connection(s) to the other Party’s network. These records will include management of card or key issue, activation or distribution and deactivation.

## Additional Responsibilities of the Parties:

### Modem/DSU Maintenance And Use Policy:

#### To the extent the access provided hereunder involves the support and maintenance of SBP equipment on AT&T’s premises, such maintenance will be provided under the terms of the “Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures” document cited in Section 27.2 above.

### Monitoring:

#### Each Party will monitor its own network relating to any user's access to the Party’s networks, processing systems, and applications. This information may be collected, retained, and analyzed to identify potential security risks without notice. This information may include, but is not limited to, trace files, statistics, network addresses, and the actual data or screens accessed or transferred.

### Each Party shall notify the other Party’s security organization immediately upon initial discovery of actual or suspected unauthorized access to, misuse of, or other “at risk” conditions regarding the identified data facilities or information. Each Party shall provide a specified point of contact. If either Party suspects unauthorized or inappropriate access, the Parties shall work together to isolate and resolve the problem.

### In the event that one (1) Party identifies inconsistencies or lapses in the other Party’s adherence to the security provisions described herein, or a discrepancy is found, documented, and delivered to the non-complying Party, a corrective action plan to address the identified vulnerabilities must be provided by the non-complying Party within thirty (30) calendar days of the date of the identified inconsistency. The corrective action plan must identify what will be done, the Party accountable/responsible, and the proposed compliance date. The non-complying Party must provide periodic status reports (minimally monthly) to the other Party's security organization on the implementation of the corrective action plan in order to track the work to completion.

### In the event there are technological constraints or situations where either Party’s corporate security requirements cannot be met, the Parties will institute mutually agreed upon alternative security controls and safeguards to mitigate risks.

### All network-related problems will be managed to resolution by the respective organizations, SBP or AT&T, as appropriate to the ownership of a failed component. As necessary, SBP and AT&T will work together to resolve problems where the responsibility of either Party is not easily identified.

## Information Security Policies And Guidelines For Access To Computers, Networks and Information By Non-Employee Personnel:

### Information security policies and guidelines are designed to protect the integrity, confidentiality and availability of computer, networks and information resources. Section 27.6 below through Section 27.12 below inclusive summarizes the general policies and principles for individuals who are not employees of the Party that provides the computer, network or information, but have authorized access to that Party’s systems, networks or information. Questions should be referred to SBP or AT&T, respectively, as the providers of the computer, network or information in question.

### It is each Party’s responsibility to notify its employees, contractors and vendors who will have access to the other Party’s network, on the proper security responsibilities identified within this Attachment. Adherence to these policies is a requirement for continued access to the other Party’s systems, networks or information. Exceptions to the policies must be requested in writing and approved by the other Party’s information security organization.

## General Policies:

### Each Party’s resources are for approved this Agreement’s business purposes only.

### Each Party may exercise at any time its right to inspect, record, and/or remove all information contained in its systems, and take appropriate action should unauthorized or improper usage be discovered.

### Individuals will only be given access to resources that they are authorized to receive and which they need to perform their job duties. Users must not attempt to access resources for which they are not authorized.

### Authorized users shall not develop, copy or use any program or code which circumvents or bypasses system security or privilege mechanism or distorts accountability or audit mechanisms.

### Actual or suspected unauthorized access events must be reported immediately to each Party’s security organization or to an alternate contact identified by that Party. Each Party shall provide its respective security contact information to the other.

## User Identification:

### Access to each Party’s corporate resources will be based on identifying and authenticating individual users in order to maintain clear and personal accountability for each user’s actions.

### User identification shall be accomplished by the assignment of a unique, permanent user ID, and each user ID shall have an associated identification number for security purposes.

### User IDs will be revalidated on a monthly basis.

## User Authentication:

### Users will usually be authenticated by use of a password. Strong authentication methods (e.g. one-time passwords, digital signatures, etc.) may be required in the future.

### Passwords must not be stored in script files.

### Passwords must be entered by the user.

### Passwords must be at least six (6) to eight (8) characters in length, not blank or a repeat of the user ID; contain at least one (1) letter, and at least one (1) number or special character must be in a position other than the first or last position. This format will ensure that the password is hard to guess. Most systems are capable of being configured to automatically enforce these requirements. Where a system does not mechanically require this format, the users must manually follow the format.

### Systems will require users to change their passwords regularly (usually every thirty-one (31) days).

### Systems are to be configured to prevent users from reusing the same password for six (6) changes/months.

### Personal passwords must not be shared. Any user who has shared his password is responsible for any use made of the password.

## Access and Session Control:

### Destination restrictions will be enforced at remote access facilities used for access to OSS Interfaces. These connections must be approved by each Party’s corporate security organization.

### Terminals or other input devices must not be left unattended while they may be used for system access. Upon completion of each work session, terminals or workstations must be properly logged off.

## User Authorization:

### On the destination system, users are granted access to specific resources (e.g. databases, files, transactions, etc.). These permissions will usually be defined for an individual user (or user group) when a user ID is approved for access to the system.

## Software and Data Integrity:

### Each Party shall use a comparable degree of care to protect the other Party’s software and data from unauthorized access, additions, changes and deletions as it uses to protect its own similar software and data. This may be accomplished by physical security at the work location and by access control software on the workstation.

### All software or data shall be scanned for viruses before use on a Party’s corporate facilities that can be accessed through the direct connection or dial up access to OSS interfaces.

### Unauthorized use of copyrighted software is prohibited on each Party’s corporate systems that can be accessed through the direct connection or dial up access to OSS Interfaces.

### Proprietary software or information (whether electronic or paper) of a Party shall not be given by the other Party to unauthorized individuals. When it is no longer needed, each Party’s proprietary software or information shall be returned by the other Party or disposed of securely. Paper copies shall be shredded. Electronic copies shall be overwritten or degaussed.

## Monitoring and Audit:

### To deter unauthorized access events, a warning or no trespassing message will be displayed at the point of initial entry (i.e., network entry or applications with direct entry points). Each Party should have several approved versions of this message. Users should expect to see a warning message similar to this one:

*“This is a(n) (AT&T or SBP) system restricted to Company official business and subject to being monitored at any time. Anyone using this system expressly consents to such monitoring and to any evidence of unauthorized access, use, or modification being used for criminal prosecution.”*

### After successful authentication, each session will display the last logon date/time and the number of unsuccessful logon attempts. The user is responsible for reporting discrepancies.