

# AT&T Global Hubbing Internet Access Service Guide

This AT&T Service Guide web site contains the terms, conditions and rates applicable to the AT&T Global Hubbing Internet Access ("GHIA") Service. Section 6, General Terms and Conditions applies to Customers who have not executed a separate Service Agreement with AT&T for GHIA Service. If you do not agree with these terms, do not use the Service and immediately contact your AT&T customer care center or sales representative to cancel Service.

AT&T Global Hubbing Internet Access Service ("GHIA" or "Service") is provided as described, and under the terms and conditions specified herein.

## 1.0 DEFINITIONS

Capitalized terms used but not defined herein are defined elsewhere in the Agreement.

**"Affiliate"** means any entity that controls, is controlled by or is under common control with a party, except, in the case of AT&T, AT&T, Inc.

**"Conversation Time"** means the interval that elapses between (a) the moment when the reply condition (answer signal in the backward direction or, in the case of IP traffic, the SIP message 200 OK in response to the initial SIP INVITE message for the call) is detected at the point where the recording of the call duration takes place, and (b) the moment when the clear forward condition (clear forward signal or, in the case of IP traffic, SIP message BYE) is detected at the same point.

**"GHIA Customer Portal"** means the GHIA customer access website, located at <https://listarsportal.att.com/gcp/pages/login.jsp> or such other location as AT&T may specify from time to time.

**"Content"** includes information made available, displayed or transmitted in connection with Service. No actions or inaction by AT&T shall constitute review or approval of CUSTOMER's or its Intermediate Providers' or End Users' Content.

**"End User"** or **"User"** means the entity that uses the service furnished under this Agreement for its own use, and not for purposes of providing communications services to others.

**"Global IP Call Termination Agreement"** means an agreement under which AT&T purchases international traffic termination for GHIA traffic.

**"GHIA Supplier"** means a party with whom AT&T has in effect a Global IP Call Termination Agreement.

**"Intermediate Provider"** means any provider or other intermediary (other than CUSTOMER or its agents or employees) in the sales chain between CUSTOMER and an End User.

**"minute"** means sixty seconds of Conversation Time.

**"Operations Manual"** means the AT&T GHIA Operations Manual, located at <https://primeaccess.att.com/shell.cfm?section=3805> (password: "prada") or such other AT&T-designated location.

**"Rate Schedule"** means a listing of applicable rates by destination and terminating call type issued by AT&T from time to time.

**"Pricing Schedule"** or **"Service Attachment"** means a document setting forth the specific terms on which Service is to be provided to CUSTOMER. The terms are used interchangeably for purposes of this Service Guide.

**"second"** means one second of Conversation Time.

**"Service Activation Date"** means the date on which AT&T makes Service available to CUSTOMER for termination of its voice calls.

## 2. SERVICE DESCRIPTION

**2.1 The Service.** GHIA provides international call termination capability for voice calls delivered to AT&T in VoIP format for all minutes sent under this Agreement (including test calls). Service shall be provided to the countries or areas, and at the rates, specified in the Rate Schedules in effect from time to time, subject to the terms of the Agreement.

**2.2 Charges.** Usage charges shall apply for Service, calculated as specified in Section 5.1, "Billing Increments".

**2.3 Access.** CUSTOMER shall at its own expense obtain circuits and/or IP transit as needed to deliver its IP Traffic to AT&T at the

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point of interconnection specified in the Operations Manual.

## 3. SERVICE AVAILABILITY

**3.1 Customer Eligibility.** The Service is available to both US and non-US common carriers or internet service providers with all requisite operating authority in the jurisdiction(s) in which they conduct business who will utilize Service for termination of End Users' traffic and not predominantly for their own internal use. CUSTOMER must also project and maintain average GHIA usage at least \$20,000 per month, per year.

**3.2 Interconnection.** Service is accessible via the internet, as specified in the Operations Manual.

## 4. SERVICE OPERATIONS

**4.1 Operations Manual.** Customer care and maintenance will be provided as specified by AT&T from time in the Operations Manual. CUSTOMER shall order, access and use Service in accordance with the Operations Manual. In the event of a conflict between Agreement and the Operations Manual, the Agreement shall govern. CUSTOMER may download, translate, print, copy and distribute the Operations Manual to its employees, subject to the Agreement.

**4.2 Instructions of AT&T.** CUSTOMER shall follow all reasonable instructions of AT&T, including those in the Operations Manual, and shall provide to AT&T such information as AT&T may reasonably require in order to provide Service. AT&T shall have no liability for reasonable reliance on such information provided by CUSTOMER.

**4.3 Rate Schedule Delivery.** Rate Schedules shall be delivered via email distribution to the email address provided to AT&T by CUSTOMER, and also posted on the GHIA Customer Portal effective as of the date specified therein. If there is a discrepancy between the emailed rate sheet & the GHIA Customer Portal, the emailed version shall take precedence. Unless otherwise indicated on the Rate Schedule, AT&T may revise rates upon seven (7) calendar days prior notice. If CUSTOMER continues to send traffic after the effective date of such Rate Schedule, CUSTOMER shall pay such modified rates. AT&T may add or discontinue a route by addition or deletion of such route(s) in a revision of the Rate Schedule.

**4.4 Traffic Declarations.** If CUSTOMER has in effect an International Telecommunications Service Agreement or similar arrangement under which CUSTOMER exchanges and/or settles bilateral voice traffic with AT&T ("Correspondent Agreement"), the parties shall not declare GHIA traffic, nor traffic sent by AT&T for termination by CUSTOMER as a GHIA Supplier (if applicable), in conjunction with such Correspondent Agreement.

## 5. BILLING AND PAYMENT PROCEDURES

**5.1 Billing Increments.** Unless otherwise stated, all call lengths shall be rounded up to the next highest one-sixtieth of a minute per call record. All calls (with the exception of Mexico and international network codes 881 and 882) shall be billed with a 1 second minimum and, thereafter, in 1 second increments (1/1). Calls to Mexico and international network codes 881 and 882 will be billed with a 60 second minimum and, thereafter, in 60 second increments (60/60).

**5.2 Invoicing.** Unless otherwise agreed, billing for Service Usage Charges will begin on the Service Activation Date. AT&T shall endeavor to issue invoices within thirty (30) days after the close of the applicable billing period, but may issue adjusted invoices thereafter. CUSTOMER shall receive their invoice by e-mail. Invoices shall include the following, without limitation, based on AT&T network records: Number of Calls and Call Durations per destination, Rates for same, and Total Usage Charges due AT&T for the billing period.

### 5.3 Payment and Financial Matters.

**5.3.1 Payment.** CUSTOMER shall pay for all usage charges incurred for termination of minutes sent via CUSTOMER's account to AT&T for termination using Service. AT&T may net amounts otherwise due CUSTOMER or any of its affiliates against amounts due AT&T for Service. Payment shall be made by wire transfer to the bank account designated by AT&T within thirty (30) days after the invoice date for Monthly Bill Cycle customers & fifteen (15) days after the invoice date for Semi-monthly (twice per month) Bill Cycle customers. Each invoice must be paid in full and must include disputed amounts, if any. Third party payments will not be accepted.

**5.3.2 Billing Disputes.** To dispute a charge on a bill, CUSTOMER must identify the specific charge in dispute and provide a full written explanation of the basis for the dispute as specified in the Operations Manual within 30 days after the bill date, or the dispute is waived. If

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AT&T determines a disputed charge was billed in error, AT&T shall issue a credit to reverse the amount incorrectly billed.

**5.3.3 Set Off.** AT&T may, in its sole discretion, net against and/or set off amounts payable by AT&T or an AT&T Affiliate to CUSTOMER or a CUSTOMER Affiliate against any unpaid balance for any services payable by CUSTOMER or a CUSTOMER Affiliate to AT&T or an AT&T Affiliate, both as to amounts presently due and amounts that will become due.

**5.3.4 Usage Limit.** AT&T shall establish a usage limit, in US dollars, for CUSTOMER ("Usage Limit"), as specified in CUSTOMER's Pricing Schedule. The Initial Usage Limit shall be established, and may be modified by AT&T upon notice, in accordance with AT&T's credit standards, based on CUSTOMER's financial condition, projected usage volumes, usage history, payment status, and other factors relevant to CUSTOMER's creditworthiness. It is CUSTOMER's responsibility to monitor its usage against its current Usage Limit as notified by AT&T. As a courtesy, AT&T shall attempt to notify CUSTOMER if its incurred Usage Charges (billed and unbilled, whether or not in dispute) (hereafter, "Incurred Usage") reaches a pre-defined \$ amount (for Prepaid customers) or 30% of its remaining Usage Limit, and again if such incurred Usage reaches 20%, and again at 10% of the remaining Usage Limit. Notwithstanding the foregoing, if CUSTOMER exceeds its Usage Limit, AT&T may immediately restrict, suspend, or discontinue Service without notice.

**5.3.5 Additional Security; CUSTOMER Credit Guarantee or Cash Prepayment.** Based on the same credit standards used to establish the Usage Limit, AT&T may also require either a Cash Prepayment or Credit Guarantee in the amount of the Usage Limit, as specified in the Pricing Schedule.

**5.3.5.1 Credit Guarantee.** A Credit Guarantee shall be provided in the form of (a) an irrevocable and confirmed credit guarantee in a form, and issued by a bank approved by AT&T, advised through a bank stipulated by AT&T and payable at sight in the United States against presentation of the documents specified in the Credit Guarantee ("Bank Guarantee"); or (b) cash deposited in a bank account designated by AT&T ("Cash Guarantee"). CUSTOMER shall provide proof of the issuance of such Credit Guarantee within 10 days after the Effective Date. If AT&T revises CUSTOMER's Usage Limit, CUSTOMER shall

adjust its Credit Guarantee to meet such revised Usage Limit ("**Current Credit Limit**"), provided, that CUSTOMER should also proactively increase its Credit Guarantee in proportion to any increases in monthly usage to limit the risk of Service shut off. CUSTOMER shall provide AT&T with proof of the issuance of a Credit Guarantee at its new Current Credit Limit on 5 days' notice from AT&T that CUSTOMER's Incurred Usage exceeds 80% of the previous Credit Guarantee. AT&T may suspend Service if CUSTOMER fails to maintain a Credit Guarantee equal to the greater of the Initial Credit Guarantee, or the Current Credit Limit, or if CUSTOMER's Incurred Usage during the 5-day period mentioned above, would exhaust CUSTOMER's remaining Credit Guarantee.

**5.3.5.2 Cash Prepayment.** If CUSTOMER's Pricing Schedule requires a Minimum Cash Prepayment, CUSTOMER shall deposit the specified amount by wire transfer in the bank account designated by AT&T ("Minimum Cash Prepayment"). AT&T shall deduct total monthly Usage Charges from CUSTOMER's Cash Prepayment immediately upon issuance of each month's invoice. CUSTOMER shall replenish its Cash Prepayment to (a) replace any amounts to be deducted by AT&T for the current invoice, and (b) if applicable, to increase the Cash Prepayment balance to equal or exceed (i) CUSTOMER's prior month's Usage Charges, or (ii) any revised Usage Limit or Cash Prepayment amount notified to CUSTOMER by AT&T, whichever is greater. AT&T may also deduct applicable Bank Fees not paid separately by CUSTOMER from Cash Prepayments or any replenishment thereof. Unless otherwise agreed, CUSTOMER shall pay in no more than four increments per month, at least \$10,000 per payment. CUSTOMER shall replenish its Cash Prepayment by electronic transfer within 72 hours of written notification that CUSTOMER's Incurred Usage exceeds 80% of the current Cash Prepayment. AT&T may suspend Service to CUSTOMER at any time should CUSTOMER fail to maintain the Cash Prepayment, or if CUSTOMER's Incurred Usage during the aforementioned 72 hour period exhausts CUSTOMER's remaining Cash Prepayment. No interest shall be paid on Cash Prepayments or any security deposit made by CUSTOMER.

## 6. GENERAL TERMS & CONDITIONS

**6.1 Provision of Service.** AT&T agrees to provide the Service to CUSTOMER in accordance

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with the terms of this Service Guide and the CUSTOMER's Service Attachment or Pricing Schedule.

**6.2 Billing and Payment for Service.** CUSTOMER is liable for all amounts due to AT&T under this Agreement as specified in CUSTOMER's Pricing Schedule.

**6.3 Non-Payment.** AT&T may add interest charges to any past due amounts at the lower of 1.5% per month or the maximum rate allowed by law. CUSTOMER shall reimburse AT&T for reasonable attorney's fees and any other costs associated with collecting delinquent or dishonored payments.

**6.4 Obligations Regarding Taxes.** Prices set forth in a Pricing Schedule are exclusive of and CUSTOMER shall pay any applicable taxes (excluding those on AT&T's net income), surcharges, recovery fees, duties, levies and other similar charges (and any related interest and penalties) relating to the sale, , license, use or provision of the Service ("Government Charges"), except to the extent CUSTOMER provides a valid exemption certificate to AT&T prior to the delivery of Service. CUSTOMER warrants that it is buying GHIA for resale and will directly pay all Government Charges arising from the resale of Service.

**6.5 CUSTOMER is a Service Provider.** CUSTOMER certifies it is an Internet Service Provider (ISP), or a "common carrier" as defined in the Communications Act of 1934 (see 47 USC §§ 153(1) and 211) or as defined under the laws of the country(ies) to whose jurisdiction CUSTOMER may be subject in connection with the resale or use of Service hereunder, with all required operating authority.

**6.6 Responsibilities of CUSTOMER.** CUSTOMER shall not abuse or use the Service in a harmful or unlawful manner or interfere with the integrity, normal operations or security of AT&T's network or networks interconnected to it or interfere with another customer's use of the Service. CUSTOMER shall not use the Service to commit fraud. If AT&T believes in good faith that there is abuse of Service as set forth above, AT&T may immediately restrict, suspend or discontinue providing Service or prevent the display or transmission of Content, without liability on the part of AT&T, CUSTOMER is solely responsible for all aspects of its resale of Service. CUSTOMER shall comply with the provisions of this Agreement and with all applicable laws and

regulatory requirements with respect to Service, including any applicable anti-corruption laws and regulations. CUSTOMER shall maintain all required licenses and authorizations for the use or resale of Service.

**6.7 No Other Representations or Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AT&T MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, UNDER THIS AGREEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. AT&T DOES NOT REPRESENT OR WARRANT THAT SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT SERVICE WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES.

**6.8 Limitation of Liability.** EITHER PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S EXCLUSIVE REMEDIES, FOR ANY DAMAGES CAUSED BY ANY SERVICE DEFECT OR FAILURE, OR FOR OTHER CLAIMS ARISING IN CONNECTION WITH ANY SERVICE OR OBLIGATIONS UNDER THIS AGREEMENT SHALL BE:

(a) FOR BODILY INJURY OR DEATH TO ANY PERSON, OR REAL OR TANGIBLE PROPERTY DAMAGE, NEGLIGENTLY CAUSED BY A PARTY, OR DAMAGES ARISING FROM THE WILLFUL MISCONDUCT OF A PARTY OR A BREACH OF THE PROVISIONS OF SECTION 12 (USE OF MARKS), THE OTHER PARTY'S RIGHT TO PROVEN DIRECT DAMAGES;

(b) FOR INDEMNITY, THE REMEDIES SET FORTH BELOW UNDER THE HEADING INDEMNIFICATION;

(c) FOR DAMAGES OTHER THAN THOSE SET FORTH ABOVE AND NOT EXCLUDED UNDER THIS AGREEMENT, EACH PARTY'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED PER CLAIM (OR IN THE AGGREGATE DURING ANY 12-MONTH PERIOD) AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAYABLE BY CUSTOMER FOR SERVICE DURING THE 3 MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED.

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THE LIMITATIONS IN THIS SECTION 6.8 SHALL NOT PRECLUDE A PARTY FROM OBTAINING INJUNCTIVE RELIEF FROM A COURT OF COMPETENT JURISDICTION IN THE EVENT OF A VIOLATION OF SECTION 6.6 (RESPONSIBILITIES OF CUSTOMER), SECTION 6.11 (USE OF MARKS), OR SECTIONS 6.13 AND 6.14 (RELATING TO CONFIDENTIALITY OBLIGATIONS).

EXCEPT TO THE EXTENT PROVIDED UNDER THIS AGREEMENT WITH RESPECT TO INDEMNIFICATION, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND, OR INCREASED COST OF OPERATIONS, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY, AND SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY, OR NEGLIGENCE (INCLUDING WITHOUT LIMITATION ACTIVE AND PASSIVE NEGLIGENCE). NOTHING IN THIS SECTION LIMITS CUSTOMER'S RESPONSIBILITY FOR THE PAYMENT OF CHARGES DUE AS PROVIDED IN THIS AGREEMENT, OR AT&T'S OBLIGATION TO PROVIDE CREDITS DUE AS PROVIDED IN THIS AGREEMENT.

For purposes of all remedies and limitations of liability set forth in this Agreement (i) "AT&T" shall mean AT&T Corp., its Affiliates (except for AT&T, Inc.), and its and their employees, directors, officers, agents, representatives, subcontractors, interconnection service providers and suppliers and (ii) "CUSTOMER" shall mean Customer, its Affiliates, and its and their employees, directors, officers, agents, and representatives.

**6.9 Force Majeure.** Neither party nor its Affiliates or subcontractors shall be liable to the other party for any delay, failure in performance, loss or damage due to force majeure conditions such as fire, explosion, power blackout, earthquake, volcanic action, flood, hurricane, the elements, strike, embargo, labor disputes, civil or military authority, war, acts of God, acts or omissions of other providers (except, for CUSTOMER, the acts or omissions of its Intermediate Providers), acts of

regulatory or governmental agencies, or other causes beyond their reasonable control, except that CUSTOMER's obligation to pay for Service provided shall not be excused.

**6.10 Indemnification.** CUSTOMER shall indemnify, defend, and hold harmless AT&T and its Affiliates, directors, officers, employees, agents, successors and assigns from any and all claims, damages and expenses whatsoever (including reasonable attorneys' fees) arising on account of or in connection with CUSTOMER's use, resale or sharing of Service, including but not limited to: (a) claims arising from any failure, breakdown, interruption or deterioration of service provided by AT&T to CUSTOMER or by CUSTOMER to End Users or Intermediate Providers; (b) claims arising from CUSTOMER's marketing efforts; and (c) claims of patent infringement arising from combining or using Service furnished by AT&T in connection with services or equipment furnished by others.

AT&T shall indemnify, defend, and hold harmless CUSTOMER and its Affiliates, directors, officers, employees, agents, successors and assigns from all claims of patent infringement arising solely from the use of Service. (Whenever AT&T is responsible under the preceding sentence, AT&T may at its option either procure the right for CUSTOMER to continue using, or may replace or modify the alleged infringing Service or component so that the Service becomes non-infringing. If those alternatives are not reasonably achievable, AT&T may terminate Service without termination liability to either party.)

The indemnified party under this Section 6.10: (i) must notify the other party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the other party is prejudiced thereby; (ii) shall have the right to participate in such defense or settlement with its own counsel and at its sole expense, but the other party shall have control of the defense or settlement; and (iii) shall reasonably cooperate with the defense.

**6.11 Use of Marks.** Nothing in this Agreement creates in a party any rights in the other party's trade names, trademarks, service marks ("Marks"), or any other intellectual property. Neither party shall use, infringe or appropriate any Mark of the other, nor any Mark confusingly similar to such Marks of the other.

**6.12 Relationship of the Parties.** The relationship between the parties shall be that of

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independent contractors and not of principal and agent, employer and employee, franchiser and franchisee, partners or joint venturers. This Agreement does not establish CUSTOMER as a dealer, distributor or franchisee of AT&T, and no fee is being paid to AT&T to enter into this Agreement.

**6.13 Confidential Information Defined.** "Confidential Information" consists of the following: all information disclosed by one party or its agent or representative (the "Disclosing Party") to the other party or its agent or representative (the "Receiving Party") in connection with this Agreement regarding the telecommunications needs of CUSTOMER and/or the telecommunications offerings of AT&T, to the extent that (a) for information disclosed in written, graphic or other tangible form, it is designated by appropriate markings to be confidential or proprietary or (b) for information disclosed orally, it is both identified as proprietary or confidential at the time of disclosure and summarized in a writing so marked within 15 business days following the oral disclosure. Notwithstanding the foregoing, all written or oral pricing and contract proposals exchanged between the parties shall be Confidential Information, whether or not so designated. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. This Agreement is Confidential Information as to which each party is both a Disclosing Party and a Receiving Party. Information that (i) is independently developed by the Receiving Party, (ii) is lawfully received by the Receiving Party free of any obligation to keep it confidential, or (iii) becomes generally available to the public other than by breach of this Agreement, shall not be Confidential Information.

**6.14 Confidentiality Obligations.** A Receiving Party shall hold all Confidential Information in confidence from the time of disclosure until at least 3 years following its disclosure. During that period, the Receiving Party: (a) shall use and transmit between countries such Confidential Information only for the purposes of performing this Agreement and using Service; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees that have a need to know for such purposes; (d) shall advise those employees of the obligations of this Agreement; (e) shall not

disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement; and (f) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information.

**6.15 Publicity.** No public statements or announcements relating to this Agreement shall be issued by either party without the prior written consent of the other party.

**6.16 Resolution of Disputes.**

**6.16.1 Arbitration.** Any controversy, dispute, or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by binding arbitration in New York, United States, in accordance with the Arbitration Rules of the International Center for Dispute Resolution ("ICDR") as presently in force. The appointing and administering authority shall be the ICDR.

**6.16.2 Arbitrators.** The number of arbitrators shall be (a) in the case of disputes valued at five million U.S. dollars (US\$5,000,000.00) or less, one (1) arbitrator selected in accordance with the ICDR Arbitration Rules; and (b) in the case of disputes valued at in excess of five million U.S. dollars (US\$5,000,000.00), three (3) arbitrators; in which case, each Party shall name one (1) arbitrator and the arbitrators selected by the parties shall together select the third arbitrator, who shall act as the chair or the arbitral tribunal. The arbitrator(s) may not limit, expand or otherwise modify the terms of this Agreement. The arbitrator(s) shall have no power to order pre-hearing discovery of documents or the taking of depositions, but may compel attendance of witnesses and the production of documents at the hearing. The arbitrator(s) shall not have the authority to award punitive or other non-compensatory damages to either party, or any other type of damages not permitted under this Agreement. The arbitrator(s) shall not have power to award any damages in excess of the limits set forth in this Agreement. Any award of the arbitrator(s) shall be in writing and shall state the detailed reasons for the award. Each party shall bear its own arbitration costs and expenses and shall share equally the costs imposed by the ICDR. The language used in the arbitration, including but not limited to the language of the

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proceedings, the language of the decision, and the reasons supporting it, shall be English.

**6.16.3 Confidentiality.** Except as necessary to seek enforcement of any arbitral award, the parties, their representatives, other participants and arbitrators shall hold the existence, content and results of arbitration in confidence.

**6.17 Time to Bring Claims.** Any initial demand for arbitration pursuant to this Agreement, and any legal action arising under this Agreement, must be initiated within two years after the cause of action arises.

**6.18 Notices.** All notices under this Agreement shall be in writing and shall be made: (a) by personal delivery; (b) by certified or registered mail, postage prepaid return receipt requested; (c) by overnight delivery; (d) by facsimile transmission; or (e) by e-mail to the individuals identified on the Cover Sheet (at the address, fax number, and/or or e-mail address designated for notice), or to such other individual, address, fax number or e-mail address as a party may designate by notice to the other party.

**6.19 Export Regulations.** The parties acknowledge that the Services and technical information (including, but not limited to, technical assistance and training) may be subject to export laws and regulations. The parties will not use, distribute, transfer, or transmit the Services or technical information (even if incorporated into other products) except in compliance with applicable export laws and regulations. If requested by either party, the other party agrees to sign assurances and other export-related documents required to comply with all applicable export regulations.

**6.20 Assignment.** This Agreement may not be assigned by either party except that either party may assign this Agreement to an Affiliate or successor; provided that any assignee of CUSTOMER must satisfy the requirements of Section 6.5 of these General Terms and Conditions, and that AT&T and CUSTOMER shall be responsible for their respective Affiliates' performance.

**6.21 No Third-party Beneficiaries.** This Agreement does not expressly or implicitly provide any third party with any remedy, claim, liability, reimbursement, cause of action or other right or privilege.

**6.22 Non-Waiver.** The failure of a party to enforce any right under this Agreement at any particular point in time shall not constitute a continuing waiver of any such right with respect to

the remaining term of this Agreement, or the waiver of any other right under this Agreement.

**6.23 Severability.** If any portion of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in effect and the parties shall immediately begin negotiations to replace any invalid or unenforceable portions that are essential parts of this Agreement.

**6.24 Survival of Terms.** The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement. For example, the provisions of this Agreement regarding Confidentiality shall remain in effect following termination of this Agreement and the provisions of this Agreement regarding arbitration, use of Marks, indemnification, and/or limitation of liability shall survive termination of this Agreement as to any cause of action arising under the Agreement.

**6.25 Choice of Law.** The domestic law of the State of New York, except its conflict-of-laws rules, shall govern the construction, interpretation, and performance of this Agreement. The United Nations Convention on Contracts for International Sale of Goods shall not apply.

**6.26 Amendment.** No amendment, supplement, modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of both parties.

**6.27 Entire Agreement; Authentic Language.** This Agreement constitutes the entire agreement between the parties with respect to Service. This Agreement supersedes all prior agreements, proposals, representations, statements or understandings, whether written or oral, concerning Service or the parties' rights or obligations relating to Service. Any prior representations, promises, inducements or statements of intent regarding Service that are not embodied in this Agreement are of no effect. The authentic language of this Agreement is English. In the event of a conflict between this Agreement and any translation, the English version will take precedence.

End of Service Guide

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