

Liabilities arising in connection therewith. AT&T Broadband shall cause each member of the AT&T Broadband Group, without further consideration, to pay and remit, or cause to be paid or remitted, to AT&T or the applicable member of the AT&T Communications Group promptly all money, rights and other consideration received by it or any member of the AT&T Broadband Group in respect of such performance. If and when any such release, consent, substitution approval or amendment shall be obtained or such agreement, lease, license or other rights or obligations shall otherwise become assignable or able to be novated, AT&T Broadband shall promptly assign, or cause to be assigned, all its rights, obligations and other Liabilities thereunder or any rights, obligations or other Liabilities of any member of the AT&T Broadband Group to AT&T or to another member of the AT&T Communications Group without payment of further consideration and AT&T, without the payment of any further consideration, shall, or shall cause such other member of the AT&T Communications Group to, assume such rights and obligations. Notwithstanding the foregoing, unless AT&T Broadband shall so elect, AT&T shall assume all Liabilities of any nature whatsoever that would constitute AT&T Communications Liabilities as of the Distribution Date, except for Liabilities of another member of the AT&T Communications Group.

SECTION 2.10. *Joint Purchasing Arrangements.* (a) In the case of existing purchasing agreements that prior to the Distribution Date provide the AT&T Broadband Group and the AT&T Communications Group with volume discounts, subject to applicable law, the parties agree to use their respective reasonable best efforts so that, to the extent permitted under the terms of such existing agreements, after the Distribution Date, each Group shall continue to be able to make purchases and obtain the benefits of the volume discounts. In the case of any other such contracts, subject to applicable law, the parties will cooperate reasonably in seeking modifications to such contracts or alternative or substitute arrangements so that, to the extent practicable after the Distribution Date, each Group shall continue to be able to make purchases and obtain the benefits of the volume discounts. Notwithstanding the foregoing, but subject to the terms of any AT&T Broadband Contract or AT&T Communications Contract, none of AT&T, AT&T Broadband or their respective Subsidiaries shall be required to commit to any additional purchases or other obligations, make any payments or waive any rights in order to effect the foregoing. Each party hereby agrees to indemnify and hold harmless the other party, and if applicable, the other party's Subsidiaries, with respect to any losses or claims arising from such first party's, or such first party's Subsidiaries', own purchases, commitments or other obligations under any such contracts.

(b) Until December 31, 2003, subject to applicable law, the parties will use reasonable commercial efforts to cooperate with each other and, as applicable,

with each other's Subsidiaries, to coordinate and combine their purchases in cases where they purchase common supplies or use the same supplier, in each case to the extent permitted by law from time to time. It is the intent of the parties that this coordination and cooperation will be focused on achieving more favorable pricing and terms for such supplies and from such suppliers by aggregating the combined purchases of the parties and their Subsidiaries. Notwithstanding the foregoing, no party shall be obligated to make, or cause its Subsidiaries to make, any specific purchases or to use any specific supplier except to the extent (i) it or one of its Subsidiaries has previously committed to make a specific purchase or to use a specific supplier, or (ii) subsequent to the date of this Agreement, it or one of its Subsidiaries makes a commitment for a specific purchase or to use a specific supplier. Each party will be responsible for its own and its Subsidiaries' commitments and its own and its Subsidiaries' purchases and other obligations made under any common or shared contracts with suppliers and will, in respect of such commitments, purchases or other obligations, indemnify and hold harmless the other party and the other party's Subsidiaries that use such contracts.

SECTION 2.11. *TWE Arrangements.* The parties agree to the terms set forth in Annex I with respect to the partnership interests in TWE held, as of the date hereof, by MediaOne TWE Holdings, Inc., an AT&T Broadband Entity, and the TWE Option held by Media One of Colorado, Inc..

ARTICLE 3 FINANCIAL RESTRUCTURING

SECTION 3.01. *Liability Management.* The Indebtedness included on the AT&T Broadband Balance Sheet consists of the Indebtedness to third parties (the "Scheduled Debt") and Indebtedness to members of the AT&T Communications Group. Prior to the Distribution Date, the Indebtedness of the AT&T Broadband Group shall consist only of (i) the Scheduled Debt, Indebtedness to third parties reflected on the September 30, 2001 balance sheet included in the AT&T Broadband Financial Statements and the third party Indebtedness identified in Item 3 of Schedule 6.11 to the Merger Agreement (unless any such Indebtedness shall have been discharged) (ii) Indebtedness of the members of the AT&T Broadband Group to members of the AT&T Communications Group and (iii) such other debt as shall have been approved by the Interim Finance Committee. On the Distribution Date, the AT&T Broadband Entities may incur additional Indebtedness to parties (other than to members of the AT&T Communications Group) in an amount sufficient to (i) pay in full at the Effective Time to AT&T an amount equal to the Indebtedness owed by any member of the AT&T Broadband Group to any member of the AT&T Communications Group, (ii) refinance the

TOPRS that may be called for redemption at the Effective Time or shortly thereafter and (iii) provide appropriate cash reserves to fund the operations of the AT&T Broadband Entities after the Effective Time. Such Indebtedness shall be incurred in accordance with Section 9.15 of the Merger Agreement.

SECTION 3.02. *Repayment of Intracompany Indebtedness.* AT&T Broadband agrees that it will pay to AT&T, at the Effective Time and in connection with the transfer of assets and liabilities hereunder to AT&T Broadband, an amount of cash equal to the total Indebtedness of all members of the AT&T Broadband Group to any member of the AT&T Communications Group, and AT&T agrees to contribute (or cause its subsidiaries to contribute) such Indebtedness to the capital of AT&T Broadband. AT&T agrees that it will repay or cause to be repaid at the Effective Time any Indebtedness of any member of the AT&T Communications Group to any member of the AT&T Broadband Group. AT&T also agrees that it will repay or cause to be repaid at the Effective Time any intercompany receivables owed by AT&T or any AT&T Subsidiary (other than any AT&T Broadband Entity) to Western Ridge.

SECTION 3.03. *Note Consents.* Subject to the terms and conditions of the Merger Agreement, AT&T and AT&T Broadband shall each use its reasonable best efforts to obtain the irrevocable consent to the transactions contemplated hereby of the holders of at least a majority in aggregate principal amount of each series of securities at the time outstanding issued under the Indenture, dated as of September 7, 1990, between American Telephone & Telegraph Company and The Bank of New York, as trustee.

ARTICLE 4 THE DISTRIBUTION

SECTION 4.01. *The Distribution.* (a) Subject to Section 4.03, on or prior to the Record Date, AT&T will deliver to the Agent for the benefit of holders of record of AT&T Common Stock on the Record Date, a single stock certificate, endorsed by AT&T in blank, representing the shares of AT&T Broadband Common Stock issuable in the Distribution (which, together with the shares to be issued pursuant to the Exchange Agreement, shall constitute all of the shares of AT&T Broadband Common Stock outstanding as of the Distribution Date), and shall cause the transfer agent for the shares of AT&T Common Stock to instruct the Agent to hold in trust (pending conversion of such shares of AT&T Broadband Common Stock into shares of Parent Common Stock pursuant to the AT&T Broadband Merger) the appropriate number of such shares of AT&T Broadband Common Stock (as set forth in Section 4.01(b)) for each such holder or designated

transferee or transferees of such holder. For avoidance of doubt, AT&T will not be considered a holder of record of AT&T Common Stock as of the Record Date with respect to any shares of AT&T Common Stock held in its treasury.

(b) Subject to Section 4.03, each holder of AT&T Common Stock on the Record Date (or such holder's designated transferee or transferees) will be entitled to receive in the Distribution a number of shares of AT&T Broadband Common Stock equal to the number of shares of AT&T Common Stock held by such holder on the Record Date; *provided*, that no holder of AT&T Common Stock having purported to exercise rights pursuant to Section 910 of the NYBCL in respect of such holder's shares of AT&T Common Stock shall be entitled to receive AT&T Broadband Common Stock in the Distribution.

(c) AT&T Broadband and AT&T, as the case may be, will provide to the Agent all share certificates and any information reasonably required in order to complete the Distribution on the basis specified above.

(d) Immediately prior to the Record Date, each of the AT&T Broadband Subsidiaries, in exchange (the "**Subsidiary Preferred Stock Exchange**") for all of the shares of AT&T Subsidiary Preferred Stock held by such AT&T Broadband Subsidiary immediately prior to the Subsidiary Preferred Stock Exchange, will receive from AT&T a number of shares of AT&T Broadband Common Stock (or, if AT&T and AT&T Broadband agree, shares of another class of AT&T Broadband Stock) that has a value equal to the value of the shares of AT&T Subsidiary Preferred Stock so exchanged.

(e) At the time of the Distribution, AT&T and AT&T Broadband will comply with their obligations under the Exchange Agreement, including through the transfer of shares of AT&T Broadband Common Stock from AT&T to Microsoft as described therein.

(f) If the QUIPS Transfer is to occur, AT&T Broadband and AT&T will effect the QUIPS Transfer.

(g) Each of AT&T, and AT&T Broadband agrees that in the event that any holder of shares of AT&T Common Stock purports to exercise any appraisal rights pursuant to Section 910 of the NYBCL, the parties will cooperate to appropriately adjust the provisions hereof.

SECTION 4.02. Actions Prior to the Distribution. (a) As promptly as reasonably practicable after the execution of this Agreement, subject to the provisions of the Merger Agreement, AT&T shall prepare and file with the Commission a proxy statement (the "**Proxy Statement**") to be sent to

shareholders of AT&T in connection with their meeting to consider the Distribution (the “AT&T Meeting”), it being understood that the AT&T Meeting may be combined with any other meeting of shareholders regarding a possible business combination involving the AT&T Broadband Group.

(b) As promptly as reasonably practicable after the execution of this Agreement, subject to the provisions of the Merger Agreement and if required by applicable law to effect the Distribution, AT&T and AT&T Broadband shall prepare, and AT&T Broadband shall file with the Commission a registration statement on Form S-1 or S-4 or any amendment or supplement thereto pursuant to which shares of AT&T Broadband issuable in the Distribution will be registered with the Commission (the “Distribution Registration Statement”). If the Distribution Registration Statement is required by applicable law to be filed with the Commission to effect the Distribution, AT&T and AT&T Broadband shall use their reasonable best efforts to cause the Distribution Registration Statement to become effective under the Exchange Act as soon after such filing as reasonably practicable and to keep the Distribution Registration Statement effective as long as is necessary to consummate the Distribution.

(c) AT&T and AT&T Broadband shall take all such actions as are reasonably necessary or appropriate under the federal or state securities or blue sky laws of the United States (and any comparable laws under any foreign jurisdiction) in connection with the Distribution.

SECTION 4.03. *Timing of the Distribution.* AT&T shall consummate the Separation and Distribution as soon as practicable (and, in any event, within five Business Days) after satisfaction (or waiver to the extent permissible) of all of the conditions to the Separation and the Distribution specified below (other than conditions that by their nature are to be satisfied at the time of the Distribution or the Mergers and will in fact be satisfied at such time). The Separation shall occur on the Distribution Date prior to the Distribution which shall occur at a time to be mutually agreed on the Distribution Date. With the consent of Comcast, which consent shall not be unreasonably withheld, AT&T may effect the Separation and/or the Distribution on different dates or different times than provided for in the preceding sentence. The obligation of AT&T to consummate the Separation and the Distribution and the other transactions contemplated by this Agreement is subject to the satisfaction (or waiver to the extent permissible) of the following conditions:

(a) If required by applicable law to effect the Distribution, the Distribution Registration Statement shall have been filed and declared effective by the Commission, and there shall be no stop-order in effect with respect thereto;

(b) The actions and filings with regard to material federal or state securities and blue sky laws of the United States (and any comparable laws under any foreign jurisdictions) described in Section 4.02(c) shall have been taken and, where applicable, become effective or been accepted;

(c) Any Governmental Approvals and Consents including those listed on Schedule 4.03(c) necessary to consummate the Distribution in the manner contemplated by this Agreement shall have been obtained and be in full force and effect, except for such Governmental Approvals and Consents the failure of which to obtain would not, individually or in the aggregate, reasonably be expected to have an AT&T Broadband Material Adverse Effect or an AT&T Material Adverse Effect;

(d) All conditions to permit the Distribution to qualify as a tax-free distribution to AT&T, AT&T Broadband and shareholders of AT&T shall, to the extent applicable as of the time of the Distribution, be satisfied and there shall be no event or condition that is likely to cause any of such conditions not to be satisfied as of the time of the Distribution or thereafter;

(e) No order, injunction or decree issued by any court or agency of competent jurisdiction or other material legal restraint or prohibition preventing the consummation of the Separation or the Distribution or any of the other transactions contemplated by this Agreement or any other Ancillary Agreement shall be in effect and the Separation and Distribution shall be in compliance in all material respects with applicable law;

(f) This Agreement shall not have been terminated;

(g) The supplemental private letter ruling or rulings from the IRS or the opinion described in Section 10.01(j) of the Merger Agreement shall have been obtained and shall continue in effect;

(h) The Distribution shall have been approved by the affirmative vote of shareholders holding a majority of the voting power of the issued and outstanding shares of AT&T Common Stock at the AT&T Meeting; and

(i) The conditions specified in Sections 10.01 and 10.02 (other than Section 10.01(i)) of the Merger Agreement shall have been satisfied (or waived to the extent permissible).

The foregoing conditions are for the sole benefit of AT&T and shall not give rise to or create any duty on the part of AT&T or the Board of Directors of AT&T to waive or not waive any such condition.

ARTICLE 5
MUTUAL RELEASES; INDEMNIFICATION

SECTION 5.01. *Release of Pre-Closing Claims.* (a) Except as provided in Section 5.01(c), effective as of the Distribution Date, AT&T shall, for itself and each other wholly owned member of the AT&T Communications Group (other than any member of the AT&T Broadband Group) and their respective successors and assigns, and all shareholders, directors, officers, members, agents or employees of any wholly owned member of the AT&T Communications Group (in each case, in their respective capacities as such), remise, release and forever discharge each of AT&T Broadband and the respective wholly owned members of the AT&T Broadband Group (other than any member of the AT&T Communications Group), their respective successors and assigns, and all shareholders, directors, officers, members, agents or employees of any wholly owned member of the AT&T Broadband Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date, whether or not known as of the Distribution Date, including in connection with the transactions and all other activities to implement either the Separation or the Distribution.

(b) Except as provided in Section 5.01(c), effective as of the Distribution Date, AT&T Broadband shall, for itself and each other wholly owned member of the AT&T Broadband Group (other than any member of the AT&T Communications Group) and their respective successors and assigns, and all shareholders, directors, officers, members, agents or employees of any wholly owned member of the AT&T Broadband Group (in each case, in their respective capacities as such), remise, release and forever discharge each of AT&T and the respective wholly owned members of the AT&T Communications Group (other than any member of the AT&T Broadband Group), their respective successors and assigns, and all shareholders, directors, officers, members, agents or employees of any wholly owned member of the AT&T Communications Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date, whether or not known as of the

Distribution Date, including in connection with the transactions and all other activities to implement either the Separation or the Distribution.

(c) Nothing contained in Section 5.01(a) or 5.01(b) shall impair any right of any Person to enforce this Agreement, any other Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in Section 2.04(b) or the applicable Schedules thereto not to terminate as of the Distribution Date, in each case in accordance with its terms. Nothing contained in Section 5.01(a) or 5.01(b) shall release any Person from:

(i) any Liability provided in or resulting from any agreement among any members of the AT&T Broadband Group or the AT&T Communications Group that is specified in Section 2.04(b) or the applicable Schedules thereto as not to terminate as of the Distribution Date, or any other Liability specified in such Section 2.04(b) as not to terminate as of the Distribution Date;

(ii) any Liability, contingent or otherwise, assumed, transferred, assigned or allocated to the Group of which such Person is a member in accordance with, or any other Liability of any member of any Group under, this Agreement or any other Ancillary Agreement;

(iii) any Liability arising from or relating to the sale, lease, construction, provision, or receipt of goods, property or services purchased, obtained or used in the ordinary course of business by a member of one Group from a member of any other Group prior to the Distribution Date;

(iv) any Liability for payment for goods, services or property purchased, obtained or used in the ordinary course of business by a member of one Group from a member of any other Group prior to the Distribution Date or any related refund claims; or

(v) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 5.01; *provided that* the parties agree not to bring suit or permit any of their Subsidiaries to bring suit against any Person with respect to any Liability to the extent that such Person would be released with respect to such Liability by this Section 5.01 but for the provisions of this clause (v).

(d) AT&T shall not make, and shall not permit any member of the AT&T Communications Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any

indemnification, against AT&T Broadband or any wholly owned member of the AT&T Broadband Group, or any other Person released pursuant to Section 5.01(a), with respect to any Liabilities released in respect of such Person pursuant to Section 5.01(a). AT&T Broadband shall not make, and shall not permit any member of the AT&T Broadband Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against AT&T or any wholly owned member of the AT&T Communications Group, or any other Person released pursuant to Section 5.01(b), with respect to any Liabilities in respect of such Person released pursuant to Section 5.01(b).

(e) At any time, at the request of any other party, each party shall cause each member of its respective Group to execute and deliver releases reflecting the provisions of this Section 5.01.

SECTION 5.02. Indemnification by AT&T. Except as provided in Section 5.04, following the Distribution Date, AT&T shall indemnify, defend and hold harmless AT&T Broadband, each member of the AT&T Broadband Group and each of their respective directors, officers and employees, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “**AT&T Broadband Indemnitees**”), from and against any and all Liabilities (or in the case of subsection (d), 50% of any and all Liabilities) of the AT&T Broadband Indemnitees relating to, arising out of or resulting from any of the following items (without duplication):

(a) the failure of AT&T or any other member of the AT&T Communications Group or any other Person to pay, perform or otherwise promptly discharge any AT&T Communications Liabilities, or AT&T Communications Contract, in accordance with their respective terms, whether prior to or after the Distribution Date or the date hereof;

(b) the AT&T Communications Business, any AT&T Communications Asset or any AT&T Communications Contract (except to the extent such Liabilities arise out of any breach by AT&T or any of its Subsidiaries prior to the Distribution Date of any AT&T Communications Contract entered into in connection with the separation, divestiture or termination of LMC and its Subsidiaries);

(c) any breach by AT&T or any member of the AT&T Communications Group of this Agreement or any of the other Ancillary Agreements; and

(d) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein

or necessary to make the statements therein not misleading, with respect to all information contained in any Registration Statement (any Action relating to the matters set forth in this Section 5.02(d) or Section 5.03(d), a “**Registration Statement Claim**”).

SECTION 5.03. *Indemnification by AT&T Broadband.* Except as provided in Section 5.04, following the Distribution Date, AT&T Broadband shall indemnify, defend and hold harmless AT&T, each member of the AT&T Communications Group and each of their respective directors, officers and employees, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “**AT&T Indemnitees**”), from and against any and all Liabilities (or in the case of subsection (d), 50% of any and all Liabilities) of the AT&T Indemnitees relating to, arising out of or resulting from any of the following items (without duplication):

- (a) the failure of AT&T Broadband or any other member of the AT&T Broadband Group or any other Person to pay, perform or otherwise promptly discharge any AT&T Broadband Liabilities, or AT&T Broadband Contract, in accordance with their respective terms, whether prior to or after the Distribution Date or the date hereof;
- (b) the AT&T Broadband Business, any AT&T Broadband Asset or any AT&T Broadband Contract;
- (c) any breach by AT&T Broadband or any member of the AT&T Broadband Group of this Agreement or any of the other Ancillary Agreements;
- (d) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in any Registration Statement; and
- (e) if neither the QUIPS Exchange nor the QUIPS Transfer occurs, any Liabilities relating to, arising out of or resulting from any Actions commenced by Microsoft claiming that the transactions contemplated hereby or by the Merger Agreement violate the terms of the QUIPS; *provided that* for purposes hereof, in the event that AT&T is required to repay the QUIPS as a result of such Action, the indemnified Liability hereunder in respect of such repayment shall be reduced by the amount of the QUIPS Fair Market Value plus any accrued interest on the QUIPS since the date as of which the QUIPS Fair Market Value was determined (any such Action, a “**Microsoft QUIPS Claim**”).

Notwithstanding the foregoing, AT&T Broadband shall have no obligation to indemnify, defend and hold harmless any AT&T Indemnitee from and against any Liabilities arising out of any breach by At Home or any of its Subsidiaries of any At Home Contract.

SECTION 5.04. *Indemnification Obligations Net of Insurance Proceeds and Other Amounts.* (a) The parties intend that any indemnification or reimbursement obligation pursuant to this Article 5 will be net of Insurance Proceeds that actually reduce the amount of the Liability. Accordingly, the amount which any party (an “**Indemnifying Party**”) is required to pay to any Person entitled to indemnification hereunder (an “**Indemnitee**”) will be reduced by any Insurance Proceeds theretofore actually recovered by or on behalf of the Indemnitee in reduction of the related Liability. If an Indemnitee receives a payment (an “**Indemnity Payment**”) required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds, then the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) An insurer who would otherwise be obligated to defend or make payment in response to any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to a “windfall” (i.e., a benefit it would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof.

(c) With respect to all policies of insurance with insurance companies other than American Ridge and Western Range, the parties agree to act in good faith and to use their reasonable best efforts to preserve and maximize the insurance benefits due to be provided thereunder and to cooperate with one another as necessary to permit each other to access or obtain the benefits under those policies, *provided, however*, that nothing in this Section 5.04 shall be construed to prevent any party or any other Person from asserting claims for insurance benefits or accepting insurance benefits provided by the policies. The parties agree to exchange information upon reasonable request of the other party regarding requests that they have made for insurance benefits, notices of claims, occurrences and circumstances that they have submitted to the insurance companies or other entities managing the policies, responses they have received from those insurance companies or entities, including any payments they have received from the insurance companies and any agreements by the insurance companies to make payments, and any other information that the parties may need

to determine the status of the insurance policies and the continued availability of benefits thereunder.

SECTION 5.05. *Procedures for Indemnification of Third Party Claims.* (a) If an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the AT&T Broadband Group or the AT&T Communications Group of any claim or of the commencement by any such Person of any Action (collectively, a “**Third Party Claim**”) with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to Section 5.02 or 5.03, or any other Section of this Agreement or any Ancillary Agreement (except as otherwise provided therein), such Indemnitee shall give such Indemnifying Party written notice thereof promptly after becoming aware of such Third Party Claim. Any such notice shall describe the Third Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnitee to give notice as provided in this Section 5.05(a) shall not relieve the related Indemnifying Party of its obligations under this Article 5, except to the extent that such Indemnifying Party is actually prejudiced by such failure to give notice.

(b) An Indemnifying Party may elect to defend (and, unless the Indemnifying Party has specified any reservations or exceptions, to seek to settle or compromise), at such Indemnifying Party’s own expense (including allocated costs of in-house counsel and other personnel) and by such Indemnifying Party’s own counsel, any Third Party Claim. Within 30 days after the receipt of notice from an Indemnitee in accordance with Section 5.05(a) (or sooner, if the nature of such Third Party Claim so requires), the Indemnifying Party shall notify the Indemnitee of its election whether the Indemnifying Party will assume responsibility for defending such Third Party Claim, which election shall specify any reservations or exceptions. After notice from an Indemnifying Party to an Indemnitee of its election to assume the defense of a Third Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, but the fees and expenses of such counsel shall be the expense of such Indemnitee, except as set forth in the next sentence. In the event that the Indemnifying Party has elected to assume the defense of the Third Party Claim but has specified and continues to assert, any reservations or exceptions in such notice, then, in any such case, the reasonable fees and expenses of one separate counsel for all Indemnitees shall be borne by the Indemnifying Party.

(c) If an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim, or fails to notify an Indemnitee of its election as provided in Section 5.05(b), such Indemnitee may defend such Third Party Claim

at the cost and expense (including allocated costs of in-house counsel and other personnel) of the Indemnifying Party.

(d) Unless the Indemnifying Party has failed to assume the defense of the Third Party Claim in accordance with the terms of this Agreement, no Indemnitee may settle or compromise any Third Party Claim without the consent of the Indemnifying Party.

(e) No Indemnifying Party shall consent to any settlement of the Third Party Claim without the consent of the Indemnitee if the effect thereof is to permit any injunction, declaratory judgment, other order or other nonmonetary relief to be entered, directly or indirectly, against any Indemnitee.

(f) The provisions of Section 5.05 and Section 5.06 shall not apply to Taxes (which are covered by the Tax Sharing Agreement) or to matters covered by Sections 6.02 and 6.03.

(g) Notwithstanding anything in this Agreement to the contrary, and subject to any applicable provision of the AWS separation agreements, if either party is named in any Action relating to any At Home Matter, Specified Matter, Specified Transaction or Registration Statement Claim, that party shall be entitled to assume and control its own defense and to employ its own counsel. Neither party shall settle any such Action without the consent of the other party (which consent will not be unreasonably withheld). All legal and other fees (including allocated cost of in-house counsel and other personnel) incurred in connection therewith shall be divided 50/50 between AT&T and AT&T Broadband.

SECTION 5.06. *Additional Matters.* (a) Any claim on account of a Liability that does not result from a Third Party Claim shall be asserted by written notice given by the Indemnitee to the related Indemnifying Party. Such Indemnifying Party shall have a period of 30 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such Indemnifying Party shall be deemed to have refused to accept responsibility to make payment. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee shall be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the other Ancillary Agreements.

(b) In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any

right, defense or claim relating to such Third Party Claim against any claimant or plaintiff asserting such Third Party Claim or against any other person but only to the extent related to such payment. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense (including allocated costs of in-house counsel and other personnel) of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(c) In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the parties shall endeavor to substitute the Indemnifying Party for the named defendant, if at all practicable. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in this Section 5.06 and the Indemnifying Party shall fully indemnify the named defendant against all reasonable costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts' fees and all other external expenses, and the allocated costs of in-house counsel and other personnel), the costs of any judgment or settlement, and the cost of any interest or penalties relating to any judgment or settlement.

SECTION 5.07. *Remedies Cumulative.* The remedies provided in this Article 5 shall be cumulative and shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

SECTION 5.08. *Survival of Indemnities.* The rights and obligations of each of AT&T, AT&T Broadband and their respective Indemnitees under this Article 5 shall survive the sale or other transfer by any party of any Assets or businesses or the assignment by it of any Liabilities.

ARTICLE 6

INSURANCE AND CERTAIN OTHER MATTERS

SECTION 6.01. *Insurance Matters.* (a) The parties intend that both AT&T and AT&T Broadband and each other member of the AT&T Communications Group and the AT&T Broadband Group, after the Distribution Date, shall be successors-in-interest to and retain all rights and interest (whether known, unknown, contingent or otherwise) that each has as of the Distribution Date under any Insurance Policy issued to and/or providing coverage to AT&T, as it existed immediately prior to the Distribution Date, or any of its Subsidiaries or Affiliates, and any agreements related to such Insurance Policies executed and delivered

prior to the Distribution Date, including any rights or interests each has, as an insured, named insured, or additional named insured, Subsidiary, Affiliate, division or department, to avail itself of any benefit under any such Insurance Policy or any such agreement related to such policy as in effect prior to the Distribution Date. The provisions of this Agreement are not intended to relieve any insurer of any Liability under any policy. Notwithstanding the foregoing, no member of the AT&T Broadband Group or the AT&T Communications Group shall be deemed to have made any representation or warranty as to the availability of any Insurance Policy or the rights and benefits provided thereunder.

(b) This Agreement shall not be considered as an attempted assignment (if such an assignment would be prohibited or would otherwise adversely affect the rights of the insured parties under such policies) of any rights or interest under any policy of insurance or as a contract of insurance and shall not be construed to waive any right or remedy of any member of the AT&T Broadband Group or the AT&T Communications Group in respect of any Insurance Policy or any other contract or policy of insurance.

(c) Each of AT&T and AT&T Broadband does hereby, for itself and each other member of the AT&T Communications Group and the AT&T Broadband Group, agree that, as and to the extent necessary to give effect to Section 6.01(a), it will assign any chose in action, claim, right or benefit under an Insurance Policy.

(d) AT&T Broadband does hereby, for itself and each other member of the AT&T Broadband Group, agree that from and after the Distribution Date, AT&T Broadband and each other member of the AT&T Broadband Group releases any and all insurance or other claims that it may have against American Ridge and Subsidiaries of American Ridge, whether known or unknown.

(e) AT&T does hereby, for itself and each other member of the AT&T Communications Group, agree that (i) no member of the AT&T Broadband Group or any AT&T Broadband Indemnitee shall have any Liability whatsoever as a result of the insurance policies and practices of AT&T and its Affiliates as in effect or undertaken at any time prior to the Distribution Date, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy, the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise and (ii) from and after the Distribution Date, AT&T and each other member of the AT&T Communications Group releases any and all insurance or other claims that it may have against Western Range and Subsidiaries of Western Range, whether known or unknown.

(f) Each of AT&T and AT&T Broadband does hereby, for itself and each other member of the AT&T Communications Group and the AT&T Broadband Group, agree that all duties and obligations under any Insurance Policy, including the fulfillment of any conditions and the payment of any deductibles, retentions, co-insurance payment or retrospective premiums, that correspond in any way with or may be necessary to perfect, preserve or maintain an insured's right to obtain benefits under that Insurance Policy, will be performed by the insured that is seeking the benefits, subject to the indemnification provisions of Article 5. In the event members of both Groups have claims under a given policy, any deductibles, retentions, co-insurance payments, retrospective premiums, caps, limitations on average and similar items will be appropriately allocated between such parties based on the recoveries they would have obtained in the absence of such items.

SECTION 6.02. *Certain Post-Distribution Transactions and Related Matters.* (a) Each of AT&T and AT&T Broadband agrees that, until 12 months after the date of the Distribution, it will (i) maintain its status as a company engaged in the active conduct of a trade or business and (ii) not engage in any transaction that would result in it ceasing to be a company engaged in the active conduct of a trade or business, as defined in Section 355(b) of the Code.

(b) Each of AT&T and AT&T Broadband further agrees that, until 25 months after the date of the Distribution, it will not, except as expressly contemplated by this Agreement or the Merger Agreement, (i) enter into any Proposed Acquisition Transaction or, to the extent AT&T or AT&T Broadband, as the case may be, has the right to prohibit any Proposed Acquisition Transaction, permit any Proposed Acquisition Transaction to occur (whether by (A) redeeming rights under a shareholders rights plan, (B) finding a tender offer to be a "permitted offer" under any such plan or otherwise causing any such plan to be inapplicable or neutralized with respect to any Proposed Acquisition Transaction, or (C) approving any Proposed Acquisition Transaction, whether for purposes of any interested shareholder statute, any "fair price" or other provision of its respective charter or bylaws or otherwise), (ii) liquidate or partially liquidate, (iii) in a single transaction or series of related transactions, sell or transfer all or substantially all of the assets of AT&T or the assets of the AT&T Broadband Group that were transferred to AT&T Broadband prior to the Distribution, as the case may be, (iv) redeem or otherwise repurchase (directly or through an Affiliate) any of its stock, (v) enter into any transaction or series of transactions as a result of which any Person would acquire, or have the right to acquire, from AT&T or AT&T Broadband, as the case may be, or one of their respective Affiliates, a number of shares of stock that would comprise more than 5% of (A) the value of all outstanding shares of stock of as of the date of such transaction, or in the case of a series of transactions, the date of the last

transaction of such series, or (B) the voting power of the issued and outstanding shares of stock as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series or (vi) take any other action or actions (including any action or transaction that would be inconsistent with any representation made in the Tax Opinions/Rulings) that in the aggregate (and taking into account any other transactions described in this subparagraph (b)) would be reasonably likely to have the effect of causing or permitting one or more Persons to acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of Section 355(e) of the Code) in AT&T or AT&T Broadband or otherwise jeopardize the non-recognition of taxable gain or loss for U.S. federal income tax purposes to AT&T, AT&T Affiliates and shareholders of AT&T in connection with the Separation and Distribution, unless prior to taking any such action set forth in the foregoing clauses (i) through (vi), AT&T (with respect to AT&T Broadband) and AT&T Broadband (with respect to AT&T) has determined, in its sole and absolute discretion, which discretion shall be exercised in good faith solely to preserve the tax-free status of the Separation and Distribution, that such action or actions would not result in a Spin-Off Disqualification. Anything in the preceding sentence to the contrary notwithstanding, a transaction described in clauses (i) through (vi) of the preceding sentence shall not require the determination of the other party in the event that as of the date immediately preceding such transaction there has not been issued and, when taken together with the shares to be issued pursuant to the transaction, there will not be issued, directly or indirectly, pursuant to a Proposed Acquisition Transaction or otherwise, including as a consequence of the Merger Agreement, taking into account for such purpose all share transactions which would be taken into account under Section 355(e) of the Code assuming all such issuances were considered to be "part of a plan or series of related transactions" with the Distribution number of shares in excess of 30 percent of (A) the value of all outstanding shares of stock as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (B) the voting power of the issued and outstanding shares of stock as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. "Proposed Acquisition Transaction" means a transaction or series of transactions as a result of which AT&T or AT&T Broadband would merge or consolidate with any other Person or pursuant to which any Person or any group of related Persons would acquire, or have the right to acquire, directly or indirectly, from one or more holders of outstanding shares of stock of a number of shares of stock that would comprise more than 5% of (A) the value of all outstanding shares of stock as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (B) the voting power of the issued and outstanding shares of stock as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. "Tax Opinions/Rulings" means, collectively,

the opinions of tax counsel and the rulings by the IRS deliverable to AT&T in connection with the transactions contemplated by this Agreement.

(c) If one party (the “**Issuing Party**”) notifies the other (the “**Other Party**”) that it desires to take one of the actions described in clauses (i) through (vi) of Section 6.02(b) (the “**Notified Action**”) and the Other Party declines to exercise its discretion pursuant to Section 6.02(b) to permit the Issuing Party to take such Notified Action, the Issuing Party, in its reasonable discretion, may elect to seek a Subsequent Tax Opinion/Ruling that would permit the Issuing Party to take the Notified Action, and the Other Party shall cooperate in connection with such efforts; *provided, however*, that the reasonable costs and expenses of obtaining any such Subsequent Tax Opinion/Ruling shall be borne by the Issuing Party. “**Subsequent Tax Opinion/Ruling**” means either (i) an unqualified opinion of counsel jointly selected by the Issuing Party and the Other Party confirming that, as a consequence of the consummation of the Notified Action, no income, gain or loss for U.S. federal income tax purposes will be recognized by AT&T, the shareholders or former shareholders of AT&T, or any AT&T Affiliate with respect to the Separation and Distribution or (ii) an IRS private letter ruling to the same effect that, after reasonable due diligence conducted by the Other Party, are in form and substance reasonably satisfactory to the Other Party.

(d) Notwithstanding anything to the contrary herein or any provision of the Tax Sharing Agreement to the contrary, if there is a determination (as defined in Section 1313 of the Code) that a Spin-Off Disqualification has occurred, then AT&T Broadband shall indemnify and hold harmless AT&T and each member of the consolidated group of which AT&T is a member from and against one half of all Tax Related Losses imposed upon or incurred by AT&T or any member of its group as a result of the Spin-Off Disqualification; *provided, however*, that AT&T Broadband shall indemnify and hold harmless AT&T and each member of the consolidated group of which AT&T is a member from and against any and all Tax Related Losses imposed upon or incurred by AT&T or any member of its group as a result of the Spin-Off Disqualification if such Spin-Off Disqualification would not have occurred but for an AT&T Broadband Action and; *provided, further*, that AT&T Broadband shall have no obligation to indemnify AT&T or any member of the consolidated group of which AT&T is a member if the Spin-Off Disqualification would not have occurred but for an AT&T Communications Action. “**AT&T Broadband Action**” means (i) any transaction with respect to the stock or assets of AT&T Broadband that occurs after the Distribution, (ii) AT&T Broadband’s failure to maintain its status as a company engaged in the active conduct of a trade or business, and (iii) the failure of any representation made by AT&T Broadband with respect to AT&T Broadband or the AT&T Broadband Business, and the plans, proposals, intentions and policies of AT&T Broadband after the Separation and Distribution in connection with a Subsequent

Tax Opinion/Ruling to be true and correct in all material respects. “**AT&T Communications Action**” means (i) any transaction with respect to the stock or assets of AT&T that occurs after the Distribution, (ii) AT&T’s failure to maintain its status as a company engaged in the active conduct of a trade or business, and (iii) the failure of any representation made by AT&T with respect to AT&T or the AT&T Communications Business and the plans, proposals, intentions and policies of AT&T after the Separation and Distribution in connection with the Tax Opinions/Rulings or a Subsequent Tax Opinion/Ruling to be true and correct in all material respects. The delivery of any Subsequent Tax Opinion/Ruling shall not affect either party’s rights and obligations with respect to indemnification under this Section 6.02(d). “**Tax Related Losses**” means (A) all federal, state and local Taxes (including interest and penalties thereon) imposed pursuant to any settlement, final determination, judgment or otherwise; (B) all accounting, legal and other professional fees, and court costs incurred in connection with such taxes; and (C) all costs and expenses that may result from adverse tax consequences to AT&T (including all costs, expenses and damages associated with shareholder litigation or controversies) payable by AT&T or AT&T Affiliates.

SECTION 6.03. *Procedure for Indemnification for Tax Liabilities.* (a) If AT&T receives notice of the assertion of any claim, suit, arbitration, inquiry, proceeding or investigation by or before any court, governmental or other regulatory or administrative agency or commission or any arbitration tribunal asserted by a Person other than AT&T or any AT&T Affiliate or AT&T Broadband or any AT&T Broadband Affiliate that gives rise to a right of indemnification hereunder (a “**Third Party Tax Claim**”) with respect to which AT&T Broadband may be obligated under Section 6.02(d) to provide indemnification, AT&T shall give AT&T Broadband notice thereof (together with a copy of such Third Party Tax Claim, process or other legal pleading) promptly after becoming aware of such Third Party Tax Claim; *provided, however*, that the failure of AT&T to give notice as provided in this Section shall not relieve AT&T Broadband of its obligations under Section 6.02(d), except to the extent that AT&T Broadband is actually prejudiced by such failure to give notice. Such notice shall describe such Third-Party Tax Claim in reasonable detail.

(b) (i) Notwithstanding any provision to the contrary contained in the Tax Sharing Agreement, AT&T and AT&T Broadband shall jointly control the defense of, and cooperate with each other with respect to defending, any Third Party Tax Claim with respect to which AT&T Broadband may be obligated under Section 6.02(d) to provide indemnification; *provided that* AT&T Broadband shall forfeit such joint control right with respect to a particular Third Party Tax Claim if AT&T Broadband or any AT&T Broadband Affiliate makes any public statement or filing, or takes any action (including, but not limited to, the filing of any

submission or pleading, or the giving of a deposition or production of documents, in any administrative or court proceeding) in connection with such Third Party Tax Claim that is inconsistent in a material respect with any representation or warranty made by AT&T Broadband in the Agreement, the Tax Opinions/Rulings, the Representation Letter or a Subsequent Tax Opinion/Ruling and; *provided, further,* that AT&T shall forfeit such joint control right with respect to a particular Third Party Tax Claim if AT&T or any AT&T Affiliate makes any public statement or filing, or takes any action (including, but not limited to, the filing of any submission or pleading, or the giving of a deposition or production of documents, in any administrative or court proceeding) in connection with such Third Party Tax Claim that is inconsistent in a material respect with any representation or warranty made by AT&T in the Agreement, the Tax Opinions/Rulings, the Representation Letter or a Subsequent Tax Opinion/Ruling.

(ii) AT&T and AT&T Broadband shall exercise their rights to jointly control the defense of any such Third Party Tax Claim solely for the purpose of defeating such Third Party Tax Claim and, unless required by applicable law, neither AT&T nor AT&T Broadband shall make any statements or take any actions that could reasonably result in the shifting of liability for any Tax Related Losses arising out of such Third Party Tax Claim from the party making such statement or taking such action (or any of its Affiliates) to the other party (or any of its Affiliates).

(iii) Statements made or actions taken by either AT&T or AT&T Broadband in connection with the defense of any such Third Party Tax Claim shall not prejudice the rights of such party in any subsequent action or proceeding between the parties.

(iv) If either AT&T or AT&T Broadband fails to jointly defend any such Third Party Tax Claim, the other party shall solely defend such Third Party Tax Claim and the party failing to jointly defend shall use commercially reasonable efforts to cooperate with the other party in its defense of such Third Party Tax Claim; *provided, however,* that neither party may compromise or settle any such Third Party Tax Claim without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. All costs and expenses of either party in connection with, and during the course of, the joint control of the defense of any such Third Party Tax Claim shall be initially paid by the party that incurs such costs and expenses. Such costs and expenses shall be reallocated and reimbursed in accordance with the respective indemnification obligations of the parties at the conclusion of the defense of such Third Party Tax Claim.

(c) (i) If there is a determination (as defined in Section 1313 of the Code) that a Spin-Off Disqualification has occurred, AT&T and AT&T Broadband shall

attempt in good faith to resolve any disagreement with respect to whether there is an indemnification obligation pursuant to Section 6.02(d). If the parties cannot agree by the tenth Business Day following the determination (the “**Dispute Date**”), then the liability shall initially be determined as follows: Within 20 days of the Dispute Date, AT&T and AT&T Broadband shall each appoint one arbitrator. The two arbitrators so appointed shall appoint a third arbitrator within 30 days of the Dispute Date. If either party shall fail to appoint an arbitrator within such 20-day period, the arbitration shall be conducted by the sole arbitrator appointed by the other party. Whether selected by AT&T, AT&T Broadband or otherwise, each arbitrator selected to resolve such dispute shall be a tax attorney who is generally recognized in the tax community as a qualified and competent tax practitioner with experience in the tax area involved in the issue to be resolved. Such arbitrators shall be empowered to determine initially whether or not AT&T Broadband is required to indemnify AT&T pursuant to Section 6.02(d) hereunder. Each of AT&T and AT&T Broadband shall bear 50% of the aggregate expenses of the arbitrators (or sole arbitrator). The decision of the arbitrators shall be rendered no later than 90 days from the Dispute Date.

(ii) On the tenth Business Day following the determination that there has been a Spin-Off Disqualification, if AT&T Broadband agrees that it has an indemnification obligation, AT&T Broadband shall pay in full any amount due and payable to AT&T pursuant to Section 6.02(d), together with interest calculated at the Underpayment Rate from the date of the determination that there was a Spin-Off Disqualification through the date of payment. If AT&T Broadband and AT&T disagree as to whether an indemnity obligation is due, and the arbitration process concludes that AT&T Broadband is liable, AT&T Broadband shall pay any amount that would be due and payable to AT&T if AT&T were entitled to indemnity pursuant to Section 6.02(d), together with interest on such amount calculated at the Underpayment Rate from the date of the determination that there was a Spin-Off Disqualification through the date of the payment. “**Underpayment Rate**” shall mean the annual rate of interest described in Section 6621(c) of the Code for large corporate underpayments of income Tax (or similar provision of state or local income Tax law, as applicable), as determined from time to time.

(iii) If pursuant to a final nonappealable order of a court of competent jurisdiction, it is determined that AT&T Broadband is obligated to pay and has not paid amounts payable to AT&T pursuant to Section 6.02(d) or that amounts paid by AT&T Broadband to AT&T should not have been paid, AT&T Broadband shall pay to AT&T the balance due, or AT&T shall repay to the excess amount paid, in either event within five days of the final determination of liability or overpayment, together with interest at the Underpayment Rate calculated (A) from the date of the determination that there was a Spin-Off Disqualification in the case

of a payment to be made by AT&T Broadband or (B) from the date of payment by AT&T Broadband to AT&T in the case of a repayment to be made by AT&T. All payments pursuant to this Section 6.03(c) shall be made by wire transfer to the bank account designated by AT&T or AT&T Broadband, as the case may be, for such purpose.

SECTION 6.04. *Other Transactions.* (a) Notwithstanding any provision of the Tax Sharing Agreement to the contrary, AT&T Broadband shall indemnify and hold harmless AT&T and each member of the consolidated group of which AT&T is a member from and against one half of all Tax Related Losses imposed upon or incurred by AT&T or any member of its group as a result of (i) the Separation Transactions or the Split-Off failing to qualify as tax-free transactions under the provisions of Sections 355, 361(c) and 368(a)(1)(D) of the Code, or (ii) the shares of AWS or LMC failing to qualify as “qualified property” for purposes of Section 355(c)(2) or 361(c) of the Code by reason of the application of Section 355(e) of the Code (each such failure, a “**Transaction Disqualification**”); *provided, however*, AT&T Broadband shall indemnify and hold harmless AT&T and each member of the consolidated group of which AT&T is a member from and against any and all Tax Related Losses imposed upon or incurred by AT&T or any member of its group as a result of the Transaction Disqualification if such Transaction Disqualification would not have occurred but for an AT&T Broadband Action and; *provided, further*, that, AT&T Broadband shall have no obligation to indemnify AT&T or any member of the consolidated group of which AT&T is a member if the Transaction Disqualification would not have occurred but for an AT&T Communications Action.

(b) Any indemnity payment required to be made by AT&T Broadband under Section 6.04(a) as a result of a Transaction Disqualification shall be net of AT&T Broadband’s Share of any indemnification that AT&T is entitled to receive from AWS or LMC, as the case may be, as a result of such Transaction Disqualification (a “**Primary Indemnity Claim**”). AT&T, at AT&T Broadband’s direction and expense, shall use reasonable efforts to pursue and collect AT&T Broadband’s Share of a Primary Indemnity Claim from AWS or LMC, as the case may be, prior to seeking indemnification from AT&T Broadband for such amount. In the event that AT&T has not received indemnification with respect to AT&T Broadband’s Share of a Primary Indemnity Claim at least five days prior to the date on which AT&T is required to make a payment that gives rise to such claim, AT&T shall be entitled to demand payment of AT&T Broadband’s Share of a Primary Indemnity Claim from AT&T Broadband, *provided* that AT&T Broadband shall have no obligation to pay AT&T Broadband’s Share of a Primary Indemnity Claim unless AT&T has (i) provided AT&T Broadband with information in reasonable detail describing its efforts to pursue and collect such Primary Indemnity Claim and (ii) afforded

AT&T Broadband the opportunity to take reasonable efforts on behalf of AT&T, at AT&T Broadband's expense, to pursue and collect such Primary Indemnity Claim. "AT&T Broadband's Share" means (i) 100% in the event the Transaction Disqualification is attributable to an AT&T Broadband Action or (ii) 50% otherwise. If AT&T Broadband makes payment to AT&T in respect of an amount for which AT&T has a Primary Indemnity Claim, AT&T shall assign AT&T Broadband's Share of such Primary Indemnity Claim to AT&T Broadband and shall cooperate, at AT&T Broadband's direction and expense, with AT&T Broadband in prosecuting such claim. If AT&T receives a payment required by Section 6.04(a) from AT&T Broadband and subsequently receives a payment with respect to a Primary Indemnity Claim that was not previously taken into account, in whole or in part, in determining the amount of AT&T Broadband's payment to AT&T, then AT&T will pay to AT&T Broadband an amount equal to the excess of the payment made by AT&T Broadband over the amount of the payment that AT&T Broadband would have been required to make if payment under the Primary Indemnity Claim had been received by AT&T before payment was made by AT&T Broadband.

(c) If there is a determination (as defined in Section 1313 of the Code) that a Transaction Disqualification has occurred and the parties cannot agree whether such a Transaction Disqualification would not have occurred but for an AT&T Communications Action or an AT&T Broadband Action, as the case may be, the procedures set forth in Section 6.03(c) shall apply.

(d) In the event that, in connection with a Transaction Disqualification that is attributable to an AT&T Broadband Action, AT&T has any rights against or obligations to AWS or LMC that are substantially similar to those set forth in Section 6.03, (i) AT&T shall assign such rights and obligations to AT&T Broadband, if at all practicable, or (ii) if such assignment cannot be achieved for any reason, AT&T shall exercise such rights and perform such obligations at the direction of AT&T Broadband and AT&T Broadband shall indemnify AT&T for all associated costs. Such costs shall be reallocated and reimbursed in accordance with the respective indemnification obligations as determined under Section 6.04(c). If a Transaction Disqualification is not attributable to an AT&T Communications Action or an AT&T Broadband Action, such rights and obligations shall, to the extent practicable, be exercised and performed jointly and all associated costs shall be shared equally.

ARTICLE 7
EXCHANGE OF INFORMATION; CONFIDENTIALITY

SECTION 7.01. *Agreement for Exchange of Information.* (a) Each of AT&T and AT&T Broadband, on behalf of the AT&T Communications Group and the AT&T Broadband Group, respectively, agrees to provide, or cause to be provided, to each other Group, at any time before or after the Distribution Date, as soon as reasonably practicable after written request therefor, any Information in the possession or under the control of such respective Group that the requesting party reasonably needs (i) to comply with reporting, disclosure, filing or other requirements imposed on the requesting party (including under applicable securities or Tax laws) by a Governmental Authority having jurisdiction over the requesting party, (ii) for use in any other judicial, regulatory, administrative, Tax or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation, Tax or other similar requirements, or (iii) to comply with its obligations under this Agreement or any other Ancillary Agreement; *provided, however*, that in the event that any party determines that any such provision of Information could be commercially detrimental, violate any law or agreement, or waive any attorney-client privilege, the parties shall take all reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence. AT&T and AT&T Broadband intend that any transfer of Information that would otherwise be within the attorney-client privilege shall not operate as a waiver of any potentially applicable privilege.

(b) After the date hereof, each of AT&T and AT&T Broadband shall maintain in effect adequate systems and controls to the extent necessary to enable the members of the other Group to satisfy their respective reporting, accounting, audit and other obligations.

SECTION 7.02. *Ownership of Information.* Any Information owned by one Group that is provided to a requesting party pursuant to Section 7.01 shall be deemed to remain the property of the providing party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such Information.

SECTION 7.03. *Compensation for Providing Information.* The party requesting such Information agrees to reimburse the other party for the reasonable costs, if any, of creating, gathering and copying such Information, to the extent that such costs are incurred for the benefit of the requesting party. Except as may be otherwise specifically provided elsewhere in this Agreement or in any other agreement between the parties, such costs shall be computed in accordance with the providing party's standard methodology and procedures.

SECTION 7.04. *Record Retention.* To facilitate the possible exchange of Information pursuant to this Article 7 and other provisions of this Agreement after the Distribution Date, the parties agree to use their reasonable best efforts to retain all Information in their respective possession or control on the Distribution Date in accordance with their respective record retention policies. No party will destroy, or permit any of its Subsidiaries to destroy, any Information that the other party may have the right to obtain pursuant to this Agreement prior to the third anniversary of the date hereof without first using its reasonable best efforts to notify the other party of the proposed destruction and giving the other party the opportunity to take possession of such information prior to such destruction; *provided, however,* that in the case of any Information relating to Taxes or to Environmental Liabilities, such period shall be extended to the expiration of the applicable statute of limitations (giving effect to any extensions thereof). Moreover, no party will destroy, or permit any of its Subsidiaries to destroy, any policies of insurance (or records related to such insurance policies) without first using its reasonable best efforts to notify the other party of the proposed destruction and giving the other party reasonable opportunity to take possession of such information prior to such destruction, if it is possible that the other party may be able to obtain coverage under such policies. (The foregoing includes "occurrence"-based liability policies, which continue to cover liability for alleged harm during their policy period, even if no claim is made based on such alleged harm until after the end of the policy period.)

SECTION 7.05. *Limitation of Liability.* No party shall have any liability to any other party in the event that any Information exchanged or provided pursuant to this Agreement that is an estimate or forecast, or that is based on an estimate or forecast, is found to be inaccurate, in the absence of willful misconduct by the party providing such Information. No party shall have any liability to any other party if any Information is destroyed after reasonable best efforts by such party to comply with the provisions of Section 7.04.

SECTION 7.06. *Other Agreements Providing for Exchange of Information.* The rights and obligations granted under this Article 7 are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange or confidential treatment of Information set forth in any Ancillary Agreement.

SECTION 7.07. *Production of Witnesses; Records; Cooperation.* (a) After the Distribution Date, except in the case of an adversarial Action by one party against the other party (which shall be governed by such discovery rules as may be applicable thereto), each party hereto shall take all reasonable steps to make available to the other party, upon written request, the former, current and future directors, officers, employees, other personnel and agents of its respective Group (whether as witnesses or otherwise) and any books, records or other documents

within its control or which it otherwise has the ability to make available, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with any Action (including preparation for such Action) in which the requesting party may from time to time be involved, regardless of whether such Action (or preparation for such action) is a matter with respect to which indemnification may be sought hereunder. The requesting party shall bear all costs and expenses (including allocated costs of in-house counsel and other personnel) in connection therewith.

(b) If an Indemnifying Party chooses to defend or to seek to compromise or settle any Third Party Claim, or if any party chooses or is required to prosecute, pursue, otherwise evaluate or defend any Action, the other parties shall cooperate in such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be.

(c) Without limiting the foregoing, the parties shall cooperate and consult to the extent reasonably necessary with respect to any Actions.

(d) Without limiting any provision of this Section 7.07, each of the parties agrees to cooperate, and to cause each member of its respective Group to cooperate, with each other in the defense of any infringement or similar claim with respect to any intellectual property and shall not claim to acknowledge, or permit any member of its respective Group to claim to acknowledge, the validity or infringing use of any intellectual property of a third Person in a manner that would hamper or undermine the defense of such infringement or similar claim.

(e) The obligation of the parties to make available former, current and future directors, officers, employees, other personnel and agents pursuant to this Section 7.07 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to make available inventors and other officers without regard to whether such individual or the employer of such individual could assert a possible business conflict (subject to the exception set forth in the first sentence of Section 7.07(a)). Without limiting the foregoing, each party agrees that (i) neither it nor any member of its respective Group will take adverse action against any employee of its Group based on such employee's provision of assistance or information to the other party pursuant to Section 7.07(a) and (ii) to the extent relevant and necessary, neither it nor any member of its respective Group will enforce any confidentiality agreement against an employee of its Group that would otherwise prevent or hinder such employee from cooperating or providing information to a requesting party pursuant to Section 7.07(a).

(f) In connection with any matter contemplated by this Section 7.07, the parties will enter into a mutually acceptable joint defense agreement so as to maintain to the extent practicable any applicable attorney-client privilege or work product immunity of either Group.

SECTION 7.08. *Confidentiality.* (a) Subject to Section 7.09, each of AT&T and AT&T Broadband, on behalf of itself and its respective Group, agrees to hold, and to cause its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives to hold, in strict confidence, with at least the same degree of care that applies to its own confidential and proprietary information pursuant to policies in effect at the relevant time, all Information concerning the other Group that is either in its possession (including Information in its possession prior to any of the date hereof, or the Distribution Date) or furnished by the other Group or its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives at any time pursuant to this Agreement, any other Ancillary Agreement or otherwise, and shall not use any such Information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such Information has been (i) in the public domain through no fault of such party or such party's Group or any of their respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives, (ii) later lawfully acquired from other sources by such party (or such party's Group), which sources are not themselves bound by a confidentiality obligation, or (iii) independently generated without reference to any proprietary or confidential Information of the other party.

(b) Each party agrees not to release or disclose, or permit to be released or disclosed, any such Information concerning the other Group to any other Person, except its directors, officers, employees, agents, accountants, counsel and other advisors and representatives who need to know such Information (who shall be advised of their obligations hereunder with respect to such Information), except in compliance with Section 7.09. Without limiting the foregoing, when any Information is no longer needed for the purposes contemplated by this Agreement or any other Ancillary Agreement, each party will promptly after request of the other party either return to the other party all Information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or certify to the other party that it has destroyed such Information (and such copies thereof and such notes, extracts or summaries based thereon).

SECTION 7.09. *Protective Arrangements.* In the event that any party or any of its Subsidiaries either determines on the advice of its counsel that it is required to disclose any Information concerning the other Group pursuant to applicable law or receives any demand under lawful process or from any

Governmental Authority to disclose or provide Information concerning the other Group that is subject to the confidentiality provisions hereof, such party shall notify the other party of such disclosure at least five days prior to disclosing or providing such Information and shall cooperate at the expense of the requesting party in seeking any reasonable protective arrangements requested by such other party. Subject to the foregoing, after a court of competent jurisdiction has had an opportunity to rule on such protective arrangements, the Person that received such request may thereafter disclose or provide Information to the extent required by such law (as so advised by counsel) or by lawful process or such Governmental Authority.

ARTICLE 8

FURTHER ASSURANCES AND ADDITIONAL COVENANTS

SECTION 8.01. *Further Assurances.* (a) In addition to the actions specifically provided for elsewhere in this Agreement, the other Ancillary Agreements and the Merger Agreement, but subject to the provisions hereof and thereof, each of the parties hereto shall use its reasonable best efforts, prior to, on and after the Distribution Date, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement, the other Ancillary Agreements and the Merger Agreement.

(b) Without limiting the foregoing, prior to, on and after the Distribution Date, each party hereto shall cooperate with the other party, and without any further consideration, to execute and deliver, or use its reasonable best efforts to cause to be executed and delivered, all instruments, including instruments of conveyance, assignment and transfer, and to make all filings with, and to obtain all consents, approvals or authorizations of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any Consents or Governmental Approvals), and to take all such other actions as such party may reasonably be requested to take by any other party hereto from time to time, consistent with the terms of this Agreement, the other Ancillary Agreements and the Merger Agreement, in order to effectuate the provisions and purposes of this Agreement, the other Ancillary Agreements and the Merger Agreement and the transfers of the AT&T Broadband Assets and the assignment and assumption of the AT&T Broadband Liabilities and the other transactions contemplated hereby and thereby.

(c) On or prior to the Distribution Date, AT&T and AT&T Broadband in their respective capacities as direct and indirect shareholders of their respective Subsidiaries, shall each ratify any actions that are reasonably necessary or desirable to be taken by AT&T and AT&T Broadband or any other Subsidiary of AT&T, as the case may be, to effectuate the transactions contemplated by this Agreement.

ARTICLE 9 TERMINATION

SECTION 9.01. *Termination.* This Agreement may be terminated by AT&T prior to the Distribution Date at any time following termination of the Merger Agreement in accordance with its terms.

SECTION 9.02. *Effect of Termination.* In the event of any termination of this Agreement prior to the Distribution Date, no party to this Agreement (or any of its directors or officers) shall have any Liability or further obligation to any other party with respect to this Agreement.

ARTICLE 10 DISPUTE RESOLUTION AND ARBITRATION

SECTION 10.01. *Agreement to Arbitrate.* Except as otherwise specifically provided in this Agreement (including, without limitation, in Article 6, concerning Third Party Tax Claims) or in any other Ancillary Agreement, the procedures set forth in this Article 10 shall apply to all disputes, controversies or claims (whether sounding in contract, tort or otherwise) that may arise out of or relate to, or arise under or in connection with this Agreement or any other Ancillary Agreement, or the transactions contemplated hereby or thereby (including all actions taken in furtherance of the transactions contemplated hereby or thereby on or prior to the date hereof), or the commercial or economic relationship of the parties relating hereto or thereto, between or among any member of the AT&T Broadband Group, or the AT&T Communications Group. Each party agrees on behalf of itself and each member of its respective Group that the procedures set forth in this Article 10 shall be the sole and exclusive remedy in connection with any dispute, controversy or claim relating to any of the foregoing matters and irrevocably waives any right to commence any Action in or before any Governmental Authority, except as expressly provided in Sections 10.11(c) and 10.12 and except to the extent provided under the Federal Arbitration Act in the case of judicial

review of arbitration results or awards. Each party on behalf of itself and each member of its respective Group irrevocably waives any right to any trial by jury with respect to any claim, controversy or dispute set forth in the first sentence of this Section 10.01. The parties agree that claims filed pursuant to this Article 10 may seek direct damages but in no event for such claims shall either party be liable to the other for any incidental, special, reliance, consequential or any other indirect damages or losses (including lost profits or revenues).

SECTION 10.02. *Reasonable Best Efforts to Resolve Disputes; Mediation.* It is the intent of the parties to use their respective reasonable best efforts to negotiate and resolve expeditiously any dispute, controversy or claim between or among them that may arise from time to time on a mutually acceptable negotiated basis. The parties may, by mutual consent, retain a mediator to aid in any attempt to informally negotiate resolution of any dispute, although any opinion expressed by a mediator shall be strictly advisory and shall not be binding on the parties, nor shall any opinion expressed by the mediator be admissible in any arbitration proceedings. Costs of a mediation shall be borne equally by the parties involved in the matter, except that each party shall be responsible for its own expenses. Mediation is not a prerequisite to a demand for arbitration under Section 10.03.

SECTION 10.03. *Demand for Arbitration.* At any time before the Applicable Deadline, any party involved in the dispute, controversy or claim may make a written demand (the “**Arbitration Demand Notice**”) that the dispute be resolved by binding arbitration, which Arbitration Demand Notice shall be given to the parties to the dispute, controversy or claim in the manner set forth in Section 11.08. Such Arbitration Demand Notice shall describe in reasonable detail the facts surrounding such dispute, controversy or claim and the basis of such party’s claim for relief pursuant to this Article. Except as may be expressly provided in any Ancillary Agreement, any Arbitration Demand Notice must be asserted within one year after the later of the occurrence of the act or event giving rise to the underlying claim or the date on which such act or event was, or should have been, in the exercise of reasonable due diligence, discovered by the party asserting the claim (as applicable and as it may in a particular case be specifically extended by the parties in writing, the “**Applicable Deadline**”; *provided* that in no event will the Applicable Deadline occur with respect to any matter before the first anniversary of the Distribution). Any discussions, negotiations or mediations between the parties pursuant to this Agreement or otherwise will not toll the Applicable Deadline unless expressly agreed in writing by the parties. Each of the parties agrees on behalf of itself and each member of its Group that if an Arbitration Demand Notice with respect to a dispute, controversy or claim is not given prior to the expiration of the Applicable Deadline, as between or among the parties and the members of their Groups, such dispute, controversy or claim will be barred. Subject to Sections 10.11(c) and 10.12, upon delivery of an Arbitration

Demand Notice prior to the Applicable Deadline, the dispute, controversy or claim shall be decided by an Arbitration Panel in accordance with the rules set forth in this Article 10.

SECTION 10.04. *Arbitration Panel.* When an Arbitration Demand Notice is given, the parties involved in the dispute, controversy or claim shall attempt to select a sole arbitrator satisfactory to all such parties. In the event the parties are not able jointly to select a sole arbitrator, such parties shall each appoint an arbitrator within 30 days after delivery of the Arbitration Demand Notice. Only one arbitrator may be appointed for the AT&T Broadband Group and the AT&T Communications Group, respectively. In the event that a sole arbitrator is not selected, the two chosen arbitrators, within 30 days after the appointment of the later of them to be appointed, will in turn choose a third arbitrator, and the three arbitrators thus chosen will constitute the arbitration panel.

SECTION 10.05. *Commencement and Place of Arbitration.* The sole arbitrator or arbitration panel (as applicable, the “**Arbitration Panel**”) will meet within 30 days of the last appointment to commence the arbitration, which period may be extended upon the agreement of the arbitrators. The Arbitration Panel will set a time for the hearing of the matter, which will commence no later than 90 days after the date of the last appointment. The place of any arbitration hereunder will be as agreed upon by the parties, or, if the parties are unable to agree, as set by the Arbitration Panel.

SECTION 10.06. *Arbitration Hearings.* The matter shall be presented to the Arbitration Panel at a hearing by means of written submissions of memoranda and verified witness statements, filed simultaneously, and responses, if necessary in the judgment of the arbitrator or both the parties. If the Arbitration Panel deems it to be appropriate for a fair resolution of the dispute, live cross-examination or direct examination may be permitted. The Arbitration Panel shall actively manage the arbitration with a view to achieving a just, speedy and cost-effective resolution of the dispute, claim or controversy. The arbitration hearing will be no longer than 30 full hearing days, unless in the judgment of the Arbitration Panel the matter is complex and sophisticated and thereby requires a longer time; *provided, however,* that such hearing shall in any event be completed within 180 calendar days. The Arbitration Panel may set time and other limits on the presentation of each party’s case, its memoranda or other submissions, and may refuse to receive any proffered evidence, that the Arbitration Panel finds to be cumulative, unnecessary, irrelevant or of low probative nature. Except as otherwise set forth herein, any arbitration hereunder will be conducted in accordance with the CPR Rules for Non-Administered Arbitration of Business Disputes then prevailing (except that the arbitration will not be conducted under the auspices of the CPR and the fee schedule of the CPR will not apply). To the

extent that the provisions of this Agreement and the prevailing rules of the CPR conflict, the provisions of this Agreement shall govern.

SECTION 10.07. *Arbitration Decision.* The final decision of the Arbitration Panel will be rendered in writing to the parties not later than 60 days after the last hearing date, unless otherwise agreed by the parties in writing. The decision of the Arbitration Panel will be final and binding on the parties, and judgment thereon may be had and will be enforceable in any court having jurisdiction over the parties. Arbitration awards will bear interest at an annual rate of the Prime Rate plus 2% per annum.

SECTION 10.08. *Discovery and Related Matters.* Any party involved in the applicable dispute may request limited document production from the other party or parties of specific and expressly relevant documents. Any such discovery shall be conducted expeditiously, and it is intended that discovery shall be limited as compared to the provisions of the Federal Rules of Civil Procedure. Depositions shall not occur except by consent of the parties or by order of the Arbitration Panel. Disputes concerning the document production or other discovery will be determined by written agreement of the parties involved in the applicable dispute or, failing such agreement, will be referred to the Arbitration Panel for resolution. All discovery requests will be subject to the proprietary rights and rights of privilege of the parties, and the Arbitration Panel will adopt procedures to protect such rights and to maintain the confidential treatment of the arbitration proceedings (except as may be required by law). Subject to the foregoing, the Arbitration Panel shall have the power to issue subpoenas to compel the production of documents relevant to the dispute, controversy or claim.

SECTION 10.09. *Arbitration Panel's Authority.* The Arbitration Panel shall have full power and authority to determine issues of arbitrability and to interpret or construe the applicable provisions of this Agreement or any other Ancillary Agreement and to fashion appropriate remedies for breaches of this Agreement (including interim or permanent injunctive relief); *provided that* the Arbitration Panel shall not have any right or authority (i) in excess of the authority a court having jurisdiction over the parties and the controversy or dispute would have absent these arbitration provisions; (ii) to award incidental, special, reliance, consequential, or other indirect damages (including lost profits or revenues); (iii) to award punitive or treble damages; or (iv) to modify the terms of this Agreement. It is the intention of the parties that in rendering a decision, the Arbitration Panel give effect to the applicable provisions of this Agreement and the other Ancillary Agreements and follow applicable law (it being understood and agreed that this sentence shall not give rise to a right of judicial review of the arbitrator's award).

SECTION 10.10. *Confidentiality.* Except as required by law, the parties agree that the existence and contents of the entire arbitration, including the award, shall be deemed a compromise of a dispute under Rule 408 of the Federal Rules of Evidence, shall not be discoverable in any proceeding, shall not be admissible in any court (except for the enforcement thereof) or arbitration and shall not bind or collaterally estop either party with respect to any claim or defense asserted by any third party. Except as required by law, the parties shall hold, and shall cause their respective officers, directors, employees, agents and other representatives to hold, the existence, content and result of the arbitration or any mediation in confidence in accordance with the provisions of Article 7 and except as may be required in order to enforce any award. Each of the parties shall request that any mediator or arbitrator comply with such confidentiality requirement.

SECTION 10.11. *Certain Additional Matters.* (a) If a party fails or refuses to appear at and participate in an arbitration hearing after due notice, the arbitrator may hear and determine the controversy upon evidence produced by the appearing party.

(b) Arbitration costs will be borne equally by each party involved in the matter, except that each party will be responsible for its own attorneys' fees and other costs and expenses, including the costs of witnesses selected by such party.

(c) Prior to the time at which the Arbitration Panel are appointed, any party may seek one or more temporary restraining orders in a court of competent jurisdiction if necessary in order to preserve and protect the status quo. Neither the request for, or grant or denial of, any such temporary restraining order shall be deemed a waiver of the obligation to arbitrate as set forth herein and the Arbitration Panel may dissolve, continue or modify any such order.

(d) In the event that at any time any member of the Arbitration Panel shall fail to serve as an arbitrator for any reason, the appropriate party or the two party-selected arbitrators, as the case may be, shall select a new arbitrator, in accordance with the procedures set forth in Section 10.04. The extent, if any, to which testimony previously given shall be repeated or may be relied upon based on the stenographic record (if there is one), shall be determined by the replacement arbitrator.

SECTION 10.12. *Limited Court Actions.* (a) Notwithstanding anything herein to the contrary, in the event that any party reasonably determines the amount in controversy in any dispute, controversy or claim (or any series of related disputes, controversies or claims) under this Agreement or any other Ancillary Agreement is, or is reasonably likely to be, in excess of \$100 million and if such party desires to commence an Action in lieu of complying with the

arbitration provisions of this Article 10, such party shall so state in its Arbitration Demand Notice. If the other parties to the arbitration disagree about whether the amount in controversy exceeds \$100 million, the Arbitration Panel selected pursuant to Section 10.04 shall decide the issue. The Arbitration Panel shall set a date no later than ten days after the date of its appointment for submissions by the parties with respect to such issue. There shall be no discovery in connection with such issue. The Arbitration Panel shall render its decision on such issue within five days of such date so set by the Arbitration Panel. The parties agree that any statute of limitations applicable to the dispute, controversy or claim before the Arbitration Panel shall be tolled during the pendency of the decision described in the immediately preceding sentence. In the event that the Arbitration Panel determines that the amount in controversy is or is reasonably likely to be in excess of \$100 million, the provisions of Sections 10.05, 10.06, 10.07, 10.08, and 10.14 shall not apply, and within 15 days of such decision, any party to the arbitration may elect in lieu of arbitration, to commence an Action with respect to such dispute, controversy or claim (or such series of related disputes, controversies or claims) in any court of competent jurisdiction returned to in Section 11.03. If the Arbitration Panel does determines that the amount in controversy is not in excess of \$100 million, the provisions of this Article 10 (including with respect to time periods) shall apply as if no determinations were sought or made pursuant to this Section 10.12(a).

(b) In the event that an arbitration award in excess of \$100 million is issued in any arbitration proceeding commenced hereunder, any party may, within 60 days after the date of such award, submit the dispute, controversy or claim (or series of related disputes, controversies or claims) giving rise thereto to a court of competent jurisdiction, regardless of whether such party or any other party sought to commence an Action in lieu of proceeding with arbitration in accordance with Section 10.12(a). In such event, the applicable court may elect to rely on the record developed in the arbitration or, if it determines that it would be advisable in connection with the matter, allow the parties to seek additional discovery or to present additional evidence. Each party shall be entitled to present arguments to the court with respect to whether any such additional discovery or evidence shall be permitted and with respect to all other matters relating to the applicable dispute, controversy or claim (or series of related disputes, controversies or claims).

SECTION 10.13. *Continuity of Performance and Remaining Obligations.* Unless otherwise agreed in writing, the parties will continue to provide service and honor all other commitments under this Agreement and each other Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article 10 with respect to all matters not subject to such dispute, controversy or claim.

SECTION 10.14. *Law Governing Arbitration Procedures.* The interpretation of the provisions of this Article 10, only insofar as they relate to the agreement to arbitrate and any procedures pursuant thereto, shall be governed by the Federal Arbitration Act and other applicable federal law. In all other respects, the interpretation of this Agreement shall be governed as set forth in Section 11.02.

SECTION 10.15. *Non-applicability of Article.* Notwithstanding anything herein to the contrary, this Article 10 shall not apply to any dispute, controversy or claim or to any other matter whatsoever arising under Section 6.02 or 6.03, the Tax Sharing Agreement, any other Tax sharing agreement or any Third Party Tax Claims or to any other matter relating to Taxes. This Article similarly shall not apply to the extent provided in any other Ancillary Agreement.

ARTICLE 11 MISCELLANEOUS

SECTION 11.01. *Counterparts; Entire Agreement; Corporate Power.* (a) This Agreement and each other Ancillary Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

(b) This Agreement, and the other Ancillary Agreements and the Exhibits, Schedules and Appendices hereto and thereto contain the entire agreement between the parties with respect to the subject matter hereof or thereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter and there are no agreements or understandings between the parties other than those set forth or referred to herein or therein.

(c) AT&T represents on behalf of itself and each of its Subsidiaries (other than the AT&T Broadband Entities) and AT&T Broadband represents on behalf of itself and each other AT&T Broadband Entity:

(i) each such Person is a corporation or other entity duly incorporated or formed, validly existing and in good standing under the laws of the state of its incorporation or formation, has all corporate or other similar powers required to carry on its business as currently conducted and is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary, except for those

jurisdictions where failure to be so qualified, individually or in the aggregate, has not had and would not reasonably be expected to have an AT&T Material Adverse Effect or an AT&T Broadband Material Adverse Effect, respectively;

(ii) each such Person has the requisite corporate or other power and authority and has taken all corporate or other similar action necessary in order to execute, deliver and perform each of this Agreement and each other Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby; and

(iii) this Agreement and each other Ancillary Agreement to which any such Person is a party has been duly executed and delivered by such Person and constitutes a valid and binding agreement of such Person enforceable in accordance with the terms thereof.

(d) Each party hereto acknowledges that it and each other party hereto is executing certain of the Ancillary Agreements by facsimile, stamp or mechanical signature. Each party hereto expressly adopts and confirms each such facsimile, stamp or mechanical signature made in its respective name as if it were a manual signature, agrees that it will not assert that any such signature is not adequate to bind such party to the same extent as if it were signed manually and agrees that at the reasonable request of any other party hereto at any time it will as promptly as reasonably practicable cause each such Ancillary Agreement to be manually executed (any such execution to be as of the date of the initial date thereof).

SECTION 11.02. *Governing Law.* This Agreement and, unless expressly provided therein, each other Ancillary Agreement, shall be governed by and construed and interpreted in accordance with the laws of the State of New York, irrespective of the choice of laws principles of the State of New York, as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies.

SECTION 11.03. *Jurisdiction.* Except as otherwise expressly provided in this Agreement, the parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement, any of the other Ancillary Agreements or the transactions contemplated hereby or thereby shall be brought in the United States District Court for the Southern District of New York or any New York State court sitting in New York City, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement or out of any of the other Ancillary Agreements shall be deemed to have arisen from a transaction of business in the State of New

York, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 11.06 shall be deemed effective service of process on such party.

SECTION 11.04. *Waiver of Jury Trial.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY OF THE OTHER ANCILLARY AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

SECTION 11.05. *Assignability.* Except as set forth in any Ancillary Agreement, this Agreement and each other Ancillary Agreement shall be binding upon and inure to the benefit of the parties hereto and thereto, respectively, and their respective successors and assigns; *provided, however*, that no party hereto or thereto may assign its respective rights or delegate its respective obligations under this Agreement or any other Ancillary Agreement without the express prior written consent of each of the other parties hereto or thereto.

SECTION 11.06. *AT&T Restructuring.* AT&T and AT&T Broadband recognize that AT&T is contemplating creating a tracking stock with respect to its consumer services business. Subject to AT&T's obligations under the Merger Agreement, including Section 9.06(b) thereof, nothing in this Agreement shall prevent the creation by AT&T of any tracking stock with respect to such business or otherwise. In the event of the creation of such a tracking stock, (i) references in this Agreement to AT&T Common Stock shall be adjusted as necessary to accommodate the existence of such tracking stock and (ii) AT&T may, but is not required to, distribute all or a portion of the shares of such tracking stock in the Distribution. In the event any such tracking stock is distributed in connection with the Distribution, Article 4 shall be revised to appropriately account for such distribution. Any adjustment or revision pursuant to the preceding sentence shall be reasonably satisfactory to Comcast.

SECTION 11.07. *Third Party Beneficiaries.* Except for Comcast, which prior to any termination of this Agreement shall be a third party beneficiary of

AT&T Broadband's rights under to this Agreement and each other Ancillary Agreement, and except for the indemnification rights under this Agreement of any AT&T Indemnitee or AT&T Broadband Indemnitee in their respective capacities as such, and except as specifically provided in the Employee Benefits Agreement, (i) the provisions of this Agreement and each other Ancillary Agreement are solely for the benefit of the parties and are not intended to confer upon any Person except the parties any rights or remedies hereunder, and (ii) there are no third party beneficiaries of this Agreement or any other Ancillary Agreement and neither this Agreement nor any other Ancillary Agreement shall provide any third person with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any other Ancillary Agreement.

SECTION 11.08. *Notices.* All notices or other communications under this Agreement or any other Ancillary Agreement shall be in writing and shall be deemed to be duly given when (a) delivered in person or (b) deposited in the United States mail or private express mail, postage prepaid, addressed as follows:

If to AT&T, to:

AT&T Corp.
295 North Maple Avenue
Basking Ridge, New Jersey 07920
Attention: Marilyn J. Wasser
Fax: (908) 953-8360

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: Richard D. Katcher
Steven A. Rosenblum
Stephanie J. Seligman
Fax: (212) 403-2000

If to AT&T Broadband, to: AT&T Broadband Corp.
295 North Maple Avenue
Basking Ridge, New Jersey 07920
Attention: Marilyn J. Wasser
Fax: (908) 953-8360

with a copy to:

Comcast Corporation
1500 Market Street
Philadelphia, Pennsylvania 19102
Attention: General Counsel
Fax: (215) 981-7794

and:

Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Attention: Dennis S. Hersch
William L. Taylor
Fax: (212) 450-4800

Any party may, by notice to the other party, change the address to which such notices are to be given.

SECTION 11.09. *Severability.* If any provision of this Agreement or any other Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby or thereby, as the case may be, is not affected in any manner adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the parties.

SECTION 11.10. *Expenses.* The provisions of Sections 11.03(a)-(c) of the Merger Agreement are hereby incorporated by reference.

SECTION 11.11. *Headings.* The Article, Section and paragraph headings contained in this Agreement and in the other Ancillary Agreements are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or any other Ancillary Agreement.

SECTION 11.12. *Waivers of Default.* Waiver by any party of any default by the other party of any provision of this Agreement or any other Ancillary Agreement shall not be deemed a waiver by the waiving party of any subsequent or other default, nor shall it prejudice the rights of the other party.

SECTION 11.13. *Specific Performance.* In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement or any other Ancillary Agreement, the party or parties who are or are to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement or such other Ancillary Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived.

SECTION 11.14. *Amendments.* No provisions of this Agreement or any other Ancillary Agreement shall be deemed waived, amended, supplemented or modified by any party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the party against whom such waiver, amendment, supplement or modification it is sought to be enforced.

SECTION 11.15. *Late Payments.* Except as expressly provided to the contrary in this Agreement or in any other Ancillary Agreement, any amount not paid when due pursuant to this Agreement or any other Ancillary Agreement (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within 30 days of such bill, invoice or other demand) shall accrue interest at a rate per annum equal to the Prime Rate plus 2%.

SECTION 11.16. *Interpretation.* Words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires. The terms "hereof," "herein," and "herewith" and words of similar import herein (or in any Ancillary Agreement) shall, unless otherwise stated, be construed to refer to this Agreement (or the applicable other Ancillary Agreement) taken as a whole (including all of the

Schedules, Exhibits and Appendices hereto and thereto) and not to any particular provision of this Agreement (or such other Ancillary Agreement). Article, Section, Exhibit, Schedule and Appendix references are to the Articles, Sections, Exhibits, Schedules and Appendices to this Agreement (or the applicable other Ancillary Agreement) unless otherwise specified. The word "including" and words of similar import when used in this Agreement (or the applicable other Ancillary Agreement) means "including, without limitation," unless the context otherwise requires or unless otherwise specified. The word "or" shall not be exclusive. Unless expressly stated to the contrary in this Agreement or in any other Ancillary Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to December 19, 2001 (or the date of which the relevant Ancillary Agreement is first entered into, as the case may be) regardless of any amendment or restatement hereof (or thereof). References to a "member" of either Group shall be held to include any corporation or other Person within the definition of such Group. References to "legal fees" shall include allocated costs of in-house counsel. The parties hereto have participated jointly in the negotiation and drafting of this Agreement, and in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Separation and
Distribution Agreement to be executed by their duly authorized representatives.

AT&T CORP.

By: /s/ Marilyn J. Wasser
Name: Marilyn J. Wasser
Title: Vice President – Law and
Secretary

AT&T BROADBAND CORP.

By: /s/ Robert S. Feit
Name: Robert S. Feit
Title: Vice President and Assistant
Secretary

ANNEX I

The following provisions set forth the parties' understandings with respect to the disposition of all or any portion of the interest in TWE (the "**TWE Interest**") held, as of the date hereof, by MediaOne TWE Holdings, Inc. and its affiliates at any time or from time to time whether prior to or after the Closing Date:

(a) The following terms, as used in this Annex I, have the following meanings:

"Closing Date" has the meaning set forth in the Merger Agreement.

"Contingent Payment" means (i) 50% of the excess, if any, of (A) the Determined Value over (B) the Threshold Amount, reduced by (ii) an amount equal to the product of 50% of such excess and the rate set forth in subparagraph (e) hereof.

"Determined Value" means the Fair Market Value of the TWE Interest or portion thereof disposed of, as the case may be; *provided, however*, that if all or any portion of the TWE Interest is disposed of within the TWE Disposition Period under Article XIII of the TWE Partnership Agreement or pursuant to one or more negotiated dispositions or public or private market dispositions, then the Determined Value with respect to such portion shall be the Proceeds from such disposition(s).

"Fair Market Value" means with respect to all or any portion of the TWE Interest, the Proceeds that would be received in a public offering of such interest (or corresponding equity securities of a corporation into which TWE is converted or that holds the TWE interest) (after deducting (i) reasonable expenses, including underwriters' discounts and commissions and (ii) in the event such offering is an initial public offering, an appropriate initial public offering discount) based on the then prevailing market conditions.

"Parent" has the meaning set forth in the Merger Agreement.

"Proceeds" means (subject to clause (d) below) (a) if the proceeds are paid in cash, the amount of the cash actually received;

(b) if the proceeds are paid in securities, assets or rights:

(i) in the case of securities, assets or rights listed on any established stock exchange or a national market system including the National Market System of the National Association of Securities Dealers,

Inc. Automated Quotation ("NASDAQ") System, Proceeds means the average of the closing sales price for such item (or the closing bid, if no sales were reported) reported in the Wall Street Journal for the 20 consecutive trading day period prior to such date;

(ii) in the case of securities, assets or rights quoted on the NASDAQ System (but not on the National Market System thereof) or regularly quoted by a recognized securities dealer but selling prices are not reported, Proceeds means the average of the means between the high and low asked prices for the item for the 20 consecutive trading day period prior to such date; or

(iii) in the absence of an established market for the securities, assets or rights (including the rights embodied in this Annex I), Proceeds means the fair value thereof as determined in good faith by a mutually acceptable investment banking firm.

"Threshold Amount" means at any given time, an amount, which will initially be \$10.2 billion and shall be reduced by the aggregate Proceeds of previous dispositions of the TWE Interest received from time to time, *provided* that from the date the Merger Agreement is entered into, the outstanding balance of the Threshold Amount from time to time shall bear simple interest at a rate of 7% per annum and such interest shall be added to the Threshold Amount.

"TWE Disposition Period" has the meaning set forth in clause (b) of this Annex I.

(b) If all or any part of the TWE Interest is disposed of by AT&T Broadband, Parent or their respective successors during the period beginning on the date the Merger Agreement is signed and ending on the last day of the 54th month after the Closing Date (the **"TWE Disposition Period"**), and the Closing occurs, AT&T Broadband shall pay to AT&T on behalf of the AT&T Communications Group, an amount equal to the Contingent Payment. Any Contingent Payment shall be paid in the same proportion of cash, securities, assets and rights as was received in the disposition and no Contingent Payment shall be made until amounts equal to the Threshold Amount have been received as Proceeds. For the avoidance of doubt, the transactions contemplated by the Merger Agreement and this Agreement shall not be considered a disposition for purposes hereof.

(c) If the TWE Interest has not been fully disposed of within the TWE Disposition Period, the remaining interest shall be appraised by a mutually acceptable investment banking firm on the basis of Fair Market Value. To the extent that the Proceeds that would be received if such remaining interest were

disposed of for Fair Market Value exceeds the Threshold Amount, AT&T Broadband shall pay to AT&T on behalf of the AT&T Communications Group an amount in cash equal to 50% of such excess, reduced by an amount equal to the product at 50% of such excess and the tax rate set forth in subparagraph (e) hereof, and AT&T Broadband shall have no further obligations under this Annex I. If no payment is required to be made pursuant to the preceding sentence, AT&T Broadband shall have no further obligations under this Annex I.

(d) In the event that, before the Closing Date, AT&T (subject to Section 8.01(xii) of the Merger Agreement), or after the Closing Date, Parent, effects a disposition of the TWE Interest on a Tax deferred basis, the payment to be made to AT&T (taking into account the present value of the deferred Tax, the direct and indirect costs of executing the transaction (including the detriment of any guarantees required to be given) and the risk of the transaction) shall be determined in good faith by the Board of Directors of AT&T Broadband or Parent, as applicable.

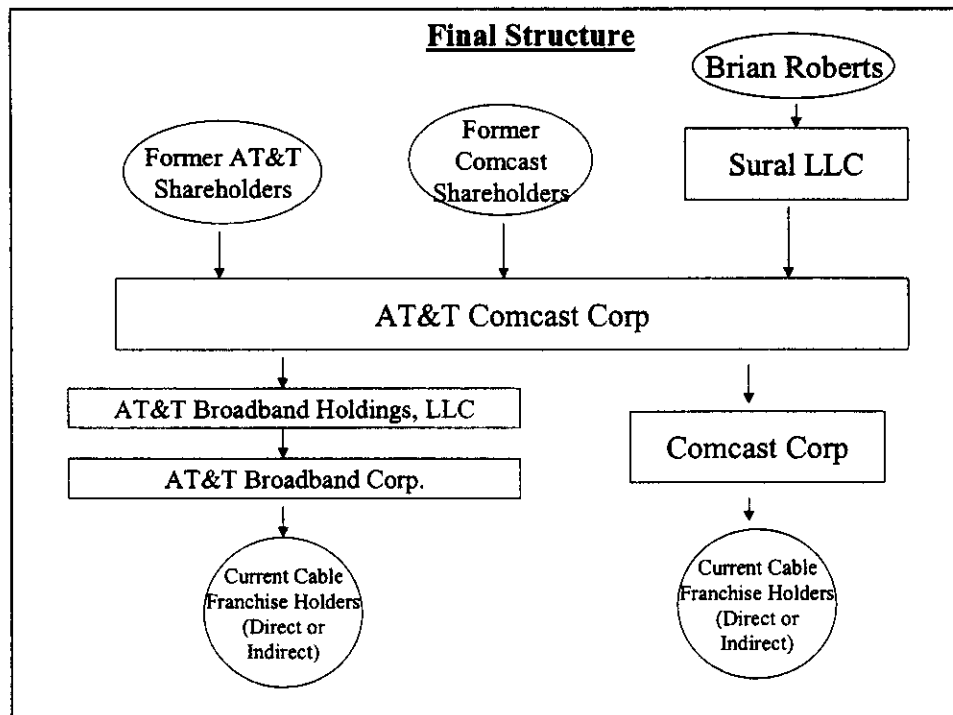
(e) For purposes of this Annex I, the Tax rate will be assumed to be the highest combined federal, state and local marginal corporate Tax rate in effect at the relevant time.

(f) For all Tax purposes (unless required by a change in applicable Tax law or resolution of a contest conducted in good faith and not settled, compromised and/or conceded without the other party's consent, which shall not be unreasonably withheld), the parties hereto agree to treat, and to cause their respective affiliates to treat any payment hereunder as a distribution by AT&T Broadband to AT&T, as the case may be, occurring immediately prior to the Distribution and in connection with the Distribution.

APPENDIX 4

AT&T Comcast Corporation: Ultimate Corporate Structure

With the completion of the merger transaction, AT&T Comcast Corporation will be the new public company parent of both Comcast Corporation and AT&T Broadband, which will be wholly owned "brother/sister" subsidiaries of AT&T Comcast Corporation.



APPENDIX 5

CONFORMED COPY

EXCHANGE AGREEMENT

dated as of

December 7, 2001

between

MICROSOFT CORPORATION

and

COMCAST CORPORATION