

**Memorandum of Understanding Between
Southern Light Rail /Southern Crossroads Gigapop
and Georgia Institute of Technology**

This Memorandum of Understanding (MOU) is entered into between the Southern Light Rail, Inc. (SLR) a nonprofit organization existing under the laws of the State of Georgia, doing business as the Southern Crossroads Gigapop (SoX), (hereinafter referred to as the “Connector”) and the **Georgia Institute of Technology** (hereinafter referred to as the “Participant”). This MOU is entered into in order to describe the methods and terms for providing the following services.

Under the requirements of the Abilene Connection Agreement between SLR/SoX and the University Corporation for Advanced Internet Development (“UCAID”) whereby the services of Abilene may be provided to the Participant by means of said Abilene Connection Agreement, which is attached hereto as Exhibit A and hereby incorporated in its entirety into this MOU by this reference. Notwithstanding the foregoing, none of the provisions of this MOU shall alter or revoke any of the provisions of Abilene Participation Agreement between any Participant and Abilene.

In consideration of the promises and obligations specified herein, to be kept and performed by the parties hereto, the Connector and Participant agree to as follows:

A. SERVICE

1. Abilene Connection - Connectivity through SoX to Abilene network utilizing the facilities of SoX to the Participants.
 - a) The Connector will provide connectivity to the Abilene Network in accordance with the Abilene Agreement, which is attached to and a part of Exhibit A
 - b) The Connector, will provide network monitoring, network engineering and technical support services as described in Exhibit B.
2. Optional Services: Commodity Internet Service Connection – Connectivity through the network utilizing the facilities of SoX to the Participant.
 - b) The Connector will provide connectivity at the minimum bandwidth indicated by the Participant in Paragraph B.2 below of this MOU.
 - c) The Connector will provide network engineering, network monitoring, and technical support services as described in Exhibit B to the Abilene Network in accordance with the Abilene Agreement, which is attached to and a part of Exhibit A hereto.

B. CONSIDERATION

1. For services described in Paragraph A.1 above, Participant shall pay a prorated annual fee of **\$32,500** (for 6 months of service). Participant fees will be billed in advance and due upon receipt of Connector’s invoice.

For Sponsored Educational Group Participants (SEGP), there is an additional connectivity fee of **NA** (for 6 months of service). Note this only applies to individual educational institutions (e.g., not-for-profit and for-profit K-20 schools, technical schools, trade schools, museums, art galleries, libraries, and hospitals), as well as non-educational, not-for-profit or for-profit organizations that require

routine collaboration on instructional, clinical, and/or research projects with Abilene Primary Participants or Sponsored Participants. Such organizations typically are either not eligible, or not able, to become Internet2 members. SEGP fees will be billed in advance and are due upon receipt of Connector's invoice.

2. For optional Commodity Internet services described in Paragraph A.2 above, Participant shall pay a monthly fee not to exceed the amount indicated by the Participant below, or such lesser amount as invoiced by the Connector. This monthly fee is in addition to the annual participant fee for "Abilene through SoX Connectivity" referenced in this Paragraph B.1. Please indicate below any optional services required by the Participant.
 - a) _____ Initial here for **Qwest ISP Service**. Participant shall pay a monthly fee not to exceed **\$7,125 @ 6 months = \$42,750**; invoiced in advance on an annual basis by the Connector and abide by SLR/SoX agreements in place regarding use of said services, for connectivity in accordance with standing agreements at the bandwidth of **150 /Mb/sec**. See Exhibit C. In addition to the above usage fee there is a monthly Qwest access fee of **\$111 @ 6 months = \$666** also invoiced in advance.
 - b) _____ Initial here for **Cogent ISP Service**. Participant shall pay a monthly fee not to exceed **\$11,000 @ 6 months = \$66,000**; invoiced in advance on an annual basis by the Connector and abide by SLR/SoX agreements in place regarding use of said services, for connectivity in accordance with standing agreements at the bandwidth of **1 GigaE /Mb/sec**. See Exhibit C.
 - c) _____ Initial here for **Level3 ISP Service**. Participant shall pay a monthly fee not to exceed **\$4,300 @ 6 months = \$25,800**; invoiced in advance on an annual basis by the Connector and abide by SLR/SoX agreements in place regarding use of said services, for connectivity in accordance with standing agreements at the bandwidth of **100 /Mb/sec**. See Exhibit C.
 - d) _____ Participant requests **No ISP Service**.
3. In consideration of all services, both Abilene and ISP, requested by Georgia Institute of Technology the total amount assessed for the period January 1 through June 30, 2006 is **\$167,716**.

C. TERM OF THE AGREEMENT

The term of this Agreement is effective January 1, 2006 for services described in Paragraphs A and B above and shall remain in force through June 30, 2006.

D. TERMINATION

1. Participant hereto agrees to make good faith, reasonable efforts to obtain all funds necessary to fulfill its obligations hereunder. If during the term of this MOU funds are not appropriated and are unavailable to permit the Participant to honor completely any commitment hereunder, the Participant and Connector agree to attempt to renegotiate the terms or commitments required under this MOU in order to permit this MOU to remain in effect within the limits of funds then available. The parties agree to undertake reasonable efforts to avoid the termination of this MOU pursuant to this paragraph and agree not to effect such termination until reasonable efforts have been made to renegotiate mutually agreeable terms and conditions as contemplated herein. If sufficient funds are not appropriated to permit the Participant to perform the requirements of this MOU and renegotiations provided for under this paragraph fail to result within a reasonable time in agreed

changes which accommodate the lack of sufficient funds, the Participant lacking such funds shall have the option to terminate this MOU. Upon termination of one Participant, the remaining Participants, at its or their option, may elect to either continue to operate under the terms of the MOU or terminate the MOU upon thirty (30) days written notice to Connector.

2. Either party shall have the right to terminate the MOU at any time during the term of the MOU if any one of the following events shall occur:
 - a) Participant shall fail to pay the required connector fee when the same shall become due and payable, and such failure shall continue for thirty (30) days after written notice thereof from Connector to Participant.
 - b) Connector shall fail to comply with or perform or observe any other term, covenant, condition, or agreement in this MOU and such failure shall continue for sixty (60) days after written notice from Participant to Connector.
3. Upon the happening of one or more events of default and the expiration of the cure period prescribed in any written notice between the parties, either party shall have the right to terminate the MOU upon written notice.
4. No right or remedy herein confirmed upon or reserved to the Participant is intended to be exclusive of any other right or remedy, and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute.
5. No failure by Participant to insist upon strict performance of any covenant, agreement, term, or condition of this MOU or of Exhibit A hereto on the part of Connector to be performed, or to exercise any permitted right or remedy consequent upon a default therein shall constitute a waiver by Participant of such default or of such covenant, agreement, term or condition.

E. NOTICE

Whenever under the terms of or in connection with this Agreement any notice, consent, approval, authorization, or other information is required to be provided by either party, such notice, consent, approval, authorization or other information shall be provided in writing and shall be deemed to have been sufficiently given on (i) the date of delivered if personally deliver, (ii) the third day after posting if sent by U.S. Postal Service, (iii) the date of transmission if delivered by facsimile or electronic mail (or the business day after transmission if transmitted on a weekend or legal holiday), or (iv) the next business day after dispatch if sent by a reputable overnight courier with documentation of receipt to the intended recipient thereof and addressed as follows:

If to the Participant for technical purposes:

If to the Participant for administrative purposes:

Name: _____
 Title: _____
 Inst: _____
 Address: _____

 Phone/Fax: _____
 E-mail: _____

If to the Connector for technical purposes:

If to the Connector for administrative purposes:

Scott Friedrich, SoX Engineer
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or at such other addresses as the parties may from time to time designate by written notice.

F. MISCELLANEOUS

1. All agreements, terms, provisions and conditions in this MOU shall extend and inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto.
2. The captions of this MOU are for convenience only, and are not to be construed as a part of this MOU, and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.
3. If any term or provision of this MOU shall be to any extent held invalid or unenforceable, the remaining terms and provisions of this MOU shall not be affected thereby, but each term and provision of this MOU shall be valid and be enforced to the fullest extent permitted by law.
4. This MOU represents the entire agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral, including but not limited to any letters of intent.
5. This MOU may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.
6. Nothing herein contained shall be deemed or constructed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship other than independent contracting parties.
7. Any waiver given by either party with respect to performance by the other party of any provision of this MOU shall be construed only as a waiver of the particular provision in question and only then with respect to the particular failure to comply, and such waiver shall not be construed as a waiver of any separate failure to comply or of any other provisions of this MOU.

8. This MOU may not be amended in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.
9. As it relates to the Participant and Southern Light Rail/Southern Crossroads Gigapop, this MOU shall be construed and enforced in accordance with the laws of the State of **Georgia**.

IN WITNESS WHEREOF, the Participants and Connector have caused this Memorandum of Understanding to be executed by their duly authorized representatives.

Participant: Georgia Institute of Technology

Signature

____/____/____
Date

Print Name & Title

Southern Light Rail, Inc/ Southern Crossroads Gigapop

Brian Savory, Executive Director

____/____/____
Date