

**ADSL Sales Order &  
Installation Form****Residential Only****SERVICE INFORMATION**

Contract Term: 12 months

<b>Customer Name:</b>		
<b>Qualified Line Number:</b>		
<b>Service Address:</b> (Street Address)		
<b>City, State, Zip Code:</b>		
<b>Email Address:</b>		
<b>Contact number:</b>		

ADSL SERVICE	DESCRIPTION	CHARGE	AMOUNT
Speed One ADSL:	<input type="checkbox"/> Copper <input type="checkbox"/> Fiber	Activation	Waived
		First Service	
		Modem/NIC	Waived
		Splitter	Waived
<b>Credit Card Type and #</b>	Type <input type="checkbox"/> VISA <input type="checkbox"/> Mastercard <input type="checkbox"/> Discover Number: _____ Expiration: _____		
Equipment: * Prices do not include sales tax	USB Modem (Waived for copper) External Modem \$149.95 DSL Router \$149.95 (Required for static IP) Network Card & Software (Waived for fiber) Customer's own equipment		
	County: _____		
<b>Total Due At Order</b>			
<b>Total Due At Install</b>			
<b>Monthly Recurring</b>			

**First month's service fee is required to process order.**

We are delivering service over an existing BellSouth line. By signing below, you are indicating acknowledgement of this and your understanding this line must stay active with BellSouth directly. Any event that moves this line from direct control of BellSouth may interrupt your DSL service from Speed Factory and reconnect fees will apply. Disconnection due to changing phone line carriers is not the responsibility of Speed Factory and does not change the terms and conditions of service. All speeds are best effort unless CIR is included. In the event of early termination of service from Speed Factory a one-time cancellation fee of \$150.00 will be charged to your account. By signing below, you authorize Speed Factory to charge the monthly service fee to your credit card and the one-time cancellation fee of \$150.00 if the service is not kept for 12 months.

Printed Name: \_\_\_\_\_ Signature \_\_\_\_\_ Date: \_\_\_\_\_

Remarks:



## Speed Factory Service Terms and Conditions

This Agreement, with an Effective Date of

SynKronus, Inc., 4343 Shallowford Road, Suite B-2, Marietta, GA 30062, and

is between Speed Factory ("Speed Factory"), a division of

(Customer) having offices at

. In addition to these Service Terms and Conditions, the following attached documents are deemed part of this Agreement: Acceptable Usage Policy (AUP) Summary, Attachment A, and Sales Order and Services Installation Form, Attachment B.

**1. Services.** Customer agrees to purchase the telecommunications and/or network access services ("Services") from Speed Factory as described in the Services Description Section of the Sales Order Form. Additional information about Speed Factory's products and services, including Frequently Asked Questions (FAQ's), is contained at its Web site, [www.speedfactory.net](http://www.speedfactory.net). After the order is placed, Speed Factory will coordinate the physical connection and service provision to the Customer's Premises. From time to time, conditions may exist that prevent the installation of the Service into a customer's location due to adverse infrastructure conditions or other conditions beyond the reasonable control of Speed Factory. In these cases, Speed Factory may propose and evaluate alternative access strategies to achieve reliable connectivity, each of which shall be subject to the approval of the Customer prior to implementation. If any additional or unusual monthly or nonrecurring charges are reasonably anticipated with implementation of the alternative access strategies, Speed Factory will inform Customer of any estimate of those costs prior to installation. If Customer decides to cancel the Service due to the cost of the alternative access strategies, Customer may terminate the order and will incur no charge for the installation.

**2. Access.** Customer agrees to provide Speed Factory or its authorized agents (collectively, "Technicians,") reasonable access to Customer's premises in order to complete the installation required by the Sales Order and Services Installation Form. Customer also acknowledges that the inability of the Speed Factory's Technicians to access Customer's facilities or to obtain other required services such as electricity and light may preclude or delay delivery of Services. In the event the Customer fails to keep an installation appointment, Speed Factory may charge the Customer a fee to recover its related costs, not to exceed 50% of the installation costs.

**3. Installation.** Speed Factory shall schedule initial Services delivery per the data provided in the Sales Order and Services Installation Form, with any modifications to be agreed upon in writing. To complete the Services delivery, it may be necessary for Speed Factory or its Technicians to install certain equipment and software into Customer's computer system and reconfigure some aspects of the computer system itself. It is possible that such activities might inadvertently result in the loss of programming important to Customer or Customer's users; therefore, Customer hereby agrees to make appropriate system backup arrangements prior to the installation and testing of

Services. Customer further agrees that neither Speed Factory nor its Technicians will be responsible for any loss of, or damage to, any information, programming, or other elements of the Customer's computer system, or any breach or violation of any manufacturer's or other warranty relating to Customer's computer which may occur as a result of installation, testing, or later service conducted by Speed Factory or its Technicians. Customer also acknowledges that installation may also require inside wiring at an additional hourly and/or material charge at the full discretion of the Speed Factory Technician in order to complete the timely delivery of Services.

**4. Equipment.** Customer shall be responsible for obtaining and maintaining any equipment located on the Customer's Premises to access, connect to, or use the Services. Customer's may purchase or lease (if this option is available) the necessary connectivity equipment from Speed Factory, or alternatively, provide its own equipment. In any case Customer shall be responsible for insuring that such equipment is compatible with the Services provided by Speed Factory. Customer agrees that it will not abuse or otherwise damage Speed Factory's equipment while it is in Customer's possession, that Customer and Customer's users will operate the equipment according to manufacturer specifications, and will return the equipment in good condition (except for deterioration from normal usage) to Speed Factory upon the termination of this Service Agreement.

**5. Terms and Termination.** The Agreement Term commences on the Effective Date and continues for one year (or longer, per the Sales Order and Services Installation Form) from the commencement of Services billing. The Term automatically renews for one-year renewal periods absent contrary written notice provided at least thirty (30) days in advance. Termination for cause may occur upon: (a) unremediated material breach after thirty days written notice; (b) Customer's failure to function as a going concern or operate in the ordinary course; (c) assignment by Customer for the benefit of creditors; or (d) voluntary or involuntary bankruptcy filing by or against Customer. Except where early termination occurs due to lack of agreement on new pricing or Force Majeure, Section 13b, if Customer terminates this Agreement prior to the end of a Term, Customer shall pay the amount Customer would otherwise have had to pay to Speed Factory over the remainder of the Term, calculated based on the remaining number of months at a monthly rate based on the monthly average billings during the Term. The cancellation fee also applies at Speed Factory's

election upon its termination of this Agreement for Customer's material breach, without any offset or mitigation of damages required therefor. Further, a Customer who terminates the Services after signing and accepting the Sales Order and Services Installation Form, but prior to the Services activation date will be charged \$250.00 order cancellation fee. Customer agrees to pay any and all cancellation fees within ten (10) days of any specified early termination event.

**6. Our Billing Policy.** Customer shall pay the Fees set forth in the Sales Order and Services Installation Form, as well as the costs of third party services or products, including increases thereto, purchased by Speed Factory on Customer's behalf at Customer's request. The initial payment may include nonrecurring installation and set-up charges including, but not limited to equipment, inside wiring, and installation fees. Monthly Fees shall be invoiced at the beginning of each month during which the Services are to be provided, or at the end of the month if the Services are usage-based, which shall be determined in accordance with Speed Factory's customary method of calculation. **Payments.** Payments are due net ten (10) days from billing date on Speed Factory's invoice and are subject to late charges at Speed Factory's discretion thereafter, calculated at the lesser of 1.5% interest per month or the maximum rate permitted by law. Speed Factory will, at its discretion, suspend service 20 days after due date on bill or if balance due is not paid by beginning of next billing cycle. If suspension occurs, the entire outstanding balance owed is due in full, whether past due or not, and a reconnect fee will apply. Speed Factory may suspend performance or terminate this Agreement for late or non-payment of Fees and Customers shall be liable of any attorney's or collection agency's fees incurred by Speed Factory in connection therewith. Speed Factory shall provide Customer, at its request, with a schedule of any additional fees for additional services not covered in the Sales Order Form. Some Services are based on the number of nodes or PC's connected; therefore, Customer agrees not exceed those limitations without notifying Speed Factory for a Service upgrade. Failure to comply may result in immediate termination without notice. Subject to thirty- (30) days notice, Speed Factory may reclassify Customers' service levels, revise product or Services descriptions, or modify published prices. If the parties fail to agree on a reclassification or modification of Services or price, either party may terminate the Agreement without liability therefor except for accrued Fees. Customer understands that monthly fees once paid are non-refundable, and that a reasonable fee for processing unpaid checks or rejected credit cards will be assessed at the discretion of Speed Factory.

**7. Restrictions.** Subscribers of Individual ADSL Services agree that the Services are provided for individual and not business use. Therefore, such Customer agrees not to use any servers, including but not limited to Electronic Mail Servers, NAT Servers, DHCP Servers, and/or DNS Servers, in conjunction with Individual Services. In the event any Individual Services Subscriber attempts to utilize a server on a network, Speed Factory may, at its sole discretion, and without warning, increase the fees associated with the Services, or terminate the Services entirely.

**8. IP Addresses.** IP addresses are not portable and are not assigned for independent administration or distribution. Customer understands that IP assignments are not guaranteed,

and may be modified as required by Speed Factory and/or the American Registry for Internet Numbers (ARIN).

**9. Acceptable Use and License.** Customer shall not, nor shall it permit others to use the Services: (a) for any unlawful, immoral, invasive, infringing, defamatory, fraudulent, or obscene purpose; (b) to send unsolicited email of any kind, regardless of the content or nature of such messages; (c) to send any virus, worm, Trojan horse, or harmful code or attachment; (d) to alter, steal, corrupt, disable, destroy, trespass, or violate any security or encryption of any computer file, database, or network; (e) or in a manner which, in Speed Factory's opinion, is inconsistent with the generally accepted rules of Internet etiquette and conduct. (See Acceptable Use Policy Summary, Attachment B.) Customer further agrees that it shall not, nor shall it permit others to: (i) alter, tamper with, adjust, repair, or circumvent any aspect of the Services; or (ii) resell, pass-through, sublicense, rent, lease, timeshare, or re-brand the Services or to otherwise provide the Services to any party not within Customer's enterprise and related personnel. If Customer, or a third party through Customer, violates any of the foregoing prohibitions, Speed Factory may immediately suspend the Services and/or terminate this Agreement without further liability or obligation to Customer. Customer's rights to use the Services are non-exclusive, non-transferable, and subject to compliance with the terms and conditions herein. All intellectual property and proprietary rights thereto, including but not limited to any specifications, protocols, IP addresses, configurations, and routing data related to the Services belong solely and exclusively to Speed Factory. **FURTHER, SPEED FACTORY CAN RESTRICT OR END CUSTOMER'S SERVICE OR THIS AGREEMENT WITHOUT NOTICE** if Customer: (a) carries past due balances; (b) makes materially false statements to Speed Factory; (c) interferes with Speed Factory's customer service or any other business operations; (d) becomes insolvent or enters into bankruptcy; (e) breaches any part of this Agreement; (f) misuses Services or knows of Services being misused by anyone for unlawful activity; or (g) otherwise uses the Service in an inappropriate manner.

**10. Warranty and Disclaimer.** Subject to the limitations contained herein, Speed Factory warrants that the Services will, in all material respects, conform to the requirements of the Services Description and Sales Order Form, as well as to any other terms and conditions contained in the Agreement. Customer's sole and exclusive remedy for breach of the above warranty or any claim related to the Services shall be repair or replacement of the Services in accordance with the Services Description, Sales Order Form, or termination pursuant to Section 5 above. **WITH RESPECT TO THE SERVICES, ANY EQUIPMENT, AND/OR THE SUBJECT MATTER OF THIS AGREEMENT, THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED TO THE MAXIMUM ALLOWABLE EXTENT.**

**11. Limitation of Liability.** Under no circumstances shall Speed Factory be liable, either in contract, tort, warranty, strict liability, negligence, or under any statute, regulation, or any other theory for: (a) unauthorized access, alteration, theft,

corruption, or destruction, of or to Customer's or its and user's computer files, databases, network, transmission facilities, or Customer Premise Equipment; or (b) the content, accuracy, or quality of the data transmitted through the Services. For any claim arising under or related to the Services or this Agreement, Customer's damages or recovery shall be limited to those actually proven as directly attributable to Speed Factory, subject to the following limitations: (i) Speed Factory shall not be liable under any circumstances for any indirect, incidental, reliance, special, punitive, or consequential damages, including but not limited to, lost profits, lost opportunities, or diminished stock price, even if Speed Factory has been advised of the possibility of such damages; and (ii) Speed Factory shall in no event be liable to Customer for an amount greater than the amount paid by Customer to Speed Factory for Services during the twelve (12) months prior to notice of the claim of damage or loss.

**12. Indemnity.** Customer will indemnify and save Speed Factory harmless from and against all loss, liability, damage, and expense, including reasonable attorneys fees, caused by Customer's officers, employees, agents, vendors, or contractors arising from claims or demands; (a) for damages to property or for injury or death to persons, including any disability, death or Worker's Compensation benefits; (b) arising from data transmitted, received or stored on or over Speed Factory's network by or through Customer in violation of the provisions of Section 9 above; (c) arising from Customer's violation of the provisions of Section 4 above; or (d) for any damages or loss incurred directly by Speed Factory as a result of a failure of any Customer-provided equipment installed within Speed Factory's facilities, including, but not limited to, failures resulting in fire, electrical malfunction, and, heat and/or water damage, even when such Customer-provided equipment was installed with the permission or assistance of Speed Factory.

**13. Miscellaneous.**

(a) Customer shall neither assign nor transfer his Agreement without Speed Factory's prior written consent, Speed Factory may assign and transfer this Agreement to any parent company, company under its or any common ownership or control, where ownership or control is represented by ownership of at least fifty-percent of an entity's equity or voting securities or shares, or any company which acquires all or substantially all of the stock or assets of Speed Factory.

(b) Speed Factory shall not be liable for any delay or failure in performance due to war, riots, embargoes, strikes, casualties, accidents, fire, earthquake, flood, acts of God, supplier or vendor failure, outage or malfunction of local or long-haul telecommunications services, utility outage or other occurrence beyond Speed Factory's direct control (each, a "Force Majeure Event"). Speed Factory shall notify Customer of a Force Majeure Event and if a Force Majeure Event continues for more than 60 days, Speed Factory or Customer may cancel this Agreement with no further liability as a result of such Event.

(c) Provision of the Services hereunder is subject to Speed Factory's continuing approval of Customer's credit-worthiness. Customer shall furnish financial information as Speed Factory may, from time-to-time, reasonably request to determine Customer's credit-worthiness. Such information shall be deemed Confidential Information.

(d) The parties shall attempt to resolve all disputes arising out of, or related to, this Agreement through good-faith negotiations.

Any disputes or claims arising out of, or relating to, this Agreement must be brought within one year of the occurrence of any such dispute or accrual of any such claim. The substantially prevailing party shall be entitled to its costs, including attorneys' fees, in connection with any action arising from this Agreement.

(e) Speed Factory and/or third parties may, from time to time, send e-mail messages to Customer containing advertisements, promotions, etc. Speed Factory makes no representation or warranty with respect to the content of any such e-mail messages or goods or services that may be obtained in response to such messages. Customer agrees that Speed Factory shall not have any liability whatsoever with respect thereto, nor shall any such e-mail messages amend the Terms and Conditions herein. Additionally, Speed Factory's Web site contains links to Web sites owned and operated by parties other than Speed Factory. Such links are provided for Customer convenience only. Speed Factory does not control such Web sites and is not responsible for their contents or the accuracy thereof. Speed Factory's inclusion of links to such Web sites does not imply any endorsement, implicit or otherwise, of the material on such Web sites or any association with their operators.

(f) This Agreement shall be governed by the internal laws of the State of Georgia, as applied to contracts entered into in Georgia, by and between its residents for exclusive performance therein. The parties hereby irrevocably consent to the sole and exclusive jurisdiction of and venue in the district courts for the District of Georgia, Atlanta, Georgia, or if federal subject matter jurisdiction does not exist, then in the courts of the State of Georgia, located in Fulton County.

(g) This Agreement is the entire and complete Agreement between the parties with respect to the Services and subject matter hereof and supersedes any prior or contemporaneous agreements or understandings between parties, whether written or oral, and may not be modified in any way unless by means of written addendum, signed and dated by the duly authorized representatives. In the event of any conflict between these Service Terms and Conditions and any of the Attachments, the Service Terms and Conditions shall control unless expressly stated to the contrary. If any portion of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in effect and the parties shall immediately begin negotiations to replace any invalid or unenforceable portions that are essential parts of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

**SPEED FACTORY:**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CUSTOMER:**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## Acceptable Use Policy (AUP) Summary Agreement

Users of any Speed Factory telecommunications and/or network access services ("Services"), including Internet-based services, agree to refrain from violating any and all policies of Speed Factory, Inc. as noted by its Acceptable Use Policy at [www.speedfactory.net](http://www.speedfactory.net) and summarized below. Speed Factory will make a reasonable attempt to notify Account Holders ("Subscribers") of violations to this policy in order for the Subscriber to take corrective action. Failure by the Subscriber to timely correct the issue could result in suspension or termination of Services.

Compromise of, or damage to, hosts, networks, or security systems involving the use of Speed Factory resources are prohibited and may result in civil or criminal prosecution. Speed Factory will investigate incidents involving such violations and will cooperate with law enforcement officials should a criminal violation be suspected. Examples of system or network security violations include, without limitation, attempts, whether or not successful, are:

1. Impersonate another Subscriber, Account Holder or User in any way.
2. Conduct an activity that has the potential to harm the network or associated services, including but not limited to:
  - a) Probing hosts or networks without the explicit authorization from the governing authority of those systems;
  - b) Breaching the security of a host, network component, or authentication system without the explicit permission of the governing authority of those systems;
  - c) Monitoring data on any network or system without the explicit authorization of the governing authority of that system or network;
  - d) Interfering with service to any user, host, or network, including deliberate attempts to overload a server, network, connected device, or network component;
  - e) Originating malformed data or network traffic that results in damage to, or disruption of, a service or network-connected device;
  - f) Sending unsolicited, mass electronic mail messages to one or more recipients or systems ("Spamming");
  - g) Using another party's electronic mail server to relay electronic mail without the permission from the appropriate governing authority of the other party ("E-Mail Relay").
  - h) Forging electronic mail headers(including any portion of the IP packet header and/or electronic mail address), or any other method used to disguise or conceal the user's identity ("spoofing");
  - i) Disrupting Speed Factory's open line inactivity timers;
  - j) Sending mass volumes of data, or any other abusive behavior that is intended to disrupt or disable the recipient system (Denial of Service or "SYN Flood" attacks); or
  - k) Cross-posting of the same or similar messages to two or more USENET newsgroups.
- 3) Use Individual or Residential Service Program for business purposes.
- 4) Share, resell, or sublet Web Space provided by Speed Factory.
- 5) Fail to pay for services on a timely basis.

Speed Factory reserves the right to temporarily suspend or terminate any customer without notice, upon confirmed violation of any part of the Speed Factory AUP as officially maintained on its Web site ([www.speedfactory.net](http://www.speedfactory.net)) and summarized above. Further, Speed Factory reserves the right to change any or all elements of its Acceptable Use Policy at any time without notice.

NOTE: BY SIGNING BELOW, THE SUBSCRIBER AGREES TO HAVE READ AND UNDERSTOOD THE AUP, THAT THE SUBSCRIBER IS AT LEAST 18 YEARS OF AGE, AND THAT THE SUBSCRIBER IS LEGALLY ABLE TO ENTER INTO AND ABIDE BY THIS AUP AGREEMENT.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Company Name: \_\_\_\_\_ Title: \_\_\_\_\_