



800 Westchester Ave.
Suite N-501
Rye Brook, NY 10573
800-405-2200

Master Terms and Conditions

Services: Services (the "Services") are as set forth on the Order Form and are provided by Broadview Networks, Inc. and/or its affiliates and/or subsidiaries ("Company"). Provision of the Services is subject to Company Tariffs, as modified from time to time, on file with applicable federal and state regulatory agencies. Any conflict or inconsistency among or between (i) these Master Terms and Conditions, (ii) the Product-Specific Terms and Conditions, (iii) the Order Form and (iv) the Service Proposal shall be resolved according to the above order of precedence, from the document with the greatest control to the least. Hereinafter, (i) these Master Terms and Conditions, (ii) the Product-Specific Terms and Conditions, (iii) the Order Form and (iv) the Service Proposal shall be collectively referred to as the "Agreement."

Availability of the Services: The Company shall use commercially reasonable efforts to provide the Services. The Company's obligation to furnish the Services is dependent upon its ability to obtain and retain (i) access to suitable facilities and services without unreasonable expense and (ii) all necessary governmental authorizations. The Services may be (i) temporarily refused due system capacity limits or to other circumstances beyond Company's control or (ii) temporarily interrupted due to facilities modifications, upgrades, relocations or repairs or similar activities necessary for the proper or improved provision of the Services. Company reserves the right to modify the Services from time to time. Customer shall obtain no property right in the use of any facility, connection, equipment, number, process or code.

Order Acceptance: No order for the Services shall be binding upon Company until such order has been accepted in writing by Company. Company, in its sole discretion, may decline to accept any order for the Services. All orders are subject to credit approval.

Term: The Term of the Agreement shall be as set forth on the Order Form and shall commence on the earlier of (i) the date the Services are activated by Company or Customer or (ii) the date specified in the applicable Product-Specific Terms and Conditions. The Term shall automatically extend for 1 year periods, unless Customer notifies Company in writing of its intent not to renew at least 30 days prior to the end of the current Term. Fees may apply in the event that (i) Customer cancels an order for the Services prior to activation of the Services, or (ii) if Customer discontinues the Services prior to the end of the current Term, or (iii) Company terminates the Services as a result of Customer's breach of these Master Terms and Conditions or the applicable Product-Specific Terms and Conditions. Early termination fees are set forth on the Order Form. Customer agrees that these early termination fees represent liquidated damages and not a penalty and are a reasonable estimate of the actual reduction in value of this Agreement that Company will sustain.

Rates and Charges: Rates and charges for the Services are set forth on the Order Form, on Company's Standard Pricing Schedules and in the Tariffs. All listed rates and charges are exclusive of federal, state and local sales, use, value added, excise, duty and other taxes, as well as amounts paid by Company, directly or indirectly, to, or as a result of, actions taken by, governmental or quasi-governmental authorities, which amounts may be passed on to Customer by Company, with associated administrative fees. Installation, change, expedite, overage, disconnection, reconnection, repair, early termination and other non-recurring charges may apply. Calls using the Services are rounded up to the next minute at the termination of the call.

Rate Adjustments: Customer may terminate this Agreement on thirty (30) days' prior written notice to Company with no further liability to Company in the event that Company increases the overall rates for the Services in an aggregate amount in excess of five percent (5%) in any twelve (12) month period; provided that Customer shall be required to pay for all of the Services provided to it by Company prior to the date of termination; provided further that Customer may not terminate this Agreement pursuant to this section in the event that Company withdraws Customer's rate increase in writing within twenty (20) days of the receipt of Customer's termination notice.

Unauthorized Use of Services: Customer shall bear the risk of loss arising from any unauthorized or fraudulent use of the Services provided under this Agreement to Customer. Company reserves the right, but is not required, to take any and all action it deems appropriate (including, without limitation, blocking access to particular calling numbers or geographic areas) to prevent or terminate any fraud or abuse in connection with the Services, or any use thereof.

Payment Terms: Customer assumes responsibility, and agrees to pay, Company all amounts due for the Services, including associated taxes, fees and surcharges. Usage-sensitive charges will be billed monthly in arrears; recurring charges will be billed monthly in advance; nonrecurring charges will be billed upon completion of the associated activity. All invoices are due and payable within 20 days of the invoice date (the "Due Date"). Customer may be charged a late payment fee, in addition to, the late payment charge of 1.5% of the past due amount. Billing shall be deemed correct and binding on Customer unless Customer notifies Company in writing of a dispute within 30 days following the invoice date. Customer agrees to pay all costs incurred by Company in collecting any amounts due hereunder, including, without limitation, reasonable attorney and collection agency fees. Customers who provide payment by means of credit or debit cards, or who provide a credit or debit card as security,

authorize the Company to charge said credit or debit card for all amounts due hereunder.

Security Deposit: Company reserves the right to require a security deposit from Customer at any time based on Company's assessment of Customer's credit status and payment history.

Warranty: COMPANY SHALL EXERCISE COMMERCIALY REASONABLE EFFORTS TO MAINTAIN ACCEPTABLE PERFORMANCE, BUT MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING THE SERVICES OR THE FACILITIES OR THE EQUIPMENT BY MEANS OF WHICH THE SERVICES ARE PROVIDED, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY CANNOT AND DOES NOT GUARANTEE CONTINUOUS SERVICE, SERVICE AT ANY GIVEN TIME OR SPEED, OR THE INTEGRITY OF DATA STORED OR TRANSMITTED VIA THE SERVICES.

Force Majeure: Neither party shall be liable for any delay or failure in performance, other than timely payment of amounts due hereunder, due to Force Majeure, which shall include, without limitation, acts of God, labor disputes, terrorist activities, changes in law or government policy, riots, war, fire, epidemics, acts or omissions of vendors or suppliers, third party non-performance, equipment failures, or other occurrences which are beyond the delayed party's reasonable control.

Limitation of Liability: COMPANY SHALL NOT BE LIABLE FOR DAMAGES, INJURY OR COSTS ARISING OUT OF (I) DELAYS, MISTAKES, ERRORS, OMISSIONS, INTERRUPTIONS OR DEFECTS IN TRANSMISSION; (II) DELAYS OR OTHER PROBLEMS ASSOCIATED WITH INSTALLATION, PROVISIONING, TERMINATION, MAINTENANCE, REPAIR, INTERRUPTION OR RESTORATION OF THE SERVICES; (III) INADVERTENT DISCLOSURE, CORRUPTION OR ERASURE OF DATA; (IV) SERVICES OR FACILITIES NOT FURNISHED BY COMPANY; (V) ANY ACT OR OMISSION OF A THIRD-PARTY FURNISHING ANY PORTION OF THE SERVICES OR FACILITIES USED TO PROVIDE THE SERVICES; OR (VI) ANY EVENT THAT PREVENTS COMPANY FROM PERFORMING OBLIGATIONS UNDER THIS AGREEMENT BEYOND THE REASONABLE CONTROL OF COMPANY. COMPANY'S LIABILITY, IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO DIRECT DAMAGES, WHICH SHALL NOT EXCEED AN AMOUNT EQUAL TO CHARGES PAID BY CUSTOMER FOR THE SERVICE PERIOD IN WHICH THE LIABILITY WAS INCURRED; PROVIDED, HOWEVER, THAT COMPANY'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF THIS AGREEMENT NOT EXCEED THE TOTAL AMOUNT OF ALL FEES PAID BY CUSTOMER TO COMPANY IN THE LATEST THREE-MONTH PERIOD. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR

PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, ECONOMIC LOSS OR LOSS OF USE, PROFITS, REVENUE, OR GOODWILL, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, EVEN IF COMPANY HAD BEEN ADVISED OF THE POSSIBILITY. FOR THE AVOIDANCE OF ANY DOUBT; PROVIDED, HOWEVER, THAT ANY AMOUNTS PAID PURSUANT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT SHALL BE DEEMED DIRECT DAMAGES.

Indemnification: Customer agrees to defend, indemnify and hold harmless Company and its employees, officers, directors or agents from any third party claims or actions or any losses, damages or costs, including costs and reasonable attorney's fees, attributed to, arising out of or resulting from Company's provision or Customer's use of the Services.

Telephone Numbers: In no event shall Company be liable for (i) any telephone numbers published or distributed by Customer prior to executing this Agreement or (ii) for any directory publishing errors.

Termination: Company may temporarily suspend or permanently terminate Services to Customer without liability (a) on ten (10) days written notice to Customer in the event that Customer fails to timely pay amounts due to Company, (b) on thirty (30) days written notice to Customer in the event that Customer (i) provides fraudulent billing information, (ii) violates this Agreement, any other Agreement between Company and Customer, Company's Acceptable Use Policy, Company Tariffs or applicable laws or regulations and fails to cure such violation within the thirty (30) day notice period, or (iii) uses the Services in a manner that is excessive or unreasonable when compared to the predominant usage patterns of other customers on a similar service plan in Customer's geographic area; (b) immediately by reason of an order of a court or regulatory or other governmental authority; (c) immediately upon institution by or against Customer of a proceeding for relief under the Bankruptcy Code, the insolvency of Customer or the appointment of a receiver of Customer's property; or (d) immediately if Company deems such action necessary to protect itself or third parties against fraud or to protect its personnel, agents or services. Company may also pursue such other remedies as may be available to it at law or in equity. Neither termination nor expiration of Customer's Services shall relieve Customer of liabilities previously accrued hereunder. Early termination charges may apply if the Services are cancelled prior to the end of the Term of this Agreement, including, without limitation, payment of any non-recurring charges waived by Company.

Acceptable Use Policy: The Services shall be used only for lawful purposes. In using Services, Customer shall not engage in any illegal, abusive or unethical activity, including, but not limited to, the display or distribution of pornography or other obscene, vulgar, profane, offensive or sexually explicit materials, perpetration of fraud, libel, defamation or other violations of privacy, hacking, spreading computer viruses, pirating software or other materials, promoting or conducting gambling, publishing

threats or racial, ethnic or sexual slurs or engaging in intimidation or other forms of harassment. Customer shall not upload, post or otherwise transmit any content that it does not have a right to transmit under any law or under contractual or fiduciary relationships, including, but not limited to, insider information, proprietary and confidential information, or content which violates or infringes any copyright, trademark, patent, statutory, common law or proprietary rights of others. Customer shall not transmit unsolicited messages, list Company in any spammed message, or reply-to address or send large volumes of unsolicited e-mail to individuals or to individual business accounts. Customer commits to defend, indemnify and hold harmless Company and its employees, officers, directors or agents from any and all claims or actions of whatever nature or arising out of or resulting from Customer's failure to fully comply with these Acceptable Use Policies.

Limitations on Services: Notwithstanding any other provision contained herein, this Agreement shall apply only to non-carrier services provided directly to Customer for use only by Customer. For the avoidance of doubt, Customer may not purchase services under this Agreement and resell the Services to end users. In the event that Customer uses the Services in a manner that is inappropriate, excessive or unreasonable when compared to the predominant usage patterns of other customers on a similar service plan in Customer's geographic area, Company reserves the right to implement new or different charges or move Customer to a rate plan consistent with Customer's use of the Services. Inappropriate usage includes, but is not limited to, using certain Company services or calling plans in conjunction with an auto-dialer, or for calls made to numbers used in connection with hotlines or radio broadcasting services, or for products other than OfficeSuite® Call Center Services, the use as a call center, or with certain automated switching equipment. The Company reserves the right to change the calling plan of customers with inappropriate usage or who are not in compliance with the restrictions set forth in the applicable tariff.

Additional Customer Responsibilities: Customer shall supply space, equipment, network, wiring, electrical power and environmental conditions suitable for, and compatible with, Company's provision of the Services. Any equipment provided by Company shall remain property of Company and shall be promptly returned to Company in good working order upon termination or expiration of the Term of this Agreement. Customer is responsible for all use of Services, with or without its knowledge or consent. Customer is solely responsible for maintaining the security of its account, password, files, network and user access. Customer agrees that Company does not monitor, review or restrict information, communications, software, photos, video, graphics, music, sounds, services or other material available from third parties via the Services ("Content"), and that Customer bears all risks associated with the accuracy, completeness, reliability or usefulness of said Content. Customer shall be liable for damage to Company equipment and network facilities caused by (i) Customer, or Customer's agents, employees or suppliers or (ii) malfunction or failure of any equipment or facility provided by Customer or its agents, employees or suppliers.

Installation: Customer represents that it has or has secured the authority necessary for installation of all equipment necessary to provide the Services. Customer shall secure all licenses, permits, rights-of-way and other arrangements necessary for such installation. Customer shall allow Company reasonable access and right-of-way to Customer's premises for equipment installation and maintenance. Company shall exercise commercially reasonable efforts to schedule and conduct installation and maintenance activities so as not to unreasonably interfere with Customer's operations. Customer agrees to pay a Missed Appointment Fee if (i) Customer cancels a scheduled appointment on less than 24 hours notice or; (ii) an Installation Technician is unable to complete installation because Customer is not available and/or unable to grant access to all areas required for successful installation. In the event that Customer, by its actions or inactions, delays the installation of the Services, Company may, in its sole discretion, and after reasonable notice and option to cure, charge all nonrecurring charges in full.

Intellectual Property: Company grants Customer a non-exclusive, non-transferable, revocable, limited license to use the Services and all hardware and software necessary to access the Services, in strict accordance with this Agreement, said license to automatically terminate upon termination of Company's provision of the Services to Customer. Title, property rights, software and hardware licenses, including all intellectual property rights ("IP Rights"), are and shall remain with Company, whether or not embedded in the Services. Customer will not acquire or claim any right, title or interest in or to the IP Rights through purchase and use of the Services. IP addresses and other personal identifiers assigned by Company for Customer's use remain the property of Company and shall revert back to Company upon discontinuance of the Services.

Dispute Resolution: The parties shall attempt to resolve all disputes cooperatively without formal proceedings. Any claim, dispute or controversy (whether in contract, tort or otherwise) relating to the sale or provision of the Services or this Agreement which cannot be so resolved (other than the collection of amounts due for the Services and requests for injunctive relief) shall be the subject of mandatory arbitration. Such arbitration shall be conducted in accordance with the U.S. Arbitration Act (Title 9, U.S. Code), and under the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in New York, New York. The decision of the arbitrator shall be final and binding upon the parties. Judgment upon the arbitration award may be entered in any court of competent jurisdiction. Each dispute must be conducted individually and not in conjunction with disputes of other customers. ANY DISPUTE RESOLUTION PROCEEDINGS, WHETHER IN ARBITRATION OR IN COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS ACTION OR REPRESENTATIVE ACTION OR AS A MEMBER IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. CUSTOMER WILL NOT BE A CLASS REPRESENTATIVE, CLASS MEMBER OR OTHERWISE PARTICIPATE IN A CLASS, CONSOLIDATED OR REPRESENTATIVE PROCEEDING.

Survival: The provisions contained in this Agreement that by their context are intended to survive termination or expiration of this Agreement shall survive, including without limitation, the Warranty, Limitations on Liability, Indemnification, Acceptable Use Policy, Intellectual Property, Dispute Resolution, Survival and Miscellaneous Sections.

Notices: All notices hereunder shall be in writing and deemed delivered upon receipt by the receiving party, or refusal of delivery, when deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or when sent by an overnight delivery service (with delivery confirmation) to the addresses set forth in the Order Form, or to such other address(es) as the parties may designate from time to time.

Third Parties: Customer may not transfer any of its rights or obligations under this Agreement to a third party without the express, prior written consent of Company. The rights and obligations under this Agreement shall survive any merger or sale of a party and shall be binding upon the successors and permitted assigns of each party. This Agreement shall be binding upon and inure to the exclusive benefit of the parties hereto, and their respective permitted assigns, heirs, successors and legal representatives. It is not the intent of the parties that there be any third party beneficiaries of this Agreement.

Relationship of Parties: Company and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Company and Customer. Neither Company nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

Amendment\Waiver: Unless otherwise provided herein, this Agreement may be amended only by an instrument in writing duly executed by both parties. No waiver by a party of a breach of this Agreement by the other party shall be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other provision hereof. No failure on the part of either party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof.

Regulatory Change: Notwithstanding anything else to the contrary in this Agreement, Company may unilaterally amend this Agreement, including, without limitation, pricing, in response to a regulatory change that materially changes the technical feasibility or economics of providing the Services. In the event that Company exercises this option and the rate adjustment is not otherwise allowable hereunder, Customer shall have thirty (30) days from written notice thereof to terminate this Agreement without liability

Entire Agreement\Severability: This Agreement, including the Master Terms and Conditions, the Product-Specific Terms and Conditions, the Order Form, the Service Proposal and the Tariffs, all as incorporated by reference, set forth the entire understanding of the parties with respect to the subject matter

hereof and supersede all prior agreements and collateral covenants, arrangements, communications, representations and warranties, whether oral or written, by either party (or any officer, director, employee or representative thereof) with respect to the subject matter hereof. If any provision of this Agreement is determined to be invalid or contrary to any existing or future law of any jurisdiction or any order or regulation of a court or governmental authority, such invalidity shall not impair the operation of or affect those provisions in any other jurisdiction or any other provisions hereof which are valid, and the invalid provisions shall be construed in such manner as shall be as similar in terms to such invalid provisions as may be possible, consistent with applicable law.

Governing Law\Consent to Jurisdiction: This service arrangement shall be governed by the laws of the State of New York without regard to its choice of law provisions. With regard to any litigation arising out of or relating to this Agreement, the parties hereby submit to the exclusive jurisdiction of, and waive any venue objections to, the New York State Courts located in New York County, New York. The parties agree to bring any such litigation exclusively in these courts. THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR THE SERVICES PROVIDED BY COMPANY.

Financing: In the event that Customer elects to finance all or a portion of the Services and/or the equipment associated with Customer's use of the Services through a third party lender, the sections of this Agreement entitled "Warranty," "Limitation of Liability" and "Indemnification" shall apply to said third party lender with the same force and effect as they apply to Company. Customer hereby authorizes Company to provide said third party lender with a copy of this Agreement and all associated documentation.

Authorization to Use CPNI: Customer hereby authorizes Company to use and to disclose and permit access by its affiliates and partners to Customer's customer proprietary network information ("CPNI") to enhance Company's ability to offer products and services tailored to Customer's needs. CPNI is information that relates to the quantity, technical configuration, type, destination and amount of use of Services by Customer and that is available to Company solely as a result of Company's provision of Services to Customer. Under federal law, Company has a duty to protect Customer's CPNI and Customer has the right to prohibit certain uses of its CPNI. Although Customer's authorization to Company to use, disclose and permit access to Customer's CPNI will remain in effect until Customer affirmatively revokes such authorization, Customer may withdraw its authorization at any time by notifying Company in writing. Denial of authorization to use, disclose and permit access to Customer's CPNI will not affect Company's provision of the Services to Customer.