

Terms and Conditions - Dedicated Internet Access Service

1. Description of Service:

Dedicated Internet Access (“DIA”) Service (“Service”), which includes T1, DS-3, Ethernet, Fast Ethernet, Gigabit Ethernet and OC-n speeds, provides Internet access to the Customer via either a cross-connect or a local loop from the Customer Premises router to a port on the BRIGHT PACKET Internet access network interface. Where access is provided via a local loop, the local loop is provided by BRIGHT PACKET between the BRIGHT PACKET Internet access network interface and the Customer Premises router. Service may accommodate special routing access requests by the Customer and/or by BRIGHT PACKET. If the Customer Premises router is located in an BRIGHT PACKET collocation facility, access to Service will be provided to the Customer via a cross connect and access to the collocation will be available to Customer under the terms of the applicable BRIGHT PACKET Collocation License Agreement.

2. DIA Equipment and Maintenance:

Service must terminate into a BRIGHT PACKET-approved router on the customer premises (CPE). A CPE router is required for the exchange of traffic between the BRIGHT PACKET Network and the Customer and may be furnished by Customer or provided by BRIGHT PACKET at either no additional charge or for a monthly recurring fee, depending on the speed of Service. If provided by the BRIGHT PACKET, BRIGHT PACKET will maintain, manage and support all DIA Equipment, including all associated device configurations and operational usernames and passwords. Customer must provide BRIGHT PACKET unrestricted access to BRIGHT PACKET-provided DIA Equipment for purposes of testing, upgrading, and other maintenance activities. Customer will provide continuous electrical service to BRIGHT PACKET-provided DIA equipment. BRIGHT PACKET will not be responsible for management of BRIGHT PACKET-provided DIA Equipment if Customer has modified the DIA Equipment, including making any configuration changes. Customers who choose to provide their own DIA routers will be solely responsible for all router maintenance, management, and support. In addition, Customer must provide a single Layer-3 (IP) interface on Customer provided DIA router for the termination of Service. BRIGHT PACKET will configure a single IP address on the single Layer-3 IP interface. Multiple Layer-3 or Layer-2 interfaces may not be used to connect directly to any single DIA Service circuit.

3. DIA Service Demarcation:

The point of demarcation for Service is the physical network location to which the Customer provided DIA router is connected or, if DIA Equipment is furnished by

BRIGHT PACKET , the LAN port at which interconnection takes place. Customer will provide BRIGHT PACKET with access to Customer's premises, as necessary, to facilitate Service installation, testing and maintenance requirements.

4. Service Provisioning:

If the Company, in its sole discretion, decides to provide Service via wireless facilities acquired from Next link Wireless, Inc., or via copper facilities acquired from a serving Local Exchange Carrier and subsequently ascertains that said facilities are unavailable for use, the Company may cancel the Service Order Agreement or Master Service Order Agreement without liability and without any further obligation to Customer.

5. Service Use:

Service use is limited to Customer and its End Users.

6. Notices:

Customer shall notify BRIGHT PACKET within five (5) days of any information or notices served on Customer that might adversely affect BRIGHT PACKET including, but not limited to, notices of any claims or proceedings that involve Service. In addition, Customer shall promptly notify BRIGHT PACKET of any errors, "bugs," or Service problems of which Customer becomes aware when using Service.

7. Disclaimers:

BRIGHT PACKET exercises no control over, and therefore accepts no responsibility for information or content passing through the Company's host computers, BRIGHT PACKET Network hubs and POPs (the "BRIGHT PACKET Network"). EXCEPT AS EXPRESSLY SET FORTH IN "SECTION 12' INFRA, BRIGHT PACKET MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, FOR THE SERVICE OR EQUIPMENT IT PROVIDES, AND IT DISCLAIMS ANY WARRANTY OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. BRIGHT PACKET expressly denies any responsibility for the accuracy or quality of information obtained by Customer or its End-Users through the use of Service. The use of any information obtained via the BRIGHT PACKET Network is at Customer's and End User's own risk.

8. Terms and Terminations:

8-1. Service Commencement: BRIGHT PACKET will notify Customer when: (a) Service is installed or connected, successfully tested, and available for Customer use; and (b) if

BRIGHT PACKET is installing DIA Equipment, that the DIA Equipment has been installed and is operational. Billing will begin on the Start of Service Date regardless of whether Customer is prepared to use Service. BRIGHT PACKET shall not be liable for any damages of any nature resulting from delays in meeting requested or specified service dates or its inability to provide Service.

8-2. Term: The minimum term of Service is one (1) year beginning on the Start of Service Date. Unless one Party notifies the other in writing at least thirty (30) days prior to the expiration of the original or any renewal term of Service that it intends not to renew Service, Service shall automatically renew for the same term of Service period at the same pricing, terms and conditions.

9. Cancellation and Termination Charges:

9-1. If Customer cancels Service after an order has been placed but before the Start of Service Date, Customer will (a) pay BRIGHT PACKET one (1) month's monthly recurring charges for Service, plus any applicable service ordering and installation charges incurred by BRIGHT PACKET in undertaking to provision Service, and (b) return, at Customer's expense, any BRIGHT PACKET equipment in the same condition as when it initially was delivered and installed, reasonable wear and tear excepted, as well as any software or other materials provided by Company.

9-2. If Customer terminates Service after the Start of Service Date, Customer must pay for all charges associated with the ordering and installation of Service, as well as the first month's recurring charges and for the monthly recurring charges for the remainder of the Service term, unless the Customer's termination is for cause. In addition, Customer will return, at its expense, any BRIGHT PACKET equipment in the same condition as when it initially was delivered and installed, reasonable wear and tear excepted, as well as any software or other materials provided by the Company.

9-3. Customer agrees that the damages specified in Sections 9-1 and 9-2 are difficult or impossible to ascertain with certainty and, therefore, the damages specified therein are intended to serve as liquidated damages and not a penalty.

10. Pricing:

10-1. Pricing for DIA Service is as set forth in the applicable Service Order and may vary depending on port speed, access costs or DIA Equipment costs required to deliver DIA Service to Customer.

10-2. Committed Data Rate: If Customer selects a burstable Service and a minimum per Mbps data rate ("Committed Data Rate") applies to a particular IP port, Customer's per-port usage of Service (both Send Traffic and Receive Traffic) via such port will be sampled every five (5) minutes for the previous five (5) minute period. At the end of

each monthly billing period, the top five percent (5%) of Send Traffic and Receive Traffic samples for such port will be discarded. The higher of the resulting ninety-fifth (95th) percentile value for Send Traffic or Receive Traffic for such port will be compared to the Committed Data Rate applicable to the port. If the ninety-fifth (95th) percentile of either Send Traffic or Receive Traffic is higher than the applicable Committed Data Rate, Customer, in addition to being liable for the Committed Data Rate, will be liable for payment at the ninety-fifth (95th) percentile level for any usage in excess of the Committed Data Rate at the contracted per Mbps rate. For the purposes of this Exhibit, "Receive Traffic" means traffic from any origination point that is received by Customer from the BRIGHT PACKET IP Network and "Send Traffic" means traffic from any origination point that is sent by Customer onto the BRIGHT PACKET IP Network.

11. Service Level Agreement ("SLA"):

11-1. Customer acknowledges it has reviewed the Service Level Agreement ("SLA") located at <http://www.BrightPacket.com>. Said SLA, which may be amended from time to time, is incorporated by reference herein and is binding on BRIGHT PACKET and Customer.

12. Network Numbers and Domain Name Policies

12-1. BRIGHT PACKET Domain Name and TCP/IP Addresses provided in connection with Service remain the property of BRIGHT PACKET and upon Service termination, Customer's right to use BRIGHT PACKET Domain Name and TCP/IP Addresses will cease. Unless otherwise mutually agreed in writing, Customer at all times is responsible for maintaining its own Domain Name when purchasing Service and for paying all charges associated with the Domain Name, including charges billed to Customer for Domain Name registration by third parties.

12-2. BRIGHT PACKET will have sole and exclusive discretion with regard to the Internet routing of BRIGHT PACKET-provided IP addresses.

13. Software License:

13-1. Customer will not reproduce, modify, translate, transform, decompile, reverse engineer, disassemble, or otherwise determine, or attempt to determine, source code from any BRIGHT PACKET or third party software, nor will it permit or authorize any third party to do so. Title to such software, and all related technical know-how and intellectual property rights therein, will remain the exclusive property of BRIGHT PACKET and/or its suppliers. Customer must not take any action to jeopardize, limit or interfere in any manner with BRIGHT PACKET's or its supplier's ownership rights with respect to any licensed software. 13-2. BRIGHT PACKET PROVIDES, AND

CUSTOMER HEREBY ACCEPTS, ANY BRIGHT PACKET OR THIRD PARTY SOFTWARE PROVIDED TO OR USED BY CUSTOMER IN CONNECTION WITH SERVICE "AS IS," WITH NO EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF ANY KIND INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. NOTHING HEREIN MAY BE INTERPRETED TO ENHANCE OR CREATE ANY WARRANTY WITH RESPECT TO ANY THIRD PARTY SOFTWARE. BRIGHT PACKET DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF THE DELIVERY, INSTALLATION, SUPPORT OR USE OF ANY SOFTWARE AND ASSUMES NO OBLIGATION TO CORRECT ERRORS IN ANY SOFTWARE. CUSTOMER UNDERSTANDS AND ACCEPTS ALL RESPONSIBILITY FOR ANY SOFTWARE MEETING CUSTOMER'S REQUIREMENTS OR EXPECTATIONS.

14. Limitation of Liability:

14-1. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES THAT RESULT FROM CUSTOMER'S OR CUSTOMER'S ENDUSERS' USE OF THE BRIGHT PACKET NETWORK AND SERVICE INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES FOR LOSS OF DATA RESULTING FROM DELAYS, NON-DELIVERIES OR SERVICE INTERRUPTIONS. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, CUSTOMER'S SOLE REMEDIES FOR ANY CLAIMS RELATING TO SERVICE OR THE BRIGHT PACKET NETWORK ARE LIMITED TO CREDIT OUTAGE ALLOWANCES FOR WHICH THE CUSTOMER MAY BE ELIGIBLE.

14-2. BRIGHT PACKET will not be liable for any action it takes to remove or restrict access to obscene, indecent or offensive content made available by Customer, nor for any action taken to restrict access to material made available in violation of any law, regulation or rights of a third party including, but not limited to, rights under the copyright law and prohibitions on libel, slander and invasion of privacy.

15. Indemnification:

15-1. Customer will indemnify, defend and hold BRIGHT PACKET and its officers, directors, employees, agents, affiliates and suppliers, harmless from and against any claims, actions, demands, losses, damages and expenses, including attorney's fees, relating to any violation including, but not limited to, a breach by Customer, its End Users or other users of its account of their obligations with regard to Service, the placement or transmission of any message, information, software or other materials on the Internet by Customer, its End Users or other users of its account or Customer's

traffic being processed through the Company's switch, port or node. This indemnification will survive the termination of the Service Term.