

## The Voice Service for Office

### 1. Service Description:

**Dedicated T1 Internet & Voice Service:** The service utilizes IP technology to provide converged voice and data service over a single connection to a Customer Premises via a local loop furnished by BRIGHT PACKET. T1 local loop supports up to 24 voice-grade equivalent channels, subject to Customer's selection of port speeds, and provides local, long distance and data communications service capabilities. The bandwidth available will vary based on simultaneous voice usage at any given time but may range from 1.54Mb (1 T-1) or up to 45 Mb (DS3) if no voice usage is occurring.

**Dedicated DSL Internet & Voice Service:** The service utilizes IP technology to provide voice and data service over a single connection to a Customer Premises via a DSL. In order to utilize Voice Service functionality, BRIGHT PACKET will install and configure a VoIP gateway. The gateway interconnects with Customer's existing PBX phone system and BRIGHT PACKET's data connection to Customer's premise or to customer data connection.

2. **Use of Service:** Customer agrees not to use the Services for any unlawful or abusive purpose or in any way that interferes with BRIGHT PACKET's ability to provide service to its customers, or damages its property. Customer shall not resell the Services. If Customer becomes aware that the Services are being fraudulently used, Customer must immediately notify BRIGHT PACKET. BRIGHT PACKET has the right to interrupt or restrict access to the Services, without prior notice to Customer, if BRIGHT PACKET suspects fraudulent or abusive activity or activity that interferes with BRIGHT PACKET's ability to provide Service to its customers. Customer agrees to cooperate with BRIGHT PACKET in any fraud investigation and to use any reasonable fraud prevention measures BRIGHT PACKET prescribes. Customer agrees to protect password and account information for any administrative access provided to the Services. Upon termination of the Agreement, Customer's right to use the Services immediately ceases. Customer agrees to BRIGHT PACKET conducting periodic monitoring tests of Customer broadband connection for the sole purpose of monitoring service quality and to facilitate service issue resolution for the duration of Customer use of Service. This service does not support Operator-assisted calls, including but not limited to any and all types of Collect Calls. In addition, this service does not support 900 calls of any type or 10-10 dialing. Customer acknowledges that any failure of attempted 900, Operator-assisted, or 10-10 calls is not grounds for termination of service.

If Customer's business location requires the use of equipment that is designed to transmit or receive data over traditional telephony networks, collectively referred to here as Transaction Processing Hardware, Customer should be aware that not all Transaction Processing Hardware or their related application providers, such as Bank or Credit Card Processing companies, support the use of VoIP. Although adequate service may be achieved in many cases BRIGHT PACKET cannot recommend or support Customer's use of Transaction Processing Hardware with the Service.

If Customer's business requires the use of Facsimile machine(s) (Fax machines) Customer should be aware that both the ISP and/or the Fax machine itself may not be capable of delivering satisfactory Fax operation with VoIP. Some older fax machines are incompatible due to delay sensitivity and therefore BRIGHT PACKET recommends the use of Fax machines no older than two years. Some ISP services deliver inadequate quality of service to allow for reliable Fax transmission. BRIGHT PACKET recommends that Customer always check with their fax machine manufacturer and ISP service provider to determine their level of support for fax over VoIP.

Customer understands that the use of the Services requires a network firewall at the Customer premises. Customers must deploy firewalls designed to enhance security for SIP-based VoIP applications and services. Any fraudulent use of Customer's Services due to a lack of acceptable firewall security is solely the responsibility of Customer, and BRIGHT PACKET will not credit customer for these charges. Customer hereby indemnifies BRIGHT PACKET against any responsibility for damages, consequential or otherwise that arise from an unprotected network. Customer also acknowledges that BRIGHT PACKET may block without notice traffic reported by its carriers as potentially fraudulent.

3. Charges: Customer is responsible for paying all charges to its account for Services ordered, in accordance with the Voice Plans and Price Sheet on this web site. The rates shown are exclusive of applicable taxes and governmental surcharges, all of which will be added to Customer's bill. BRIGHT PACKET reserves the right to pass through any changes to surcharges, taxes or other modifications to the prices charged hereunder or to BRIGHT PACKET's tariffs that are caused or triggered by regulatory activity. Customer acknowledges it is responsible for protecting against fraudulent access to the Services, in accordance with Section 2 above, and shall also be liable for all charges incurred by any other person's use of Customer's Services, whether such use is authorized by Customer or not, except to the extent such use is caused by the intentional misconduct or gross negligence of BRIGHT PACKET. Every installed

gateway must be provisioned with a DID for the purposes of E911/911 call back which will be provided at no charge. Customer is prohibited from intermingling traffic or for utilizing this service for anything other than providing the Voice Service for Office to its end users. BRIGHT PACKET reserves the right to terminate the Agreement and/or the suspend the Services for cause immediately upon written notice to Customer if BRIGHT PACKET determines, in its sole discretion, that Customer is using or plans to use the Services in a manner inconsistent with this provision and resulting in abnormal volumes and destinations of call usage. BRIGHT PACKET may audit Customer's traffic to ensure that Customer is complying with this provision. Toll-Free numbers are automatically provided with access available from Alaska, Hawaii, Canada, Puerto Rico and the US Virgin Islands. All usage is charged in one-minute increments with one-minute minimum, except for usage included within the base charges, Conferencing, international usage and the Other Traffic Premium, which are billed in one-minute increments with a one-minute minimum. BRIGHT PACKET phone services assume normal business usage. Normal business usage implies that the average call duration cannot be less than 1 minute; if average call duration is less than 1 minute, a 2/min surcharge will be applied to all usage. In addition, normal business usage implies that the average minute usage per line is less than 5,000 minutes of mixed long distance and local calling patterns. Deviation from this average pattern, in total usage or mix, may result in usage pricing surcharges. BRIGHT PACKET reserves the right, at its sole discretion, to terminate any offer or account with nonstandard calling patterns. Professional Services will only be performed and charged upon prior written approval by Customer. If a Firm Order Commit (FOC) date is canceled or changed by either the Customer or the Customer's Agent/Representative within 48 hours of the agreed-to date, there will be a charge of \$50.00 per Telephone Number (TN). If a Firm Order Commit (FOC) date is canceled or changed by either the Customer or the Customer's Agent/Representative prior to two business days before the agreed-to date, there will be a charge of \$9.00 per Telephone Number (TN). If a Firm Order Commit (FOC) date is canceled or changed by either the Customer or the Customer's Agent/Representative within two business days PRIOR to the agreed-to date, there will be a charge of \$50.00 per Telephone Number (TN). If a Customer requires a reversion to prior service the day of the port or within 24 hours of the port occurring on the FOC date, there will be a charge of \$450.00 per Telephone Number (TN); the customer acknowledges that BRIGHT PACKET cannot guarantee that such an immediate service reversion is even possible. Change/cancel orders received after 12 Noon Pacific Standard Time will be considered as received on the next business day. All such charges are not refundable and do not qualify under any service guarantees.

4. Billing and Payment Arrangements:

See “7.0 BILLING AND PAYMENT ARRANGEMENTS” in the General Terms and conditions

5. Agreement Term, Term Renewal and Termination/Default:

See “8.0 AGREEMENT TERM, TERM RENEWAL, AND TERMINATION/DEFAULT” in the General Terms and conditions.

6. Title to Assets and Warranty: Upon submission of Service ORDER FORM, Customer retains all rights and title to equipment listed in that Order Form. The equipment is warranted for a period of one year or until Customer terminates this Agreement, whichever period is shorter. In the event of equipment defects due to component failure and/or workmanship defects BRIGHT PACKET will replace the defective equipment within seven (7) business days of Customer request for the exchange of defective equipment from BRIGHT PACKET. Customer is required to provide adequate surge protection for all phone equipment, such as would be standard for a computer. BRIGHT PACKET shall not be responsible for equipment damage due to improper use, storage, installation, lightning damage, flood damage, or other customer-inflicted damage. If BRIGHT PACKET at its sole discretion determines that the equipment defect is due to improper use, storage, installation, lightning damage, flood damage, or other customer-inflicted damage, then BRIGHT PACKET will add the full original purchase cost of that equipment to Customer’s next Credit Card Charge.

7. Assignment: Neither party may assign or otherwise transfer its rights or delegate its duties hereunder without the prior written consent of the other; provided however, either party may assign its rights and obligations in connection with a merger or sale of all or substantially all of the assets of such party.

8. Limitations on Service:

See “2.0 LIMITATIONS ON SERVICE” in the General Terms and conditions

9. Warranties and Standard for Services:

See “3.0 WARRANTIES AND STANDARDS FOR SERVICES” in the General Terms and conditions

10. Service Level and Service Level Credits: Customer must contact BRIGHT PACKET's Customer Service organization to report issues related to Service performance. In order for BRIGHT PACKET to investigate any reported issues, Customer agrees to provide BRIGHT PACKET with supporting information as reasonably requested by BRIGHT PACKET as applicable to the Services delivered under this Agreement. In the event of any damages arising out of BRIGHT PACKET's furnishing or failure to furnish Services under this Agreement, Customer's sole remedies are contained in (a) the BRIGHT PACKET Service Level Agreement, available from BRIGHT PACKET upon request ("SLA"), (b) the chronic outage provision (if any) set forth in the SLA applicable to the affected Service, and (c) Section 9 above. In the event BRIGHT PACKET does not achieve a particular Service Level in a particular month, BRIGHT PACKET will issue a credit to Customer as set forth in the applicable SLA, only upon Customer's request. BRIGHT PACKET's maintenance log and trouble ticketing systems will be used for calculating any Service Level events. To request a credit, Customer must contact BRIGHT PACKET's Customer Service organization to report the service issue and deliver a written request (with sufficient detail necessary to identify the affected Service) within thirty (30) days of the end of the month for which a credit is requested. If Customer fails to follow the procedures set forth herein, Customer waives their rights to a Service Level Credit for the impacted Service. In no event shall the total amount of credits issued to Customer per month exceed the non-recurring charges and monthly recurring charges invoiced to Customer for the affected Service for that month.

11. Directory Listing: Customer may request a Directory Listing for any Local Numbers they have purchased from BRIGHT PACKET and BRIGHT PACKET has the capability to provide Directory Listing Services, however, given that BRIGHT PACKET utilizes a third party vendor for Directory Listing, there is no guarantee that BRIGHT PACKET will be able to list a specific number with the third party provider, also, there is no guarantee as to the timeframe under which Directory Listing can be completed. BRIGHT PACKET does NOT support an option where the address is not published. Further, where Subscribers choose not to purchase or to discontinue BRIGHT PACKET's Directory Listing service, BRIGHT PACKET provides no assurance that any existing information in the various directorylisting databases will be removed or revised. In the event that a Directory Listing is completed successfully, the end user will be provided with:

(a) A listing for each number in the electronic database and white pages book managed by the Local Exchange Carrier ("LEC") in whose area the local numbers originate.

(b) Via the above, most Directory Assistance providers will be able to lookup the number when they receive an inquiry.

(c) Yellow page and other electronic database providers then may contract with the LEC to purchase and list in their books, databases, etc. as an independent action from the Directory Listing Services provided by BRIGHT PACKET. BRIGHT PACKET will not be responsible for any misprints, errors or omissions but will work diligently to correct any errors in the databases of BRIGHT PACKET's partner carriers and their LEC providers that are identified by the Customer. Further, CUSTOMER HEREBY AGREES TO DEFEND, INDEMNIFY, AND HOLD BRIGHT PACKET AND/OR ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, AGENTS, EMPLOYEES AND ANY OF BRIGHT PACKET'S CARRIER VENDORS, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS FOR EXPENSES OR DAMAGES OF ANY KIND (INCLUDING ATTORNEYS' FEES) ARISING FROM A MISPRINT OF CUSTOMER'S DIRECTORY INFORMATION.

## 12. Miscellaneous Provisions:

12-1. Laws, Rules, and Regulations: This Agreement shall be governed by and construed in accordance with the laws of the state of California, without regard to the principles of conflict of laws. The Parties agree that the exclusive venue of any action related to this Agreement shall be the state or federal courts located in Los Angeles, and the parties hereby consent to the jurisdiction and venue of such courts. This Agreement is subject to all laws, rules, regulations, and ordinances relative to, among other things, the provision of enhanced telecommunications and long distance services, including, without limitation, the Communications Act of 1934 and the Telecommunications Act of 1996, as amended, and all rules and regulations promulgated there under.

12-2. Force Majeure: Neither party will be liable for any nonperformance under this Agreement due to causes beyond its reasonable control that could not have been reasonably anticipated by the non-performing party as of the Effective Date and that cannot be reasonably avoided or overcome; provided that the non-performing party gives the other prompt written notice of such cause, and in any event within fifteen (15) calendar days of discovery thereof.

12-3. Independent Parties: Notwithstanding anything to the contrary herein, it is acknowledged, confirmed, and agreed that Customer shall be, and shall be deemed to

be, an independent entity for all intents and purposes, including, without limitation, federal taxation. Customer shall pay all expenses in connection with performing its obligations hereunder and shall not incur any indebtedness on behalf of BRIGHT PACKET in connection with such expenses. Neither party shall have or hold itself out as having any right, authority or agency to act on behalf of the other party in any capacity or in any manner, except as may be specifically authorized in this Agreement.

12-4. Attorneys' Fees: If any action shall be brought on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Agreement, the most prevailing party shall be entitled to recover from the other, as part of the prevailing party's costs, reasonable attorneys' fee.

12-5. Severability: If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12-6. Counterparts: This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which collectively will constitute one and the same instrument.

12-7. Fair Interpretation, Headings: This Agreement has been negotiated by the Parties and their respective counsel. This Agreement will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party based on draftsmanship of the Agreement or otherwise. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

12-8. Complete Agreement: This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understanding or agreements, written or oral, between the parties regarding such subject matter. No amendment to or modification of this Agreement will be binding unless in writing, in a format specified by BRIGHT PACKET, and signed by a duly authorized representative of Customer. No delay or failure by either party in exercising any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right. Failure by either party to enforce any right under this Agreement will not be deemed a waiver of future enforcement of that or any other right.

12-9. Binding Agreement: This Agreement is made for the benefit of BRIGHT PACKET and Customer and their respective affiliates, if any, and not for the benefit of any third parties. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, and their permitted successors and assigns.

12-10. Remedies: The rights and remedies of the Parties hereunder shall not be mutually exclusive, i.e., the exercise of one (1) or more of the provisions hereof shall not preclude the exercise of any other provision hereof. The Parties acknowledge, confirm and agree that damages may be inadequate for a breach or a threatened breach of this Agreement and, in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy. Nothing contained in this Agreement shall limit or affect any rights at law or statute or otherwise for a breach or threatened breach of any provision hereof, it being the intent of this provision to clarify that the respective rights and obligations of the parties shall be enforceable in equity as well as at law or otherwise.