

BROADSOFT ADAPTION, INC.
MASTER SERVICES AGREEMENT
STATEMENT OF GENERAL TERMS & CONDITIONS

This agreement (“Agreement”) is between BroadSoft Adaption, Inc. (“BA”) and an end user (“End User”). Any BA services or products (“Services”) provided by BA to End User shall be governed by the terms and conditions herein. By purchasing the Services, END USER agrees to be bound by these term and conditions. End User acknowledges that they are of legal age to enter into this Agreement.

- 1. TERMS AND CONDITIONS.** The terms and conditions stated herein are in lieu of and replace any and all terms and conditions set forth in any documents issued by End User, including, without limitation, purchase orders and specifications. No waiver or amendment to this contract or these terms and conditions shall be binding on BA unless made in writing expressly stating that it is such a waiver or amendment and signed by an officer of BA.
- 2. TERM.** The term of this Agreement (“Term”) begins on the date that End User purchases Services and continues for a period of twenty-four (24) months. At the end of the current Term, the Term is automatically renewed for a period of twelve (12) months unless End User provides BA, sixty (60) days prior to the end of the current Term, notification of intention to cancel the service. End User agrees to pay for Services for the duration of the Term. Expiration of the Term does not alleviate End User of responsibility for paying all unpaid, accrued charges due hereunder. If End User chooses to cancel the service before the end of the current Term, Disconnection fees may apply as set forth below in section 5.f.

This agreement governs all orders for Services and Equipment between End User and BA. Each order for Services will be issued a Service Order Number and will be sent to the End User via email. The Term for each Service Order begins on the Service installation date and continues for a period of twenty-four (24) months.

- 3. 911 EMERGENCY CALLING SERVICE.** The Federal Communications Commission (FCC) requires that BA provide E911 Service to all customers, including End User facilities that use BA services within the United States.
 - a. End User acknowledges that BA will not be liable for any service outage and/or inability to dial 911 or any other Emergency Service Operator due to the limitations set forth in this Agreement.
 - b. End User agrees to notify all users of the service of the 911 limitations described herein.
 - c. End User acknowledges that the services provided will not function in the absence of electrical power.
 - d. End User acknowledges that the services provided will not function if there is an interruption of End User’s Internet access or IP network service.
 - e. End User acknowledges that any location information passed to an Emergency Operator by BA will be based upon the physical address provided by Customer to BA associated with the calling party.
 - f. End User is required to register the physical location of their equipment with BA, and agrees to update this information with BA whenever the physical location of the equipment is to change.
 - g. End User acknowledges that the service provided, including E911 service, will not function if End User’s Local Area Network (LAN) fails, or is not configured correctly.
 - h. End User acknowledges that the service provided, including E911 service, will not function if End User’s Phones, Analog Adapters, or Integrated Access Devices are not working, or are not configured correctly.
- 4. SERVICES AND EQUIPMENT.** All Services purchased by End User will be submitted electronically to BA by End User or an approved BA Sales Agent. Each Service Order will define the quantity, Product(s), number porting instructions, shipping instructions, requested delivery date, and any special order handling instructions, if any.
 - a. BA will provide status updates for all Service Orders electronically to End User and/or approved BA Sales Agent
 - b. BA may decline to make shipments to End User if End User is delinquent in making payments to BA or is otherwise in breach of this Agreement
 - c. BA will use reasonable efforts to ship and to deliver on requested scheduled dates but will not be liable for failure to do so.
 - d. BA will honor all prices for those products and services as defined on each Service Orders through the end of the Term.
 - e. BA retains the right at any time to;
 - i. Change discounts or discount categories for its Products or Services,
 - ii. Adjust prices for the hardware or services it is providing for subsequent Service Orders,
 - iii. Adjust international per minute prices. A list of international per minute charges can be found at <https://kb.sipadvantage.com/kb/index.php?View=entry&EntryID=112>
 - f. Equipment Return Policy (RMA)

- i. All returned products must have an BA return authorization (RMA) number to be issued by BA. RMA request for repair or replacement must follow the published RMA guidelines available at <https://kb.sipadvantage.com/kb/index.php?View=entry&EntryID=113>.
- ii. RMAs will only be allowed during the time period allowed by the equipment manufactures warranty.
- g. Call Recording
 - i. End User agrees that it is their sole responsibility to understand and obey all applicable laws and regulations when using the SIPAdvantage® Call Recording service. Additional information regarding Call Recording regulations can be found at <https://kb.sipadvantage.com/kb/index.php?View=entry&EntryID=115>. The information set forth in this document is not complete or exhaustive and does not constitute legal or other professional advice.
 - ii. End User agrees to use the Call Recording services only for lawful purposes, and shall not transmit any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually explicit, profane, hateful, racially, ethnically, or otherwise objectionable material of any kind, including but not limited to any material that encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any applicable local, state, national, or international law.
 - iii. End User agrees that BA has no liability to you whatsoever, whether for direct, indirect, or other damages, based upon or arising out of End Users use of the Call Recording service.
 - iv. BA reserves the right to immediately and without notice suspend or terminate your service and discard any of your content stored within the service in the event it determines that you have violated any such law or regulation, or any term or condition of this Agreement.

5. BILLING, CHARGES AND PAYMENT

- a. **PAYMENT.** Upon purchase of the Service, End User must provide BA with a valid credit card number from an issuer that is accepted by BA or appropriate bank and routing information to utilize ACH as a method of payment. End User authorizes BA to charge the credit card number or bank account provided by End User for all charges arising from End User's use of the Services. End User agrees to notify BA of any change to the ACH information or credit card information including, but not limited to, changes in account number, expiration date or billing address. BA shall not be responsible for any charges made by the credit card issuer or bank to End User's credit card or bank account for exceeding credit limit, insufficient funds or other reasons.
- b. **BILLING.** BA will provide a monthly on-line invoice for the Services and bill all charges invoiced to End User's account to the credit card or ACH account provided. End User's credit card or ACH account will be billed immediately for equipment purchases and installation charges. Monthly service fees are paid in advance of each month's service; toll charges and any other applicable charges are billed subsequent to the end of each month's service. The first month's monthly service invoice may include prorated charges to take into account any partial month that may occur as the result of the date Services are initiated.
- c. **TAXES, SURCHARGES, AND REGULATORY FEES.** Any applicable taxes and surcharges as required by law, or required to offset costs incurred by BA in complying with federal, state, and/or municipal obligations relating to the Services provided. The "Regulatory Cost Recovery Fee" is charged to help defray the administrative costs BA incurs in complying with various government regulations. This fee is not imposed by any governmental entity and is subject to change.
- d. **CREDIT TERMS.** All Services provided to End User shall at all times be subject to credit approval or review by BA. End User will provide such credit information or assurance as is requested by BA at any time. BA, in its sole discretion and judgment, may discontinue credit at any time without notice or require a deposit.
- e. **LATE/NON-PAYMENT.** If any charges for the Services are due but unpaid for any reason including, but not limited to, non-payment, insufficient funds or declined credit card charges, BA may suspend or terminate the Services and all accrued charges shall be immediately due, plus a late fee of the lesser of 1.5% per month or the maximum allowed by law accrued from the date of invoice until payment in full is received by BA. If charges cannot be processed to the credit card or ACH account, End User will be charged a minimum fee of ten dollars (\$10.00). The fee will also be charged to activate a suspended account. No suspension or termination of the Services or of this Agreement shall relieve End User from paying any amounts due hereunder. BA shall not be liable to End User for any loss or damage End User may suffer as a result of BA's termination of this Agreement.
- f. **DISCONNECTION FEES.** If End User terminates any Service or Service component within twenty-four (24) months of the initial installation of disconnected Services, BA shall charge a Service Disconnection Fee equal to 50% of the remaining Monthly Recurring Charges for the disconnected Service.
- g. **BILLING DISPUTES.** End User must dispute any charges for the Services in writing within thirty (30) days of the date of the charge by BA or End User waives any objection and further recourse. Written statements disputing charges must be sent to:

Billing Department
BroadSoft Adaption, Inc.
1009 Pruitt Rd.
The Woodlands, TX 77380

- 6. LOST, STOLEN, ALTERED OR BROKEN EQUIPMENT.** End User shall not modify the Equipment physically or change any configuration parameters in any way without the express written permission of BA. End User is responsible for all lost, stolen or broken Equipment and may be required to purchase a replacement to continue service. End User owns equipment and is solely responsible for maintaining equipment.
- 7. PROHIBITED USES.** Any use of the Services or any other action that causes a disruption in the network integrity of BA, other End User's, or its vendors, whether directly or indirectly, is strictly prohibited and could result in termination of the Services at the sole discretion of BA. End User agrees and represents that it is purchasing the Services for its own internal use only, and shall not resell, transfer or make a charge to the Services without the advance express written permission of BA. BA's Service Plans are for reasonable business use of End User only. Such use shall not include certain activities including, but not limited to, any autodialing, continuous or extensive call forwarding, continuous connectivity, fax broadcast, fax blasting, junk faxing, fax spamming, or any other activity that would be inconsistent with reasonable business usage. Any use found to be inconsistent with this restriction will result in termination of the Service.
- 8. FRAUDULENT CALLS.** End User shall indemnify and hold BA harmless from any and all costs, expenses, damages, claims or actions arising from fraudulent calls of any nature. End User shall not be excused from paying BA for Services provided to End User or any portion thereof on the basis that fraudulent calls comprised a portion of the Services provided to End User. In the event that BA discovers fraudulent calls being made (or reasonably believes fraudulent calls are being made), nothing contained herein shall prohibit BA from taking immediate action (without notice to End User) that is reasonably necessary to prevent such fraudulent calling activity from occurring, including without limitation, denying Services to particular phone numbers or terminating Services to or from specific locations. Provided, however, nothing contained herein will impose any obligation on BA to take any action with respect to fraudulent calls.
- 9. PRIVACY.** BA is committed to respecting an End User's privacy. End User's personally identifiable information will only be used in the context of the End User's relationship with BA. BA will not sell, rent, or lease End Users' personally identifiable information to others. Unless required by law or subpoena or if End User's prior permission is obtained, BA will only share the personal data End User provides with other BA entities and/or business partners that are acting on BA's behalf to complete the activities described herein. Such BA entities and/or national or international business partners are governed by BA's privacy policies with respect to the use of this data.
- 10. BREACH.** In the event of End User's breach of the terms of the Agreement, including without limitation, failure to pay any sum due hereunder, End User shall reimburse BA for all attorney, court, collection and other costs incurred by BA in the enforcement of BA's rights hereunder and BA may keep any deposits or other payments made by End User.
- 11. INDEMNIFICATION.** End User shall be solely responsible for, and shall indemnify and hold BA free and harmless from any and all claims, suits, losses, expenses, liabilities and damages (including attorney's fees) arising out of the alleged acts or omissions of End User, its resellers, employees, servants, agents or any of them, including without limitation claims or damages arising out of any claims, warranties or representations which differ from the warranty and product documentation provided by BA in its product packaging.
- 12. DISCLAIMER OF CONSEQUENTIAL DAMAGES.** In no event shall BA or its vendors be liable for any special, incidental, indirect, punitive, or consequential damages or for any damages, including but not limited to loss of data, revenue, or profits, or arising out of or in connection with the use or inability to use services or products provided hereunder whether due to breach of contract, breach or warranty, the negligence of BA or its vendors or otherwise.
- 13. WARRANTY AND LIABILITY LIMITATIONS.** BA makes no warranties, express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose. Any claim against BA must be made within ninety (90) days of the event, or ninety (90) days from the termination of service, whichever is earlier, and BA has no liability thereafter. BA's liability is limited to repair, replacement, credit or refund. All warranties cover only defects arising under normal use of Services, and do not include malfunctions or failures resulting from misuse, abuse, neglect, alteration, modification, improper installation, or repairs by anyone other than BA. In no event shall BA's total liability exceed the amounts paid by End User to BA in the prior twelve (12) months from date of claim.
- 14. EXPORT COMPLIANCE.** End User agrees to comply with U. S. export laws concerning the transmission of technical data and other regulated materials via the Services. End User agrees to comply with applicable local, state and federal regulations governing the locality in which the Equipment and Services are used.
- 15. PHONE NUMBERS AND WEB PORTAL DISCONTINUANCE.** Upon expiration, cancellation or termination of the Services, End User shall relinquish and discontinue use of any phone numbers, voice mail access numbers and/or web portals assigned to End User by BA or its vendors. Customer's phone numbers can be ported to another service provider as long as End User's account is current and in good standing.

- 16. SOFTWARE COPYRIGHT.** Any software used by BA to provide the Services and any software provided to End User in conjunction with providing the Services are protected by copyright law and international treaty provisions. End User may not copy the software or any portion of it.
- 17. SURVIVAL.** The provisions of section 3, 5, 8, 10, 11, 12, 13, 15, 19, and 20 shall survive any termination of the Agreement.
- 18. NOTICES.** BA communicates with End Users primarily via email. Notices to End User shall be sent to the email address specified by End User at the time of registration for the Services or as subsequently specified by End User ("Email Address"). End User is responsible for notifying BA of any Email Address changes. End User agrees that sending a message to the Email Address is the agreed upon means of providing notification.
- 19. FORCE MAJEURE.** BA shall not be liable for any delay in performance directly or indirectly caused by, or resulting from acts of God, fire, flood, accident, riot, war, terrorism, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties of BA as may occur in spite of BA's best efforts.
- 20. GOVERNING LAW.** The Agreement and the relationship between End User and BA shall be governed by the laws of the State of Maryland without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason, End User and BA agree to submit to the personal and exclusive jurisdiction of the state and federal courts having jurisdiction over Montgomery County, Maryland, and waive any objection as to venue or inconvenient forum.
- 21. ENTIRE AGREEMENT.** The terms and conditions of this Agreement, along with the rates constitute the entire agreement with regard to this sale and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to the Services. This agreement shall be binding upon the heirs, successors, and assigns of BA and End User.