

BrightPBX Terms of Services Agreement (ToS)

This Terms of Services Agreement for hosted services is entered into by and between “Reseller”, and **BrightPBX Corp.** (“BrightPBX”) as of the last of the signature dates herein (the “Effective Date”).

The ToS, SLA addendum, 911 addendum is collectively referred to as the “Agreement”.

NOW THEREFORE, the Parties, in consideration of the mutual covenants and agreements hereinafter set forth, agree as follows:

GENERAL TERMS

This BrightPBX Customer Agreement (this “Agreement” or “ToS”) contains the terms and conditions that govern your access to and use of the Services (as defined below) and is an agreement between BrightPBX Corp. (“BrightPBX,” “we,” “us,” or “our”) and you or the entity you represent (“Customer,” “you” or “your”). This Agreement takes effect when you execute a Service Order or click an “I Accept” button or checkbox presented with these terms or, if earlier, when you use any of the Services (the “Effective Date”). You represent to us that you are lawfully able to enter into contracts. If you are entering into this Agreement for an entity, such as the company you work for, you represent to us that you have legal authority to bind that entity. Capitalized terms are defined in the body of this Agreement.

1. Use of the Services.

1.1 Generally.

You may access and use the Services in accordance with this Agreement. You will comply with the terms of this Agreement and all laws, rules and regulations applicable to your use of the Services. It is your responsibility to make sure your use of the Services is legal where and how you use them. You understand and agree that we may block, suspend or limit access to certain Services or Apps in certain countries where we reasonably believe that such Service(s) or App(s) are not lawfully used in such countries.

2. Changes.

2.1 To the Services.

Your service is subject to our business policies, practices, and procedures, which we can change with notice. Unless we agree to maintain a given Service for a fixed term in a separately executed Service Order, we may change or discontinue any of the Services or change or remove functionality of any or all of the Services from time to time. We will use

commercially reasonable efforts to notify you 60 days in advance of any material change to or discontinuation of the Services.

2.3 To the Service Level Agreements.

Unless we agree to different Service Level Agreement in a separately executed Service Order, we may change, discontinue or add Service Level Agreements from time to time in accordance with Section 12. We will use commercially reasonable efforts to notify you 60 days in advance.

2.4 To Service Pricing and Terms of this Agreement.

Unless you and we agree to modify how and when this agreement can be changed in a separate executed service order signed by both parties, we can also change pricing and any other terms in this agreement at any time. We will use commercially reasonable efforts to notify you 60 days in advance. If the changes have a material effect on you, however, you can end the affected service, without any early termination fee, by notifying us 60 days in advance of the changes coming into effect.

3. Fees and Payment.

3.1 Service Fees.

Customer agrees to provide BrightPBX with a valid email address, billing address, and a valid payment method when initiating Service. Customer shall advise BrightPBX immediately if Customer's authorized contact email addresses change and/or if the payment method changes or expires. Customer authorizes BrightPBX to: (a) automatically bill the credit card Customer provided on the same day of each month; or (b) automatically debit (charge) Customer's checking account electronically via EFT on the same day of each month. "EFT" shall mean the electronic funds transfer, which is the nationwide network of banking institutions that process electronic payments automatically between bank accounts. Customer agrees that BrightPBX may receive updated information about Customer's account from the financial institution issuing Customer's credit card.

We calculate and bill fees and charges monthly. Fixed, recurring, usage-sensitive and non-recurring charges are billed on a post-paid basis. Unless you and we agree to alternate pricing in a separately executed Service Order signed by both parties, you agree to pay the published rate(s) for the Services you use. You will pay us the applicable fees and charges for use of the Services as described on the BrightPBX Site. All amounts payable by you under this Agreement will be paid to us without setoff or counterclaim, and without any deduction or withholding. Fees and charges for any new Service or new feature of a Service will be effective when you are given notice of the updated fees and charges via mail and/or updates on the BrightPBX portal. We may increase or add new fees and charges for any existing Services you are using by giving you at least 60 days' prior notice to your email address associated with your

account. You agree to pay us interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all late payments.

3.2 Fraudulent Usage.

You agree to bear the risk of loss and assume all liability arising from prohibited, unauthorized or fraudulent usage of Services under your BrightPBX account. Any such prohibited, unauthorized or fraudulent use is a material breach of the Agreement by Customer. Customer shall not be excused from paying for Services or any portion thereof on the basis that fraudulent usage or calls occurred. If we discover fraudulent usage, you consent to BrightPBX taking actions it deems reasonably necessary (including blocking access to particular calling numbers or geographic areas), without notice to you, to prevent such usage from taking place. Customer acknowledges and agrees that BrightPBX: (a) has no duty to investigate the authenticity of usage charged to Customer's account, (b) has no duty to take action to prevent fraudulent usage from occurring in connection with your account, and (c) is not liable for any fraudulent usage billed to Customer's account.

3.3 Disputed Charges and Chargeback's.

If we have attempted to charge your registered payment method for a charge that we deem is authorized and valid under this Agreement, and the credit/debit card company withholds such payment because the charge has been disputed (a "Chargeback"), we reserve the right to suspend your access to our Service for up to 30 days until the Chargeback is reversed. If the Chargeback is not resolved and reversed, your account will be deactivated at the end of the 30-day period and we will assess you a termination charge equal to the prorated balance of your account, which is not refundable. If your account is reactivated, you may be charged a fee for each Chargeback.

4. Temporary Suspension.

4.1 Generally.

We may suspend your or any End User's right to access or use any portion or all of the Services immediately upon notice to you if we determine:

(a) your or an End User's use of the Service Offerings (i) poses a security risk to the Services or any third party, (ii) could adversely impact our systems, the Services, or the systems or Data of any other BrightPBX customer, (iii) could subject us, our affiliates, or any third party to liability, or (iv) could be fraudulent;

(b) you are or any End User is in breach of this Agreement;

(c) you are in breach of your payment obligations under Section 5; or

(d) you have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.

4.2 Effect of Suspension.

If we suspend your right to access or use any portion or all of the Service Offerings:

(a) you remain responsible for all fees and charges you incur during the period of suspension; and

(b) you will not be entitled to any service credits under the Service Level Agreements for any period of suspension.

5. Term; Termination.

5.1 Term.

The term of this Agreement will commence on the Effective Date and will remain in effect until terminated under this Section 5. All Services offered by BrightPBX have initial terms of 30 days, and automatically renew for additional 30-day renewal terms until they are terminated in accordance with this Agreement. Any notice of termination of this Agreement by either party to the other must include a Termination Date that complies with the notice periods in Section 5.2.

5.2 Termination.

(a) **Termination for Convenience.** Following the applicable initial Term of any Service, you may terminate your subscription to that particular Service, for any reason, by providing us written notice at least 60 days before the expiration of that applicable Term(s). We may terminate this Agreement for any reason by providing you at least 60 days' prior written notice.

(b) **Termination for Cause.**

(i) **By Either Party.** Either party may terminate this Agreement for cause if the other party is in material breach of this Agreement and the material breach remains uncured for a period of 60 days from receipt of notice by the other party. No later than the Termination Date, you will close your account.

5.3 Effect of Termination.

(a) **Generally.** Upon the Termination Date:

(i) All your rights under this Agreement immediately terminate;

(ii) you remain responsible for all fees and charges you have incurred through the Termination Date, and are responsible for any fees and charges you incur during the post-termination period.

SERVICE TERMS

The following sections generally describe particular Services offered under this Agreement, BrightPBX may change from time to time, along with various terms and conditions that apply to your use of those particular Services, unless we both agree to any changes to these terms and conditions in a separately executed Service Order. The Service descriptions are meant to distinguish the various Services offered under this Agreement, and, unless we explicitly state otherwise, are not a warranty or service level commitment of any kind.

6. BrightPBX Device-Provisioning Services.

To facilitate your provisioning of approved devices, BrightPBX offers a **Device-Provisioning Service**

This Service provides automated capabilities to provision supported devices and incorporates settings that conform to BrightPBX best practices. Due to the complexity of handling each phone and associated firmware, BrightPBX does not publish documentation covering these best practices and, instead, incorporates the best practices in the form of software in the provisioner toolset. BrightPBX maintains the current list of supported devices within the provisioner application.

Customers who choose not to use the BrightPBX provisioner Service and provision devices independently understand and agree that they shall test each device and firmware set they use with BrightPBX to ensure that the phone works appropriately, and that any support customer may seek from BrightPBX in connection with such actions will be provided solely pursuant to the customer's applicable Support agreement with BrightPBX.

Customer understands and agrees that, for any devices it intends to use in connection with any BrightPBX-related services, it shall not make manual changes to the device locally.

While the provisioner Service also can be overridden in certain respects to allow for custom settings, such as custom configuration files, in the event that customer enables these customizations, customer understand and agrees that it does so at its sole risk and expense,

and any support customer may seek from BrightPBX in connection with such actions will be provided solely pursuant to the customer's applicable Support agreement with BrightPBX.

7. Terms and conditions.

Customer understands and agrees that to only associate one bona fide, accurate media access control (MAC) address per device that Customer uses in connection with the Services. For Device-based charges, BrightPBX relies on your representation, warranty and promise to only associate accurate MAC addresses with the devices you provision, associate and use in connection with the Services.

7.1 Common Terms and Conditions.

The following terms and conditions apply to all Support Service Plans:

Customer understands and agrees that only its authorized, BrightPBX-certified representatives can access and use BrightPBX's support services, and that all Support Requests must be initiated by submitting an email ticket to BrightPBX Support. A "Support Request" is defined as any inquiry or request for assistance or support with any of the Services offered under this Agreement.

Customer understands and agrees that it is solely responsible for providing first-level ("Tier 1") support. Tier 1 support includes, but is not limited to:

End User Communication: Speaking with Customer's End User, customer, or their agents or employees; (b) **Examples and Call Logs:** Collecting call logs, Wireshark captures, specific information from the client about the service-related issue, including the relevant phone number(s) and the time(s) and date(s) relating to the issues. (c) **Reproducibility:** All issues for which Support is sought will have been reproduced and adequately documented by Customer before escalating the issue to BrightPBX Support System.

Customer agrees that, before submitting a Basic or Paid Support Service request to BrightPBX, it shall have already exhausted all commercially reasonable efforts to provide Tier 1 Support, and will provide all relevant details to BrightPBX Support staff needed for BrightPBX to provide its Support Services, including the information, documentation and reproduction steps that will enable BrightPBX support staff to simulate or recreate the alleged support issue on BrightPBX's test environment. Customer agrees to advise BrightPBX of the standard operating procedures and environmental conditions related to Customer's business practices so that BrightPBX can effectively communicate with Customer in the context of Customer's business environment. Customer further understands and agrees that if Support requests submitted to BrightPBX's Support staff are better characterized as Tier 1 support issues, or Customer fails to adequately reproduce and

adequately document the issue when submitting the support service request, Customer is still responsible for paying BrightPBX and/or partners the applicable Credits or charges for such time and support, including any time incurred in investigating and reproducing (or attempting to reproduce) the issue.

BrightPBX reserves the right to reject support-request tickets that fall outside of the scope of its Support Services (paid or otherwise), including, without limitation, support requests that solicit Tier 1 support, involve communicating with your End Users, or pertain to third-party software, applications or other services, including any Third-Party Apps.

BrightPBX will employ commercially reasonable efforts to respond to Support requests as promptly as feasible.

All Basic and Paid Support time (and associated Credits) will be tracked from the time BrightPBX support partner staff begin their response to your initial request to the BrightPBX Paid Support Team.

8 Number Porting.

BrightPBX, and its agents, are authorized to initiate changes to telephone service and for the purpose of obtaining service records, initiate or terminate ports, or to make changes to the ways in which your telephone numbers are routed to the extent necessary for the provision of the Services.

8.1 Number Transfer on Service Termination.

After you subscribe to certain BrightPBX VoIP-PSTN Services, BrightPBX or its providers may receive requests from other telephony providers ("Requesting Party") acting as agents on Customer's behalf to port a telephone number currently assigned to Customer to a third party provider ("Port-Out"). BrightPBX will support all such requests and will cooperate with the Requesting Party to perform any Port-Out in accordance with the Requesting Party's reasonable directions and BrightPBX's or its vendors' standard operating procedures. Until the effective date of Customer's proper termination (in accordance with the terms of this Agreement), Customer will: (a) remain a BrightPBX customer; and (b) be responsible for all charges and fees associated with Customer's BrightPBX Service. Customer will not receive any refund or partial refund or any credits for any charges already billed to Customer's account. BrightPBX assumes no liability for costs associated with any numbers that cannot be ported or that Customer chooses not to port. Customer acknowledges that in the event of any account termination or cancellation, all telephone numbers associated with Customer's account may be released. Similarly, the cancellation of individual services that have associated telephone numbers will result in the release of such numbers. Customer acknowledges that it is Customer's responsibility to work with a third party provider to port out those numbers prior to Customer's termination or cancellation of Customer's account or termination of Services.

8.2 Damages Waiver.

You agree to release BrightPBX from damages of any kind, including, but not limited to, direct, consequential, and exemplary or punitive damages, in the event that either a terminating or servicing peer or a third party experiences technical difficulties that result in any or all of the following: (i) service interruption, (ii) delays in porting, (iii) delays in service, and/or (iv) lost telephone numbers.

9. General Service Limitations and Exclusions.

Customer understands and agrees that BrightPBX's Services are designed to facilitate your provision of certain unified communications services to your End Users. While the Services can be customized and applied in other use cases and configurations ("Unsupported Devices, Services and Configurations"), you understand and agree that BrightPBX has no liability for, or responsibility to provide support or related services, any issues, errors or losses relating to Unsupported Devices, Services and Configurations. BrightPBX will only provide Support Services for Unsupported Devices, Services and Configurations, at BrightPBX's sole election and discretion, pursuant to your Support Service Plan.

ADDITIONAL GENERAL TERMS

10.1 Services License.

We or our licensors own all right, title, and interest in and to the Services, subject to any applicable licenses or other agreements, and all related technology and intellectual property rights. Subject to the terms of this Agreement, we grant you a limited, revocable, non-exclusive, non-sublicensable, non-transferable license to: (a) access and use the Services solely in accordance with this Agreement; and (b) copy and use the BrightPBX Content solely in connection with your permitted use of the Services. You obtain no rights under this Agreement from us or our licensors to the Services, including any related intellectual property rights. Some BrightPBX Content and Third-Party Content may be provided to you under a separate license, such as the Mozilla Public License, Version 1.1, or other open source license. In the event of a conflict between this Agreement and any separate license, the separate license will prevail with respect to the BrightPBX Content or Third-Party Content that is the subject of such separate license.

10.2 License Restrictions.

Neither you nor any End User will use the Services in any manner or for any purpose other than as expressly permitted by this Agreement. Neither you nor any End User will, or will attempt to (a) modify, distribute, alter, tamper with, repair, or otherwise create derivative works of any Content included in the Service Offerings (except to the extent Content included in the Service Offerings is provided to you under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile the Services or apply any

other process or procedure to derive the source code of any software included in the Services (except to the extent applicable law doesn't allow this restriction), or (c) access or use the Services in a way intended to avoid incurring fees or exceeding usage limits or quotas. You will not misrepresent or embellish the relationship between us and you (including by expressing or implying that we support, sponsor, endorse, or contribute to you or your business endeavors). You will not imply any relationship or affiliation between us and you except as expressly permitted by this Agreement.

11. Indemnification.

11.1 General.

You will defend, indemnify, and hold harmless us and our licensors, and each of our respective employees, officers, directors, contractors, and representatives from and against any Losses arising out of or relating to any third-party claim concerning: (a) your or any End Users' use of the Services (including any activities under your BrightPBX account and use by your employees and personnel); (b) breach of this Agreement or violation of applicable law by you, End Users, or Your Data; or (c) a dispute between you and any End User. You will reimburse us for reasonable attorneys' fees, as well as our employees' and contractors' time and materials spent responding to any third party subpoena or other compulsory legal order or process associated with third party claims described in (a) through (c) above at our then-current hourly rates.

11.2 Intellectual Property.

(a) Subject to the limitations in this Section 11, BrightPBX will defend you and your employees, officers, and directors against any third-party claim alleging that the BrightPBX Services infringe or misappropriate that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement.

(b) Subject to the limitations in this Section 11, you will defend BrightPBX, its affiliates, and their respective employees, officers, and directors against any third-party claim alleging that any of Your Data or any derivative work you create from any BrightPBX Service infringes or misappropriates that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement.

(c) BrightPBX will have no obligations or liability arising from your or any End User's use of the Services after BrightPBX has notified you to discontinue such use. The remedies provided in this Section 11.2 are the sole and exclusive remedies for any third-party claims of infringement or misappropriation of intellectual property rights by the Services or by Your Data.

(d) For any claim covered by Section 11.2(a), BrightPBX will, at its election, either: (i)

procure the rights to use that portion of the Services alleged to be infringing; (ii) replace the alleged infringing portion of the Services with a non-infringing alternative; (iii) modify the alleged infringing portion of the Services to make it non-infringing; or (iv) terminate the allegedly infringing portion of the Services or this Agreement.

11.3 Process.

The obligations under this Section 11 will apply only if the party seeking defence or indemnity: (a) gives the other party prompt written notice of the claim; (b) permits the other party to control the defence and settlement of the claim; and (c) reasonably cooperates with the other party (at the other party's expense) in the defence and settlement of the claim. In no event will a party agree to any settlement of any claim that involves any commitment, other than the payment of money, without the written consent of the other party.

12. Disclaimers.

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." EXCEPT TO THE EXTENT PROHIBITED BY LAW, OR TO THE EXTENT ANY STATUTORY RIGHTS APPLY THAT CANNOT BE EXCLUDED, LIMITED OR WAIVED, WE AND OUR LICENSORS (A) MAKE NO

5
1

REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICES OR THE THIRD-PARTY CONTENT, AND (B) DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES (I) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, (II) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, (III) THAT THE SERVICES OR THIRD-PARTY APPS OR CONTENT WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, AND (IV) THAT ANY CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR ALTERED.

13. Limitations of Liability.

WE AND OUR LICENSORS WILL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, REVENUES, CUSTOMERS, OPPORTUNITIES, GOODWILL, USE, OR DATA), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, NEITHER WE NOR ANY OF OUR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) YOUR INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR YOUR

USE OF OR ACCESS TO THE SERVICES, (II) OUR DISCONTINUATION OF ANY OR ALL OF THE SERVICES, OR, (III) WITHOUT LIMITING ANY OBLIGATIONS UNDER THE SERVICE LEVEL AGREEMENTS, ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SERVICES FOR ANY REASON; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (C) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY YOU IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF OR ACCESS TO THE SERVICES; OR (D) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR DATA OR OTHER DATA. IN ANY CASE, EXCEPT FOR PAYMENT OBLIGATIONS UNDER SECTION 9.2, OUR AND OUR LICENSORS' AGGREGATE LIABILITY UNDER THIS AGREEMENT, IF ANY, WILL NOT EXCEED THE AMOUNT YOU ACTUALLY PAY US UNDER THIS AGREEMENT FOR THE BRIGHTPBX-PROVIDED SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 6 MONTHS BEFORE THE LIABILITY AROSE.

14. Modifications to the Agreement.

Unless we have agreed to different terms and conditions in a separately executed Service Order, we may modify this Agreement (including any Policies) at any time by posting a revised version on the BrightPBX Site or by otherwise notifying you; provided, however, that we will provide at least 60 days' advance notice for adverse changes to any Service Level Agreement. Subject to the 60-day advance notice requirement with respect to adverse changes to Service Level Agreements, the modified terms will become effective upon posting or, if we notify you by email, as stated in the email message. By continuing to use the Services after the effective date of any modifications to this Agreement, you agree to be bound by the modified terms. It is your responsibility to check the BrightPBX Site regularly for modifications to this Agreement. We last modified this Agreement on the date listed at the end of this Agreement.

15. Miscellaneous.

15.1. Assignment.

You will not assign or otherwise transfer this Agreement or any of your rights and obligations under this Agreement, without our prior written consent. Any assignment or transfer in violation of this Section 15.1 will be void. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective permitted successors and assigns.

15.2 Entire Agreement.

This Agreement incorporates the Policies by reference and is the entire agreement between you and us regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between you and us, whether written or verbal, regarding the subject matter of this Agreement (but does not supersede prior commitments to purchase Services). We will not be bound by, and

specifically object to, any term, condition or other provision that is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) including, for example, any term, condition or other provision (a) submitted by you in any order, receipt, acceptance, confirmation, correspondence or other document, (b) related to any online registration, response to any request, or (c) related to any invoicing process that you submit or require us to complete. If the terms of this document are inconsistent with the terms contained in any Policy, the terms contained in this document will control, except that the Service Terms will control over this document.

15.3 Force Majeure.

We and our affiliates will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond our reasonable control, including acts of God, labor disputes or other industrial disturbances, electrical or power outages, utilities or other telecommunications or internet service provider failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war ("Force Majeure Events").

15.4 Governing Law.

The laws of Canada, without reference to its conflict-of-law rules, govern this Agreement and any dispute of any sort that might arise between you and us. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

15.5 Independent Contractors; Non-Exclusive Rights.

We and you are independent contractors, and this Agreement will not be construed to create a partnership, joint venture, agency, or employment relationship. Neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other. Both parties reserve the right (a) to develop or have developed for it products, services, concepts, systems, or techniques that are similar to or compete with the products, services, concepts, systems, or techniques developed or contemplated by the other party, and (b) to assist third party developers or systems integrators who may offer products or services which compete with the other party's products or services.

15.6 Confidentiality and Publicity.

- (a) You may use our Confidential Information only in connection with your use of the Services as permitted under this Agreement. You will not disclose BrightPBX Confidential Information during the Term or at any time during the 5-year period following the end of the Term. You will take all reasonable measures to avoid disclosure, dissemination, or unauthorized use of BrightPBX Confidential Information, including, at a minimum, those measures you take to protect your own confidential

information of a similar nature. You will not issue any press release or make any other public communication with respect to this Agreement or your use of the Service Offerings.

- (b) Except as explicitly granted herein, neither party is granted a license or other right (express, implied or otherwise) to use any trademarks, copyrights, service marks, logos, trade names, patents, trade secrets or other form of intellectual property of the other party without their express prior written authorization. Customer agrees that BrightPBX may identify you using your name, trademarks and/or logos in its marketing collateral, presentations, and Sites, provided that Customer may revoke such right with written notice to us at any time.

15.7 No Third-Party Beneficiaries.

This Agreement does not create any third-party beneficiary rights in any individual or entity that is not a party to this Agreement.

15.8 No Waivers.

The failure by us to enforce any provision of this Agreement will not constitute a waiver of such provision or limit our right to enforce such provision at a later time. All waivers by us must be in writing to be effective.

15.9 Severability.

If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to affect the intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement but the rest of the Agreement will remain in full force and effect.

BrightPBX ToS Standard SLA Addendum

1.0 Service Commitment.

BrightPBX will use commercially reasonable efforts to make the Core Services Available, as measured over the course of each calendar month during the Term (each such calendar month, a "Service Period"), at least 99.999% of the time, excluding the time the Core Services are not Available as a result of one or more Exceptions (the "Service Commitment"). The Core Services consist of Customer's End Users' ability to make or receive telephone calls, register devices, or utilize the voicemail feature. "Available" means the Core Services are available and operable for access and use by Customer and its End Users. The Core Services are not considered Available in the event of any "Outage," which occurs when a material number of Customer's End Users cannot make or receive telephone calls, register devices, or utilize the voicemail feature. "Downtime" refers to the total minutes during a Service Period in which the Core Services are not Available for at least a continuous 5-minute period, excluding those minutes attributable to one or more Exceptions, as defined below.

1.1 Exceptions.

No period of Service degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following ("Exceptions"):

- (a) Customer's or any of its End Users' misuse of the Services, violation of BrightPBX AUP, or use of its Services outside an applicable service territory;
- (b) factors outside of BrightPBX's reasonable control, including, without limitation, any Force Majeure Event, carrier-related problems or issues, or Internet access or related problems beyond the demarcation point of BrightPBX or its direct hosting subcontractors (i.e beyond the point in the network where BrightPBX maintains access and control over the BrightPBX Core Services), including, without limitation, failures of Customer's or its End Users' internet connectivity or devices or any third-party Apps, equipment, software, or other technology (other than third-party equipment within BrightPBX direct control);
- (c) any actions or inactions of Customer, your End User(s) or any third party (other than BrightPBX direct hosting subcontractors);
- (d) Customer's or any of its End Users' failure to meet any minimum hardware or software requirements set forth in applicable written specifications;
- (e) Services outside of the Core Services;
- (f) Service degradations that do not affect a material amount of Customer's End Users for at least five continuous minutes;
- (g) BrightPBX's suspension or termination of Customer's right to use the BrightPBX Services in accordance with this Agreement,
- (h) Errors or issues related to Beta Services, or
- (i) Scheduled downtime or maintenance of the Services.

1.2 Service Availability Credit as Sole Remedy for Downtime.

(a) If the actual Availability of the Services is less than the Service Commitment for any Service Period, Customer shall be entitled to a service availability credit ("Service Availability Credit"), which is percentage-based discount of the total fees owed to BrightPBX in the affected Service Period for the affected Service(s) based on the Monthly Uptime Percentage. "Monthly Uptime Percentage" is calculated by subtracting from 100% the percentage of continuous 5-minute periods during the Service Period in which the Core Services was in a state of "Downtime."

(b) Service Availability Credits shall be calculated as follows:
Monthly Uptime Percentage Serve < 99.999%. Service availability credit of 10%

(c) If Customer wishes to request a service credit due to a service availability failure, the Customer must submit a ticket via BrightPBX's support system within 30 days of the affected Service Period. The ticket must include (i) "SLA Claim" as the subject of the ticket; (ii) the dates and times of the Downtime for which you are requesting credit; and (iii) any applicable information that documents the claimed outage. Service Credit shall be issued to Customer's BrightPBX's account balance for future use only. No refunds or cash value will be provided. Service Credits may not be transferred or applied to any other account.

(d) Service Credits shall be your sole and exclusive remedy for any unavailability or non-performance of the BrightPBX's Services or other failure by us to provide the BrightPBX's Services.

BrightPBX ToS
e911 Addendum

THE PARTIES AGREE AS FOLLOWS:

A. DEFINITIONS

For the purposes of this Agreement, the following terms have the meanings ascribed

1. "**ALI**" means Automatic Location Identification, a database feature that displays, respect to a telephone line from which an Enhanced 9-1-1 call originates.
2. "**ANI**" means Automatic Number Identification, a database feature that displays the telephone number of the primary exchange service that originates an Enhanced 9-1-1 call.
- 3 "**CERB**" means Central Emergency Reporting Bureau, a communication centre, which is the first point of reception of 9-1-1 calls. (Sometimes referred to as a Primary PSAP, in other documentation).
4. "**CRTC**" means The Canadian Radio-television and Telecommunications Commission.
5. "**FCC**" means The Federal Communications Commission.
6. "**ESZ**" means Emergency Service Zone, the geographic area served by a fire, police or ambulance service.
7. "**ToSG**" means Master Sheet Address Guide, the database that contains street names, addresses, routing codes and other data required for the management of Selecting Routing and Transfer, ALI, and ANI.
8. "**Remote Agency**" means a communication centre to which emergency calls are transferred from the PSAP, and which will be the Police, Fire or Ambulance agency, within each ESZ, responsible for dispatching emergency personnel.
9. "**PSAP**" means Primary Service Answer Point, a communication

centre, which is the first point of reception of 9-1-1 calls. (Sometimes referred to as a CERB in other documentation).

10. “**Caller ID**” means the originating callers identification number. (ten digit PSTN number)

11. “**VoIP**” means Voice over Internet Protocol.

12. “**end-user**” means a subscriber to the Reseller.

13. “**the commission**” means the CRTC commission of/for telecom rulings.

14. “**termination Telephone Number**” means the North American telephone number provided by BrightPBX to the Reseller (integrated into BrightPBX’s platform) to connect 911 calls originating from the Reseller to Emergency response dispatch. Only end-user numbers of the Reseller will be able to use this number.

15. “**downstreaming/downstream**” means the act of routing a call towards an end point.

B.OBJECT

1. In accordance with the terms and conditions herein contained, the Reseller and BrightPBX agree that BrightPBX will provide end-users of the Reseller VoIP 911 address down-streaming and call transfer to the appropriate Emergency Services Department for and on behalf of the Reseller.

2. the Reseller shall pay BrightPBX, for providing and operating the caller address verification in accordance with the rates and charges as set out in the BrightPBX Terms of Services Agreement.

3. the Reseller shall also pay BrightPBX's reasonable costs associated with this contract for any investigation, inquest, court appearances, etc. made necessary by the negligent act, error or omission of the Reseller, it's employees, agents or customers, at the then current cost.

4. the Reseller shall pay the amount due within thirty (30) days of the invoice date upon receipt of such invoice. On amounts for which payment has not been received the Reseller shall pay interest at the current rate of interest set by BrightPBX from time to time.

5. the Reseller shall take responsibility in outlining VoIP 911 availability, limitations and characteristics outlined by the CRTC to their end-user(s).

6. Should the Reseller default on this agreement or not pay for services, BrightPBX reserves the right to terminate services subject to thirty (30) days written notice and submit the account to a third party for collection. It is understood and agreed that BrightPBX may do so for the entire amount remaining on the contract plus any associated costs it may incur in the process.

7. It is understood & agreed that the 911/VoIP service provided herein shall merge as one service and one may not be discontinued independent of the other during the term of the Agreement.

C. OBLIGATIONS OF BrightPBX

BrightPBX shall:

1. Traffic VoIP 911 calls originating from the Reseller to the specific termination Telephone Number provided by BrightPBX and will be managed by BrightPBX and sent downstream to the appropriate Emergency Services Department Dispatch, BrightPBX will manage and operate all necessary equipment and personnel required to downstream the VoIP 911 call to the appropriate Emergency Services Department Dispatch.

2. Provide, an appropriate connection for the end-user data provided by the Reseller such that the aforementioned user data is terminated to the Emergency Services Department Dispatch, terminal equipment that permits the utilization of "Caller ID."
3. BrightPBX will downstream VoIP 911 calls originating from the Reseller to the appropriate Emergency Services Department Dispatch, twenty-four (24) hours a day, seven (7) days a week, 52 weeks a year.
4. Use its best efforts to provide, whenever reasonably possible, and in response to a particular 9-1-1, the services of a third party for the purpose of providing a Multilanguage interpretation service. However, BrightPBX does not warrant or represent that this multi-language service will always be available or capable of interpreting any particular language and BrightPBX in no way accepts any liability for the acts or omissions of such a third-party nor for its unsuccessful attempt to provide interpretation in any particular instances. If BrightPBX incurs more than \$25.00 in any one month for this service, the additional costs will be passed back to the Reseller at cost plus 10%.
5. Retain voice records of all 9-1-1 calls recorded and an electronic copy of all call detail for one (1) year. BrightPBX is prepared to provide authorized personnel, certified copies of audio recordings and/or copies of call detail data, as it directly pertains to the Reseller's 911 operation for the purposes of civil litigation and/or criminal proceedings. When provided, BrightPBX will retain the original recordings or records until such proceedings are complete.
6. Downstream all 9-1-1 calls to be answered that are directed to the Emergency Services Department Dispatch from all VoIP telephones that the Reseller routes to BrightPBX.
7. Utilizing various databases and best reasonable efforts, BrightPBX shall route and transfer all 9-1-1 calls, to the PSAP based on the address provided by the Reseller. BrightPBX only provides this service in Canada.
8. Maintain control of each 9-1-1 call until such call can be transferred to the appropriate Remote Agency.

9. Provide reports, the frequency and type of which shall be as mutually determined in consultation with the Reseller.

10. BrightPBX states that at the time of signing that it believes that it complies with all laws, regulations, orders and rulings of any court or regulatory authority having jurisdiction over the call routing process. In the event that new laws, regulations, orders or rulings are enacted and additional costs are to be incurred by BrightPBX in order to comply, the Reseller agrees to negotiate in good faith and acting reasonably, whether or not the costs will be borne by BrightPBX, shared with the Reseller or covered in whole by the Reseller. Should such negotiations not be settled in an amicable fashion, either party may terminate the agreement with no penalty.

D. RESPONSIBILITIES OF the Reseller

the Reseller shall:

1. Be responsible for payment for services as referred to in section 2. of this agreement via automated payment from a bank or credit card or other mutually agreed upon method.
2. Provide to BrightPBX the “last known address” for all Caller ID numbers that may be routed to/by BrightPBX as a result of a 911 call. This is an agreement to provide 911 Address Verification and Call transfer service for the Reseller’s end-user(s) where the Reseller has a Canadian sales process and the end-user(s) is a resident of Canada for more than 6 months a year; any charges incurred in connection with non-residents shall be at the cost of the end-user. If the Reseller sends BrightPBX a call for which BrightPBX has no address \$75.00 Note that this fee is subject to change upon BrightPBX’s discretion
3. Immediately advise BrightPBX of all changes that may occur to the associated information as provided about the Caller ID numbers during the term of this Agreement in a format consistent with BrightPBX’s requirements.
4. Upon the registration of a new and/or any end-user(s) the Reseller is guaranteeing and agreeing to notify that end-user(s) that 911 calls will be available immediately, but must understand that for a period of no less than 48 hours the Resellers submitted

user data may not be readily available in the PSAP databases for verification purpose and the end-user will need to be informed to either be ready to confirm their current location and/or address information, or have an additional method of contacting Emergency Response Personnel.

5. Agrees to keep the 911 termination Telephone Number confidential and out of third party range. Should the termination Telephone Number be compromised by Customer, it's employees, agents or volunteers, the severity of intrusion will be assessed by BrightPBX and the Reseller will be fined based on the assessment by BrightPBX, then as a term BrightPBX may terminate the contract with the Reseller

6. Deleted Intentionally

7. Will take responsibility to ensure end-user(s) have access to an online address submission system as mandated by the CRTC in Telecom Decision 2010-387 paragraph 43 and are made aware of such availability. the Reseller takes full responsibility to ensure end-user(s) submissions are correct, accurate, and up to date, and must note that the API provided to the Reseller by BrightPBX cannot be used under any circumstances as an end-user(s) submission solution, as the Reseller continues liability and responsibility for all submissions in entirety. *(43) Require VoIP service providers to allow their customers to update online their most likely physical address.*

8. Will ensure and are required to provide a twenty-four (24) hours a day, seven (7) days a week, 52 weeks a year contact for Emergency Services Department Dispatch and BrightPBX to contact in case of but not limited to situations where the end-user submitted address information provided by the Reseller is either invalid or missing for a VoIP call and the PSAP requires contact with the Reseller to gather end-user(s) address or alternative contact information.

9. Take on full responsibility of abiding by and fulfilling the criteria based on the CRTC rulings regarding Voice over Internet Protocol (VoIP) 911. Specifically the following rulings but are not limited to and will include future Telecom Decisions and Directives that are imposed on the Reseller by the CRTC:

Telecom Decision

2005-21, Telecom
Decision 2005-61,
Telecom Decision
2005-28, Telecom
Decision 2007-44,
Telecom Decision
2005-15, Telecom
Decision 2010-387,

These rulings impose 911 obligations on the providers that provide VoIP services to end-user of the Reseller.

10. Must abide by Telecom Decision 2005-21 Paragraph 99 of that Decision, the Commission directs all Canadian Carriers as follows: Must abide by Telecom Decision 2005-21 Paragraph 99 of that Decision, the Commission directs all Canadian Carriers as follows: *(99) The Commission directs all Canadian carriers, as a condition of providing telecommunications services to local VoIP service providers, to include in their service contracts or other arrangements with these service providers, the requirement that the latter abide by the directions set out in paragraphs 93, 94, 96, and 98.*

11. Must abide by Telecom Decision 2005-21 Paragraph 93 by providing directions concerning initial customer notification as follows: *(93) Accordingly, the Commission directs all Canadian carriers offering local VoIP services to provide initial customer notification, regarding any limitations that may exist with respect to 9-1-1/E9-1-1 service, before service commencement. This information is to be made available through all of the following: marketing material used for television, radio and printed media, the terms and conditions of service, on-line material, customer service representatives, service contracts and starter kits.*

12. Must abide by Telecom Decision 2005-21 Paragraph 94 by providing further on going notification directions: *(94) The Commission further directs all Canadian carriers offering local VoIP service to provide on-going customer notification during service provision through all of the following: marketing material used for television, radio and printed media, the terms and conditions of service, on-line material, customer service representatives, warning stickers affixed to telephone sets and billing inserts.*

13. Must abide by Telecom Decision 2005-21 Paragraph(s) 96 and 98 the CRTC Commission directs providers of VoIP services to ensure that customers understand any VoIP 911 service limitations by providing consent: (96) *The Commission notes some parties' concerns that customers may not fully understand the 9-1-1/E9-1-1 service limitations, as provided to them in the notification prior to service commencement. The Commission considers it appropriate to require local VoIP service providers to obtain express customer consent, by which a customer would acknowledge his/her understanding of this notification. (98) In cases where there are limitations on VoIP 9-1-1/E9-1-1 service, the Commission directs Canadian carriers offering local VoIP services to obtain, prior to commencement of service, the Reseller's express consent, by which the Reseller acknowledges his/her understanding of the 9-1-1/E9-1-1 service limitations, using one of the methods approved in Decision 2005-15 (outlined in Telecom Decision 2005-21 Paragraph 97). To ensure that information regarding limitations on 9-1-1/E9-1-1 service is accessible to persons with visual disabilities, all customer notification, and any printed information used to secure the express customer consent, must be provided in alternative formats (e.g., Braille and large print), upon request. Furthermore, to ensure that such documentation is accessible to persons with cognitive disabilities, local VoIP service providers are required, at a minimum, to explain it, upon request.*

14. Must abide by Telecom Decision 2005-61 Paragraph 9 where the commission reflects that a yearly update to all clients and end-users needs to be made: (9) *Each VoIP service provider must communicate the Reseller notification objectives in paragraph 5 and the user tips in paragraph 7 to its existing customers at least once per 12 month period. These are minimum requirements only, and a VoIP service provider may elect to use the forms of communication for additional customer notification objectives.*

15. Must abide by Telecom Decision 2005-61 Paragraph 7 where the commission provides 'Tips' to reflect limitations of service and appropriate customer notification avenues, and that limitations and notification avenues must be reiterated to the Reseller: (7) *Each VoIP service provider shall be responsible to develop its own language for the user tips to reflect the characteristics of its service. The user tips could include, but need not be necessarily limited to, the following topics:*

** VoIP 9-1-1 service has certain limitations relative to Enhanced 9-1-1 service that is available on most traditional telephone service; * To be prepared to confirm your location and call-back number with the operator who answers the 9-1-1 call since the operator may not have this information; * That 9-1-1 service may not be available during a power outage and will be unavailable during a broadband Internet outage; * The necessity of ensuring that your location information is kept current with your VoIP service provider since the operator may assume that you are at the last registered address if you are not able to speak during a 9-1-1 call; * To not hang up until told to do so, and to call back if you get disconnected; and * To ensure that you understand any 9-1-1 limitations of your VoIP service and that you make all other potential users of the service aware of these limitations.*

16. Must abide by Telecom Decision 2005-61 Paragraph 5 that as a VoIP service provider the Reseller must outline the availability, characteristics and limitations of VoIP 911. (5) *The information provided by a VoIP service provider to outline the availability, characteristics and limitations of the service provider's VoIP 9-1-1 service in Canada must meet at a minimum, the first and, as appropriate in relation to the communications medium used, the remaining consumer notification objectives listed below:*

** VoIP 9-1-1 service has certain limitations relative to Enhanced 9-1-1 service that is available on most traditional telephone service; *The circumstances in which 9-1-1 service would or would not be available; *The nature of the 9-1-1 service that is provided and on what conditions; *Material differences between the 9-1-1 service that is provided and traditional E9-1-1 service; *Measures that should be taken by a 9-1-1 caller as a result of such differences; *The obligation of the subscriber to the VoIP service to inform all users and potential users of the VoIP service of the nature and limitations of the 9-1-1 service; and * Applicable limitations of liability.*

17. Must abide by Telecom Decision 2005-21 Paragraph 97 where the CRTC Commission provided a number of acceptable measures for use by service providers to ensure that the Reseller's express consent has been given, and is understood. The use of any one of these measures is sufficient for these purposes:

*(97) *written consent; *oral confirmation verified by an independent third party; *electronic confirmation through the use of a toll-free number; *electronic confirmation via the internet; *oral consent, where an audio recording of the consent is retained by the carrier; or, *consent through other methods, as long as an objective documented record of customer *consent is created by the Reseller or by an independent third party*

18. Take on all liabilities and responsibilities for ensuring that end-user(s) are fully informed of the VoIP 911 availability, limitations and characteristics outlined by the CRTC.

19. Will inform the end-user that prior to and upon VoIP 911 service activation there is a 48 hour period after the activation of their VoIP 911 service that their address information may not be in the emergency services database, so the end-user needs to be prepared to tell the emergency services respondent the address they are calling from.

20. Take on all liabilities and responsibilities of providing VoIP 911 as outlined by the CRTC for ensuring that all end-user(s) data is correct, accurate and up to date.

21. Take on all liabilities and responsibilities of providing VoIP 911 where the end-user(s) data be one of or any situation where the end-user data incorrect, inaccurate, and/or not up to date as outlined, by rectifying the error.

22. Provide an online tool for end-users to permanently update their address information.

E. LIMITATION OF LIABILITY

1. the Reseller understands and agrees that BrightPBX assumes no risk of any damage, loss or injury or expense that may result as a failure of any 911 call to reach the intended party or to be connected in a timely manner unless due solely to the negligence or willfully misconduct of BrightPBX.

2. In the event of any claims for injury, loss or damage caused by or contributed to by the Reseller, it's employees, agents or volunteers, Customer shall rely upon it's own resources or those of their liability insurers for indemnification and shall indemnify and hold BrightPBX harmless against any claims, costs or actions for any such injury, loss or damage;

3. Without limiting the generality of the foregoing, under no circumstances shall BrightPBX be responsible for any loss, damage, costs or expense suffered by the Reseller or any third party unless due solely to the negligence or willful misconduct of BrightPBX.; nor does any warranty, implied or expressed, given by BrightPBX cover any of the following; (a) any error or omission in any act or services required to be done or provided by the Reseller; or (b) power failure, power surges, or failure of telephone network transmission lines or equipment.

1. FORCE MAJEURE

1. BrightPBX shall not be held responsible for any damages or delays as a result of war, terrorist activity, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, strikes and generally as a result of any event that is beyond BrightPBX's reasonable control.

2. Neither party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement where such delay or failure is caused by an event beyond its reasonable control. If a party seeks to excuse itself from its obligations under this Agreement due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non performance.

3. In the event that "Remote Agency" refuses the call and/or the caller is not at the "last known address," BrightPBX shall not be held responsible for any damages or delays when using their best efforts to locate the most appropriate Police/Fire/Ambulance agency to route the call to.

2. IMPLEMENTATION

1. BrightPBX and the Reseller agree that the operation of the Emergency Services Department shall be carried out pursuant to an implementation schedule to be mutually agreed upon by the parties and which may only be changed from time to time by written agreement of the parties.

3. CONFIDENTIALITY

1. BrightPBX and the Reseller agree to abide by all applicable legislation with respect to the protection of privacy in effect from time to time.

2. Both parties agree to use any and all data and information whether in written, machine readable or other tangible form, or disclosed orally, that is of value to the disclosing party, is not generally known to competitors of the disclosing party, and which is communicated to another party in contemplation of this Agreement (the "Confidential Information") disclosed to them (the "Recipient") by the other party (the "Disclosing Party") **(a)** only for the purposes of, and in connection with, the performance of their obligations under this Agreement and, for greater certainty, not use Confidential Information for competitive purposes; and **(b)** hold the Confidential Information in confidence, with at least the same degree of care with which it protects its own confidential or proprietary information, and at a minimum in accordance with reasonably prudent standards. The restrictions in this Agreement on use and disclosure of Confidential Information shall not apply to information that: **(c)** shall become generally known through no act of the Recipient or is in the public domain or subsequently enters the public domain other than through unauthorized disclosure by the Recipient; **(d)** was disclosed to the Recipient on a non-confidential basis by a third party having lawful possession and the right to make such disclosure, who was not under an obligation of confidence regarding the information, who was not identified to the Recipient as an agent of the Disclosing Party and provided that the Recipient would not reasonably expect that such third party had obtained such information in a confidential manner from the Disclosing Party; **(e)** was in the legitimate possession of the Recipient prior to its disclosure hereunder, as evidenced by appropriate records; **(f)** is independently developed by the Recipient in the future without use of the Confidential Information, as evidenced by appropriate records; **(g)** is approved in writing by the Disclosing Party for release or

other use by Recipient according to the terms set out in such written approval; or **(h)** upon request for purpose of regulation, program approval examination, or investigation upon order by applicable provincial or federal regulatory agencies and authorities, to the extent required by law or judicial or administrative process, provided that the Disclosing Party is given prior written notice of such order or law and given the opportunity to seek a protective order against such disclosure.

4. DISPUTES

1. In the event of disputes between the parties, representatives of each party agree to meet to resolve the dispute. Failing such resolution the matter is to be referred to mediation and arbitration services.

5. TERM AND RENEWAL

1. This Agreement shall be effective, renew and terminate in conjunction with the BrightPBX Terms of Services Agreement.

2. Implementation of the VoIP 911 caller address verification and call transfer by BrightPBX will occur on the above date unless moved forward or back as mutually agreed.

3. On an annual basis (January 1st) the rate may be adjusted by the Consumer Price Index (CPI).

6. WAIVER

1. The failure of any party to this Agreement to enforce at any time any of the provisions of this Agreement or any of its rights in respect thereto or to insist upon strict adherence to any term of this Agreement shall not be considered to be a waiver of such provision, right or term or in any way to affect the validity of this Agreement.

2. The exercise by any party to this Agreement of any right provided by this Agreement shall not preclude or prejudice such party from exercising any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

3. Any waiver by any party hereto of the performance of any of the provisions of this Agreement shall be effective only if in writing and signed by a duly authorized representative of such party.

7. SUCCESSORS AND ASSIGNS

1. This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

2. BrightPBX and the Reseller may assign or contract their responsibilities as contained in this agreement.

3. BrightPBX and the Reseller shall perform their responsibilities hereunder in compliance with applicable laws.

8. INTERPRETATION

1. If any term of this Agreement shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining terms shall remain in full force and effect.

2. The section headings contained herein are for purposes of convenience only, and shall not be deemed to constitute a part of this Agreement or to affect the meaning or interpretation of this Agreement in any way.

9. NOTICE

1. Any notice required pursuant to this Agreement shall be in writing and delivered personally, faxed or sent by registered mail (with proper postage) to the following addresses:

To BrightPBX

BrightPBX Corp

1000 Innovation Drive, Suite 500
Kanata, Ontario. K2K 3E7

Or to such other addresses either of the parties may indicate in writing to the other.

Any notice given in accordance with this shall be deemed to have been received upon delivery if delivered personally, or five (5) days after mailing, or on the Business Day following the day of facsimile transmission if sent by Fax.

10. ENTIRE AGREEMENT

1. Except as otherwise stated herein, this Agreement constitutes the entire agreement of the parties, with respect to the provision and operation of the Emergency Services Department and supersedes any previous agreement whether written or verbal. Should any provision or any part of any provision, of this Agreement be declared null, void or inoperative, the remainder of the Agreement shall remain in full force and effect and shall be interpreted as a complete entity.

11. RELATIONSHIP OF THE PARTIES

1. The parties hereto do not intend this Agreement or the relationship established hereunder to constitute a partnership, joint venture, relationship of franchiser and franchisee, relationship of principal and agent, or relationship of employer and employee, between BrightPBX and the Reseller or between BrightPBX and any officers, directors, employees, agents, clients or contractors of the Reseller. the Reseller shall have no obligation or authority to bind BrightPBX or to assume or create any obligation or responsibility, expressed or implied, on BrightPBX's behalf, or in its name, nor shall it represent to anyone that it has such power or authority and vice versa.

12. JURISDICTION

1 This Agreement shall be governed by and interpreted under the laws of the Province of Ontario.