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Rye Brook, NY 10573
800-405-2200

Product-Specific Terms & Conditions

OFFICESUITE® SERVICE

(Capitalized terms herein shall have the same meaning as such capitalized term shall have in the Master Terms and Conditions)

Term: The Term shall commence on the earlier of (i) the date the Services are activated by Customer or Company, or (ii) fifteen (15) days after written notice by Company of its readiness to schedule service turn-up. The Term shall be minimally twelve (12) months or longer, as set forth in the Order Form. Billing shall commence on the commencement of the Term.

Early Termination:

- (a) **All Customers:** A Restocking Fee will be assessed on each OfficeSuite® handset returned prior to expiration of the Term per the following schedule:

<u>Months remaining in Term</u>	<u>Restocking Fee per Phone</u>
More than 12 months	\$149
12 months or less	\$99

If returned phones are accompanied with a renewal of Term, the following schedule applies:

<u>Months remaining in Term</u>	<u>Restocking Fee per Phone</u>
More than 18 months	\$149
18 months or less but more than 12 months	\$99
12 months or less but more than 3 months	\$49
3 months or less	\$0

No charge for standard shipping and return shipping of replaced phones. Customer installs replaced phones. Any dispatch for installation of replaced phones is subject to additional charges.

- (b) **Service Provided with Access.**

If Customer cancels an order for OfficeSuite® Service before Company has accepted a circuit on Customer's behalf, Customer shall be subject to a \$2,000 Order Cancellation Fee for each canceled circuit.

For Cable Modem Subscribers, If Customer cancels order before the Vendor Establishment Date, defined as the date Broadview Networks or third party

accepted the circuit from Vendor on Customer's behalf, Customer is subject to a \$100 Order Cancellation Fee for each canceled circuit.

If Customer cancels an order after Company has accepted a circuit on Customer's behalf but before installation is complete, Customer shall be subject to an Early Cancellation Fee for each terminated Service in an amount equal to the Monthly Recurring Charge (MRC) for the OfficeSuite[®] Service multiplied by the number of months remaining in the then-current Term.

If Customer terminates OfficeSuite[®] Service, in whole or in part, or if Company terminates OfficeSuite[®] Service for Cause, before the expiration of the Term, Customer shall be subject to an Early Cancellation Fee for each terminated Service in an amount equal to the MRC for the Service multiplied by the number of months remaining in the then-current Term.

(c) Service Provided without Access.

If Customer cancels order before Service start date, Customer is subject to a \$100 Order Cancellation Fee for each canceled circuit.

If Customer terminates OfficeSuite[®] Service, in whole or in part, or if Company terminates OfficeSuite[®] Service for Cause, before the expiration of the Term, Customer shall be subject to an Early Cancellation Fee for each terminated Service in an amount equal to the MRC for the Service multiplied by the number of months remaining in the then-current Term.

(d) Order Cancellation and Early Cancellation Fees shall be immediately due and payable upon order cancellation or Service Termination.

Termination:

(a) In the event Customer elects to disconnect a circuit, Customer shall provide written notice to Company using a Company-provided Letter of Disconnect (available at www.ecareenterprise.com), which shall be effective thirty (30) days from the date of Company's receipt thereof.

(b) All Company-provided equipment must be returned in good working order, normal wear and tear excepted. Customer shall ship equipment to Company within three (3) business days of disconnection of the OfficeSuite[®] Services. For equipment not returned, Customer shall be liable for the full retail value or, in Company's discretion, the replacement value of the equipment. Company-provided equipment remains the property of Company.

- (c) Upon termination, Customer agrees to relinquish any IP addresses or address blocks assigned to Customer by Broadview.
- (d) Upon Termination, any additional fax, toll free, and/or HD Meeting services provided in conjunction with your OfficeSuite® Service will also be terminated unless Customer requests the services continue at then current retail rates.

Customer Obligations:

- (a) Customer must supply a 120 VAC receptacle for Customer Premises Equipment (CPE). Networking protocol must be TCP/IP. Customer must supply own Ethernet hub or router and connect it to the Company CPE and ensure there is an available port. Each PC MUST have a Network Interface Controller (NIC) card installed (Customer must supply and install NIC card if missing). Company does not support Customer's PC's or LAN unless contracted separately via Professional Services Agreement. Company does not connect PC's and/or hubs to the CPE nor configure PC's to work on a network.
- (b) Customer MUST provide a fully switched 100 Mb/s Ethernet LAN without hubs, with CAT5 wiring or better throughout, and provide LAN ports and 115 VAC receptacles for all phones.
- (c) The port capacity of the switch must accommodate the OfficeSuite® phones that are to be connected and any other devices running on this LAN segment including servers, printers, standalone computers, etc.
- (d) If necessary, Broadview Networks will make commercially reasonable efforts to have the CPE installed at a specific location at the site, i.e. the DMARC location. However, additional inside wiring costs may be required, with prior customer approval. Cross-Connect(s) between Broadview Networks and customer cross-connect block is not included. Any additional inside wiring required at the time of installation will be billable at a rate of \$75 per 30 minute increment(s), 1 hr. minimum, plus the cost of materials.
- (e) If Customer orders a Power over Ethernet (PoE) switch, configuration of Customer's Virtual Local Area Network (VLAN) by Broadview will require a separate Broadview Professional Services Agreement to be executed and will be processed through a separate Order.

OfficeSuite® Wi-Fi Adapter Customer Requirements:

Customers must have an existing Wi-Fi network with sufficient available bandwidth. Appropriate routing or DHCP/IP addressing must be in place from the wireless network either to the Internet (for OfficeSuite® FlexConnect) or to the main voice LAN of the Broadview router (OfficeSuite®). Customer must have one or more local area networks that share a single internet connection at each location. No more than 10 adapters per wireless network. Customer must provide Broadview with their SSID and password.

Wi-Fi Adapter Important Notes:

- (a) Maximum wireless signal rates are derived from IEEE standard 802.11 specifications.
- (b) Actual data throughput will vary.
- (c) Network conditions and environmental factors, including volume of network traffic, building materials and construction, and network overhead, may lower actual data throughput rates and may affect voice quality.
- (d) Wi-Fi Adapter Service is NOT available in medical facilities, schools, or emergency services (police, fire, or ambulance).

Installation:

- (a) **OfficeSuite® Service Generally:** Due date for service is approximately sixty (60) business days from the date of the order. Customer must accept both voice and data services on the installation date or no services will be provisioned and Customer will be assessed \$149 Missed Appointment Fee. If a Site Survey is required and performed a **\$150** fee is applied. OfficeSuite® Service includes use of Broadview-owned Integrated Access Device (IAD) for duration of the Term at no additional charge. IP router functionality is configured with one static, routable IP address and Network Address Translation (NAT) enabled.
- (b) **OfficeSuite® Service Delivered via Switched Ethernet:** Due date for service is approximately one hundred and twenty (120) days from the date of the order. Customer must accept the Internet Access services on installation date or Customer will be assessed a \$149 Missed Appointment Fee and billing will commence. If Internet is selected, the port is provisioned via the Ethernet facility from the Demarc to the Public Internet. This includes fiber local loop to the port and a 100 Mbps commitment of IP hand-off, rate limited to the chosen speed. Construction costs may apply.
- (c) **OfficeSuite® Service Delivered via Cable Modem:** Cable Modem Service provides Customer with a direct internet connection and one static IP address. Service is not assured until Service is installed and operable. Cable Modem Service is a "commercially reasonable effort" meaning that Broadview does not guarantee bandwidth or speeds. If technician is turned away at Customer Premises at time of cable modem delivery, Customer will incur a seventy-five dollar (\$75) re-scheduling fee.

Services:

- (a) OfficeSuite® calling plans include packages of local, regional and nationwide calling, as well as calls to Canada, Puerto Rico and the U.S. Virgin Islands. Calls in excess of 150,000 minutes per site per month shall be levied an overage rate based on term commitment as follows: one year term: \$.05/min, two (2) year term: \$0.034/min., three (3) year term: \$0.029/min., five (5) year term: \$0.027/min. International calls will be charged at a per minute rate per Company's Basic International calling plan unless another plan is selected at the time of order. Sale of Office Suite® Services is

contingent upon Customer subscribing to Company's local, regional, long distance and Internet access services for a minimum quantity of four (4) Simultaneous Call Capacities and six (6) IP Phones and subscribing to these services throughout the full service term. Customers that provide their own Internet access must subscribe for a minimum quantity of four (4) Simultaneous Call Capacities and four (4) IP Phones, except Small Office and Professional Plan offer delivered via Customer-provided access requires only (1) IP Phone.

(b) Monthly fees for OfficeSuite® Service with Access include up to four (4) routable IP addresses at no additional charge unless otherwise noted by transport type elsewhere in these terms.

(c) Customers that include the phones in their monthly recurring charge from Broadview Networks are provided with repair and replacement coverage for the duration of their OfficeSuite® Services period. For phones purchased from Broadview Networks, the coverage period is one year from the Service Start Date. Customers will not be charged for repair or replacement of defective phones covered under this policy provided they are returned to Broadview Networks and are not damaged beyond reasonable wear and tear or through fault by the Customer.

(d) OfficeSuite® Professional plan includes Mobile Twinning service at no additional charge for the duration of the service period. All other OfficeSuite® plans include three (3) months of Mobile Twinning service at no additional charge. The normal monthly fee of \$5 per Mobile Twinning user will commence with your fourth (4th) invoice. You may cancel this Service at any time.

(e) OfficeSuite® Phone Professional plan includes one Toll Free Number with 1,000 inbound minutes of use per month at no additional charge. Calls in excess of 1,000 minutes per month shall be levied an overage rate of \$0.030/min. After the third month of service, the Toll Free Number will incur a \$1 charge, if billed usage is less than \$1. You may cancel this Plan at any time.

(f) Internet bandwidth bursts up to the full provisioned bandwidth available when voice lines are not in use.

(g) Call Recordings for Call Center Services are available for a rolling thirty 30 day period. Customer will be billed monthly at \$10 per GB of capacity used to store call recordings.

(h) Call Recordings for Extension Call Recording are available for a rolling thirty 30 day period. Customer receives the first 1GB of storage free and will be billed monthly at \$10 per GB of capacity used to store call recordings.

(i) Thirty (30) days after Customer's Agreement has terminated or the Customer's subscription for OfficeSuite® Call Center Services Contact Center is cancelled, Broadview is under no obligation to store Customer's recording data.

Training:

- (a) Training for OfficeSuite® Call Center Services eQueues: Customer will be charged \$250 for OfficeSuite® Call Center Services training, which includes a 2.5 hour web conference. Additional training can be purchased for an additional \$100 per hour.
- (b) Training for OfficeSuite® Call Center Services Contact Center: Customer will be charged \$350 for OfficeSuite® Call Center Services with Call Recording training, which includes a 3 hour web conference. Additional training can be purchased for an additional \$100 per hour.

Support:

- (a) Customer's Tenant Administrator is provided with sixty (60) days of support via the OfficeSuite® toll-free support line at no additional charge. After sixty (60) days, any calls into OfficeSuite® support for functions that can be performed by the Tenant Administrator via the OfficeSuite® portal will be billed \$40 for the first thirty (30) minutes plus \$25 per fifteen (15) minute period thereafter.
- (b) If "Outsourced Tenant Support" is purchased, Company will perform all Tenant Administration duties for an additional \$10 per user, per month. (Outsourced tenant support is not available with OfficeSuite® ACD or OfficeSuite® ACD with Call Recording.)

Service Quality:

(a) Service Level Assurance for Cable Modem.

Broadview Networks ("Broadview") Network Availability Objective is to make the Broadview Network available to its eligible Dedicated Service(s) Customers 99.99% of the time, subject to the conditions and restrictions set forth below.

This Network Availability Objective covers all Broadview Managed: (1) Dedicated Services & Facilities (including access). (2) Hardware, CPE, and Software Platforms/Systems. (3) Physical plant and "Core" infrastructure facilities. The Network Availability Objective calculations will not include any unavailability that Dedicated Service(s) Customers fail to report to Broadview immediately upon a service outage by initiating a trouble ticket, or any unavailability resulting from: (a) standard Broadview Network maintenance, (b) any Customer and/or 3rd party ordered facilities and/or provided hardware, (c) Customer controlled applications and/or equipment, (d) acts or omissions of Dedicated Service(s) Customer, or any use or user of the service authorized by Customer or (e) reasons of Force Majeure as defined in Agreement.

(b) Service Level Assurance for Data Products (not MPLS, FlexConnect or Cable Modem)

Company's Network Availability Objective is to make the Company network available to its eligible Dedicated Service(s) Customers 99.99% of the time, subject to the conditions and restrictions set forth below.

This *Network Availability Objective* covers all Company Managed: (1) Dedicated Services & Facilities (including access). (2) Hardware, CPE, and Software Platforms/Systems. (3) Physical plant and "Core" infrastructure facilities. The Network Availability Objective calculations will not include any unavailability that Dedicated Service(s) Customers fail to report to Broadview immediately upon a service outage by initiating a trouble ticket, or any unavailability resulting from: (a) standard Company maintenance, (b) any Customer and/or 3rd party ordered facilities and/or provided hardware, (c) Customer controlled applications and/or equipment, (d) acts or omissions of Customer, or any use or user of the service authorized by Customer or (e) reasons of Force Majeure as defined in Agreement.

In the event Company fails to meet the *Network Availability Objective* for any given month, Customers may request an "Outage Credit" of five percent (5%) of the applicable MRC for each calendar day in which an outage of thirty (30) minutes or more occurs. Customer's request must be issued within thirty (30) calendar days of Outage, and any "Outage Credit" shall be credited on Customer's next monthly invoice. In no event shall Broadview liability for "Outage Credits" exceed one hundred percent (100%) of the affected MRC(s).

(c) Service Level Assurance for OfficeSuite® Call Center Services: In the event that OfficeSuite® Call Center Services is unavailable for more than thirty continuous minutes during any given month, reported by Customer via Trouble Ticket and verified by Company, Customer may request an "Outage Credit" of five percent (5%) of the applicable feature monthly recurring charge ("FMRC") for each calendar day in which an outage of thirty (30) minutes or more occurs. In the event recorded calls are unavailable during the thirty (30) day rolling period, reported by Customer via Trouble Ticket and verified by Broadview, Customer may request an "Outage Credit" of five percent (5%) of the of the applicable FMRC. Customer's written request must be received within thirty (30) calendar days of the Outage, and any "Outage Credit" shall be credited on Customer's next monthly invoice. In no event shall Broadview liability for "Outage Credits" exceed one hundred (100%) of the affected FMRC(s).

(d) Port Availability for OfficeSuite® and SIP services (not CPA or Cable Modem): Is a measurement of the total time that OfficeSuite® or SIP Service is operative when measured over a thirty (30) day month (or 720 hour) period (hereinafter "Month").

OfficeSuite® or SIP Service is considered inoperative when Customer cannot exchange IP Packets over the Broadview OfficeSuite® or SIP network. Port Availability objective is 99.99%.

- (e) **Latency for OfficeSuite® and SIP services (not CPA or Cable Modem):** Latency is the average round trip time, measured over a Month, required for an IP packet (100 bytes) to travel between "Core" IP POP's. Latency objective on the Broadview OfficeSuite® or SIP network is for an average round trip time of forty-five (45) ms.
- (f) **Packet Delivery for OfficeSuite® or SIP and SIP services (not CPA or Cable Modem):** Packet delivery is the successful delivery of packets between any two (2) customer ports on the Company OfficeSuite® or SIP network, measured by the percentage of one hundred (100) byte packets delivered at five (5) iterations of one hundred (100) trials, averaged over a Month. Packet Delivery objective is 99%.
- (g) **Jitter for OfficeSuite® and SIP services (not CPA or Cable Modem):** Jitter is a measurement of the standard deviation of latency averaged over a Month, required for an IP packet (100 bytes) to travel between "Core" IP POP's. Jitter objective is for standard deviation of latency not to exceed fifteen (15) ms.

Cable Modem CPE Warranty.

For Broadview-provided Cable modems (hereinafter "Customer premises equipment" or "CPE"), Broadview or its agent may supply new or re-certified equipment. Broadview provides an equipment warranty for the Broadview- provided CPE for 12 months from the date of installation. At Broadview's discretion, any equipment Broadview or its agents supplies as replacement equipment (e.g., for warranty purposes) may be new, re-certified or refurbished. Any equipment supplied as replacement equipment will carry the remainder of the original CPE warranty. Title to the CPE shall remain with Broadview or its vendors. Customer shall not modify the equipment or permit the equipment to be modified (other than by Broadview authorized personnel).

Warranty Exclusions

Broadview warranty obligations under this Agreement exclude provision of consumable supplies, repair or replacement of equipment failures or malfunctions caused by Customer provided equipment or by improper installation, operations, or maintenance by other than Broadview authorized representatives, relocation or modification by Customer or others not under Broadview's control, failure or interruption of Customer-provided broadband communications or electrical power, accident, fire, lightning, snow, ice, snow/ice removal, or other hazards beyond normal range of use, vandalism, trouble calls where no problem is found and the reported problem does not repeat within five calendar days, or failures or malfunctions resulting from exposure of the equipment to conditions beyond its normal operating parameters. Any such failures and malfunctions will be repaired on a commercially reasonable effort basis by the underlying service provider. The fees for such dispatches will be passed through and are payable by Customer.

Service Credits:

- (a) Customer acknowledges the possibility of an unscheduled, continuous and/or interrupted period of time during which OfficeSuite® Service does not conform to SLA objectives as set forth above. An Outage shall begin upon immediate notice (trouble ticket initiated) from Customer, provided that Customer has released all or part of the OfficeSuite® Service for testing if requested by Company to do so. In the event Company fails to conform to SLA objectives as set forth above, Customer shall be entitled to an "Outage Credit" upon request. Company must receive Customer's request within thirty (30) calendar days of Outage, and any "Outage Credit" shall be credited on Customer's next monthly invoice. If Company does not receive Customer's request within such thirty (30) calendar day period, Customer shall be deemed to waive its right to the "Outage Credit".
- (b) The amount of any applicable "Outage Credit" for OfficeSuite® Service shall be calculated as follows: Port Availability, Latency, Packet Delivery and Jitter, for any given month, OfficeSuite® Customers may request an "Outage Credit" of 5% of the applicable MRC for each calendar day in which affected OfficeSuite® Port(s) fail(s) to conform for thirty (30) minutes or more, with the SLA objective criteria set forth above. In no event shall Broadview's liability for an Outage exceed one hundred (100%) of the MRC for the affected MRC(s).
- (c) Because a service interruption can affect several SLA's at the same time, Company shall only issue an "Outage Credit" for one (1) missed SLA objective for availability on the same port within the same calendar month. If Customer is utilizing Company's Dedicated Internet Access Service ("DIA") with its OfficeSuite® Service and Customer experiences an Outage impacting both OfficeSuite® and DIA Services, Customer shall only be entitled to seek a single "Outage Credit" pursuant to this Schedule.
- (d) Customer shall not receive an "Outage Credit" if the Outage is: (i) caused by Customer or others authorized by Customer to use the OfficeSuite® Service under the Agreement, including the failure to comply with all installation requirements including environmental requirements for the applicable equipment; (ii) due to the failure of power, facilities, equipment, systems or connections not provided by Company; (iii) the result of network maintenance activity, or (iv) due to a Force Majeure event as defined in the Agreement; (v) due to bandwidth saturation or other resource exhaustion or outage caused by malicious traffic such as Viruses, Worms, Trojan horses, Denial of Service (DOS) attacks, etc; (vi) due to service suspension for non-payment; or (vii) the customer is in breach of its obligations under the Agreement; or (viii) customer knowingly or unknowingly attempts to alter or manipulate QoS policies, routing or signaling protocols, or other parameters necessary to the Service. Customer's exclusive remedy for failure to achieve any of the SLA objectives contained herein shall be Outage Credits on Customer's monthly invoice.

For OfficeSuite® Professional FlexConnect Bundle Customers ONLY:

OfficeSuite® Professional FlexConnect Bundle 30-Day Money-Back Guarantee: If you are unsatisfied with the quality of our service, have opened a trouble ticket with us, allowed us to troubleshoot the issue, and it is not resolved to your satisfaction, you may return the phones and related equipment within the first 30 days after installation without Early Termination Fees including the Handset Return Fee(s).* Until the phones are returned, you will still be responsible for monthly service fees and applicable usage charge, including charges for international minutes. This guarantee is available only to Customers who port local numbers to OfficeSuite®, and, within the 30-day period, return equipment in new condition following Broadview's shipping instructions. Only one Satisfaction Guarantee per Customer. Guarantee does not apply to temporary service, including use in a construction trailer, conference/convention or political campaign office(s). Customer is responsible for shipping, handling and, if Broadview installed the OfficeSuite® service, the full price of the installation charges. Up to 20 stations and only available on OfficeSuite® Professional FlexConnect Bundle.

SPECIAL PROVISIONS FOR OfficeSuite® over Fiber To The Internet (FTTI) Transport

EUSA TERMS:

A. NO WARRANTIES. WE DO NOT GUARANTEE THAT SERVICE CAN BE PROVISIONED TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE. THE PROVISIONING, PERFORMANCE AND SPEED OF THE SERVICE ARE SUBJECT TO CIRCUIT OR OTHER NETWORK FACILITY AVAILABILITY AND OTHER FACTORS, INCLUDING WITHOUT LIMITATION, LOOP LENGTH AND CONDITION, THE CONDITION OF WIRING INSIDE YOUR LOCATION, COMPUTER OR DEVICE CONFIGURATIONS AND CAPABILITIES, AS WELL AS NETWORK OR INTERNET CONGESTION, AMONG OTHER FACTORS. IN THE EVENT YOUR SERVICE IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR WE SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT (OTHER THAN YOUR OBLIGATION TO RETURN ANY EQUIPMENT PROVIDED TO YOU). WE DO NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED BY US WILL MEET YOUR NEEDS, PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE.

ADVICE OR INFORMATION GIVEN BY US OR ANY OF OUR REPRESENTATIVES, SUPPLIERS, SUBCONTRACTORS OR AGENTS, OR THEIR RESPECTIVE EMPLOYEES, AGENTS AND SUPPLIERS, SHALL NOT CREATE A WARRANTY. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, WE

AND EACH OF OUR AGENTS, THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS DISCLAIM, WITH RESPECT TO ALL SERVICES, ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR ARISING BY COURSE OF PERFORMANCE, DEALING, CUSTOM OR TRADE USAGE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF WE KNEW OR SHOULD HAVE KNOWN SUCH PURPOSE) AND NONINFRINGEMENT. YOU AGREE THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.

- B. Third Party Beneficiaries.** YOU AGREE THAT ALL OF OUR RIGHTS, LIMITATIONS AND DISCLAIMERS STATED IN THIS AGREEMENT ALSO APPLY TO AND MAY BE EXERCISED OR ENFORCED BY OUR THIRD PARTY LICENSORS, PROVIDERS, SUBCONTRACTORS AND SUPPLIERS AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.
- C. Use of Service.** You acknowledge and agree that you are solely responsible for all use of the Service (including without limitation the use of any assigned IP addresses and any secondary or sub-accounts associated with a primary account) and the manner in which the Service is used by you or anyone who uses the Service, with or without your permission. If you use a wireless router or similar device, you are responsible for securing your wireless network and for any use of the Service via your wireless network. You may not resell, re-provision or rent the Service to third parties (either for a fee or without charge) or allow third parties to use the Service via wired, wireless or other means. For example, you may not provide Internet access to third parties through a wired or wireless connection or use the Service to facilitate public Internet access (such as through a Wi-Fi hotspot), use it for high volume purposes, or engage in similar activities that constitute such use (commercial or non-commercial). You may connect multiple computers/devices within a single office location to your Service router to access the Service, but only through a single account and the IP address(es) obtained from Us, and, if available through the Service, you may permit your patrons or guests to access the Internet through your Service's Wi-Fi capabilities. You are solely responsible for ensuring the security of the WiFi network and for any use of WiFi by your guest and patrons. You may not exceed the bandwidth usage limitations that we may establish from time to time for the Service, or use the Service to host any type of server. Violation of this section may result in bandwidth restrictions on your Service, suspension of your Service, and/or termination of your Service.

You agree not to use, or permit others to use, the Service in ways that (i) violate any law or applicable regulation, this Agreement (ii) infringe the rights of others, or (iii) interfere with the users, services, or equipment and software of our network or other networks. By way of example and not limitation, you agree not to distribute unsolicited advertising,

chain letters or other unsolicited bulk electronic mail (i.e., spam); propagate computer worms, destructive programs or denial of service attacks or viruses; use a false identity; attempt to gain unauthorized entry to other computers, data or any site or network; distribute or store child pornography; distribute obscene or defamatory material over the Internet; or infringe copyrights, trademarks or other intellectual property rights. You further agree to comply with U.S. export laws concerning the transmission of technical data and other regulated materials via the Service. We reserve the right in our sole discretion to restrict, suspend or terminate your Service (or any portion thereof), with or without notice, if use of the Service by you or anyone using it, in our sole judgment, violates this Agreement, is unlawful or adversely affects or threatens our network or service, suppliers, contractors, other users or employees, including but not limited to, use that is prohibited or that generates excessive Internet traffic or emails.

You agree to comply with the terms of service that apply to any websites or other services you access on the Internet and agree that the third party provider of such services (and not us) is solely responsible for the delivery of its services(s) to you and your use of them. Third party services include, but are not limited to, portal, music, video, auction, security, financial, gaming, storage and photography services. You further agree to indemnify, defend and hold us harmless from and against any claims or liabilities that may result from your use of such third party services.

You acknowledge and agree that the reliability, availability and performance of data or services accessed through the Internet or other services connected or linked to the Service are beyond our control and are not in any way warranted or supported by us, our subcontractors or suppliers. You also agree to provide us with the access and support required to allow us to implement, maintain and provide the Services. We may take any action we deem appropriate, in our sole discretion, to maintain the high quality of our Service and to protect others and ourselves. In addition, you agree that your use of the Service and the Internet is solely at your own risk.

D. Entry to Your Service Location. You agree to allow us, including our suppliers and subcontractors, to enter your business during normal business hours by appointment to perform necessary activities related to the installation, inspection, repair, replacement or disconnection of our Service and equipment. You will allow us to make attachments and connections that are necessary to provide Service to you. If you are not the owner of the premises to be entered, you must supply proof that you are authorized to allow work to be done on such premises.

E. Indemnification. You agree to indemnify us and hold us harmless for any damages, costs, liabilities and attorneys' fees we incur from any claim arising from your use of the Services, or the use of your Service by others, including without limitation, violation of the copyrights, trademarks or other intellectual property rights of others, your

combination of the Services with other products or services not provided by us, any modification of the Services, or any breach of this Agreement by you. In such event, you agree to conduct the defense and have control of the litigation and settlement, if any. However, you agree not to acquiesce to any judgment or enter into any settlement that adversely affects our rights or interests without our prior written consent. As the indemnifying party, you may not settle any claim under this section which includes an admission of criminal liability or the payment of a settlement amount without the prior written permission of the indemnified party.

F. Providing Information about You in Response to Legal Process. We reserve the right to provide information about your account and your use of the Service to our suppliers as well as to any other third parties as required or permitted by law (such as in response to a subpoena or court order), and to cooperate with law enforcement authorities in the investigation of any criminal or civil matter. Such cooperation may include, but is not limited to, providing information about your account, usage of Service and monitoring of the network consistent with applicable law. We may also report any facts or circumstances reported to us or that we discover from which it appears there may be a violation of the child pornography laws. We reserve the right to report any appropriate information including the identity of users, account information, images and other facts to law enforcement and the National Center for Missing and Exploited Children.

G. Equipment; Service Changes, Performance; Backup and Maintenance.

(i) **Equipment.** You are solely responsible for obtaining, installing, configuring, and maintaining suitable equipment and software, including without limitation any necessary system or software updates, patches or other fixes, which are or may become necessary to access the Service, and to operate your computer. The preceding obligations apply regardless of whether we or a third party provided the software or hardware to you. Only the manufacturer's warranties included with any hardware or software provided by us shall apply. Hardware (routers or other equipment) provided is new or fully inspected and tested return unit under full warranty.

(ii) **Service Performance.** You understand that fiber bandwidth is provided on a per line basis, and that the speed and bandwidth available to each computer or device connected to the network will vary depending upon the number and types of computers or devices using the Service and the type of use (e.g., streaming media or downloading larger files), as well as based on network congestion and the speed of servers you access on the Internet, among other factors. The speed of the Service will vary based on network or Internet

congestion, your computer configuration the condition of the wiring inside your location, among other factors. We and our suppliers reserve the right, at any time, with or without prior notice to you, to restrict or suspend the Service to perform maintenance activities and to maintain session control.

(iii) **Monitoring System Performance.** We may measure and monitor the performance of your Internet connection and usage levels in order to maintain and improve the level of Service. You agree to permit us to access your computer's settings in the event you request and we agree to provide customized technical support. You agree to permit us to access your computer and equipment and to monitor, adjust and record such data, profiles and settings for the purpose of providing the Service. You also consent to our monitoring of your Internet connection and network performance, and to our accessing and adjusting your computer and settings, as they relate to the Service or other services, which we may offer from time to time.

(iv) **Changes to Service.** We reserve the right to change the Service (or any part thereof) at any time with or without notice to you, including but not limited to available speeds and speed combinations, features, configurations, usage structure or levels, pricing methodology and other terms. If such a change materially and adversely affects your current access, usage or cost of Service, and we cannot reasonably mitigate its impact, then as your sole and exclusive remedy, you may terminate the Service without further obligation.

H. **IP Addresses.** If we deem it necessary, you may be required to renumber the IP addresses assigned to you by us. Upon expiration, cancellation or termination of Service at your Service location for any reason, you agree to return to us any IP addresses or address blocks that we assigned to you.

I. **Limitation of Liability.** IN NO EVENT SHALL WE, OUR THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS BE LIABLE TO YOU FOR (A) ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OR DAMAGE TO DATA ARISING OUT OF THE USE OR INABILITY TO USE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY THIRD PARTY.

J. **Limitation of Damages.** OUR AGGREGATE LIABILITY TO YOU FOR ANY CAUSE OF ACTION OR CLAIM WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY NON-INSTALLATION, SECURITY BREACH, DELAY, FAILURE OR DISRUPTION OF SERVICES PROVIDED, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL NOT EXCEED A PRO RATA CREDIT FOR THE MONTHLY FEES (EXCLUDING ALL TAXES) YOU HAVE PAID TO US FOR THE SERVICE DURING THE SIX (6) MONTH PERIOD PRIOR TO WHEN SUCH CLAIM AROSE. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES. IN THESE JURISDICTIONS OUR LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

K. **Acceptable Use Policy**

(i) **General Policy:** We reserve the sole discretion to deny or restrict your Service, or immediately to suspend or terminate your Service, if the use of your Service by you or anyone using it, in our sole discretion, violates our policies or those of our subcontractors or vendors, is objectionable or unlawful, interferes with the functioning or any other person's use of the Internet, our network, or the networks of our subcontractors or vendors, or violates the terms of this Agreement or applicable law.

(ii) **Specific Examples of AUP Violations.** The following are examples of conduct which may lead to termination of your Service. Without limiting the general policy in Section K(i), it is a violation of the Agreement to: (a) access without permission or right the accounts or computer systems of others, to spoof the URL, DNS or IP addresses of us, or subcontractors or suppliers, or any other entity, or to penetrate the security measures of us or our subcontractors or suppliers or any other person's computer system, or to attempt any of the foregoing; (b) transmit uninvited communications, data or information, or engage in other similar activities, including without limitation, "spamming", "flaming" or denial of service attacks; (c) intercept, interfere with or redirect email or other transmissions sent by or to others; (d) introduce viruses, worms, harmful code or Trojan horses on the Internet; (e) engage in conduct that is defamatory, fraudulent, obscene or deceptive; (f) generate excessive amounts of email or other Internet traffic; (g) use the Service in any fashion for the transmission or dissemination of images containing child pornography or in a manner that is obscene, sexually explicit, cruel or racist in nature or which espouses, promotes or incites bigotry, hatred or racism; or (h) download or use the Service in countries prohibited by applicable law.

(iii) **Copyright Infringement/Repeat Infringer Policy.** Neither you or anyone using the Service may store any material or use our systems or servers (or systems or servers of our subcontractors or suppliers) in any manner that constitutes an infringement of any intellectual property rights of us, our subcontractors or suppliers, or any other third party, including under U.S. copyright law. You understand and agree that any and all use of the Service is subject to such measures (including without limitation suspension and/or termination of Service) as we may implement in our discretion from time to time to ensure compliance with intellectual property rights, U.S. copyright law, and other applicable laws. These policies are in addition to and do not affect or modify any other rights we or our subcontractors or suppliers may have under law or contract. If you believe that copyrighted material has been used in violation of this policy or otherwise been made available on the Service in a manner that is not authorized by the copyright owner, its agent or the law, please contact us.

(iv) We and our subcontractors and suppliers may, but are not required to, monitor your compliance, and the compliance of other subscribers and users, with the terms, conditions or policies of this Agreement. You acknowledge that we and our subcontractors and suppliers shall have the right, but not the obligation, to pre-screen, refuse, move or remove any content available on the Service, including but not limited to content that violates the law or this Agreement.

L. We in our sole discretion from time to time may update and/or modify the Terms of this Agreement by providing notice to you and/or by posting changes on our website at <http://www.broadviewnet.com/About-Broadview-Networks/customer-terms-conditions/> or any successor location on our website