

BTS Technologies, Inc. - Standard Terms of Service

BEFORE PURCHASING AND/OR USING PARTS, LABOR, SOFTWARE LICENSING, OR SERVICES (TOGETHER "SERVICES") FROM BTS TECHNOLOGIES, INC., PLEASE READ THESE STANDARD TERMS OF SERVICE (THESE "TERMS"). THESE TERMS ARE INCORPORATED BY REFERENCE INTO THE QUOTE FORM EXECUTED BY THE COMPANY IDENTIFIED AS THE "CUSTOMER" IN THE QUOTE FORM ("CUSTOMER"). PURSUANT TO THESE TERMS, CUSTOMER SHALL HAVE THE RIGHT TO USE AND/OR PURCHASE THE BTS SERVICES. THESE TERMS AND THE QUOTE FORM TOGETHER FORM A BINDING AND EXECUTED WRITTEN AGREEMENT BETWEEN CUSTOMER AND BTS, ITS AFFILIATES AND SUBSIDIARIES ("BTS") EFFECTIVE AS OF THE DATE OF CUSTOMER'S EXECUTION OF THE QUOTE FORM.

These Terms of Service govern and apply to Customer's purchase and use of the technology Services provided by BTS.

1. **Quote Forms.** The specific fees for Services are set forth in the Quote Forms. All pricing provided is a good-faith estimate based on the information available to BTS at the time of quote. Any changes to the configuration or scope may result in additional charges. The configuration and scope of work included in the Quote Form is limited to the items and services listed. Out of scope items and services are subject to additional charges. Terms and conditions applicable to particular Services (as opposed to those generally applicable to all Services) are identified in the Quote Forms. Each Quote Form includes a description of the Services to be performed, the applicable Service Fees and the Service-specific terms, conditions, responsibilities and delivery schedules that govern the provision of the relevant Services. Except for Supplemental Services, and unless otherwise agreed to in writing by both parties, the services to be rendered by BTS to Customer are limited to those Services specifically described in the Quote Forms. All terms and conditions set forth in the Quote Forms, and any revisions thereto, must be mutually agreed upon by both parties. In the event of any conflict between the provisions of a Quote Form and these Terms, the specific provisions contained in the Quote Form are to control.
2. **Supplemental Services.** "Supplemental Services" are limited services and equipment that are needed by Customer on a "one-off" or emergency basis and that are not included within the scope of the Services described in the Quote Forms. Customer shall pay additional Service Fees for Supplemental Services. BTS shall notify Customer of any such additional Service Fees for any Supplemental Services and shall obtain Customer's approval prior to providing such Services. BTS shall charge Customer for Supplemental Services upon delivery of the Supplemental Services. BTS will use commercially reasonable efforts to provide Supplemental Services; however, BTS has no obligation to determine the need for or to provide any Supplemental Services. All Supplemental Services are provided on an "as-is" basis and exclude warranties of any kind, whether express or implied.
3. **Unforeseen Circumstances.** Any unforeseen circumstances found at a Customer's site(s) that were not detected or disclosed are subject to additional charges.

4. **Installation, Initiation and Service.** BTS will begin installation, initiation and service only after it receives and accepts the following: (1) a duly executed Quote Form; and (2) any amounts payable in advance in accordance with the applicable Quote Form. Customer agrees that its purchase of the Services is neither contingent upon the delivery of any future functionality or features, nor dependent upon any discussions, oral or written, made by BTS with respect to future functionality or features.
5. **Customer Support.** BTS provides service and configuration support to the Customer for the services provided. BTS will not be responsible nor provide support for issues caused by third-party networks or internet service. Standard support hours are provided M-F from 8am - 5pm central time excluding company holidays. Emergency support will be provided outside of these hours at BTS' discretion.
6. **Service Fees.** Customer agrees to pay all monthly service charges, installation charges, set-up charges, usage-based charges, rental fees and other charges and fees (collectively, "Service Fees") agreed to in each Quote Form in the manner indicated therein.
7. **Invoicing.** Customer will be invoiced a month in advance for all recurring non-usage-based charges and in arrears for all recurring usage-based charges unless otherwise indicated in the Quote Form. All non-recurring charges are due in advance, unless alternate terms are stated on the Quote Form.
8. **Pricing.** All pricing, unless otherwise noted on Quote Form, assumes and includes a cash-payment discount. If other payment methods are required, the cash-payment discount may not apply. BTS Technologies may adjust the price of Services to include any applicable changes in shipping and delivery costs between the time of order and delivery, including, but not limited to, market conditions, fuel surcharges, and expiring promotional pricing.
9. **Pass-Through Expenses.** Customer shall pay BTS' reasonable out-of-pocket expenses, including travel expenses, lodging, meals, or other similar expenses, which may be incurred by BTS in performing Services as defined in the Quote Form. Any such "Pass-Through Expenses" must be mutually agreed by the parties and will be billed at cost and invoiced to Customer. Unless otherwise indicated on the Quote Form, shipping and handling is not included and would be considered a pass-through expense.
10. **Payment.** Unless otherwise stated in the Quote Form, recurring Service Fees are due 30 days from the date of the invoice. All Service Fees are quoted in United States currency and are based on Services Quoted. Any payment not received from the Customer by the due date shall accrue (except with respect to charges then under reasonable and good faith dispute), at the lower of 1.5% or the maximum rate permitted by law of the outstanding balance per month from the date such payment is due until the date paid.
11. **Authorization:** By providing credit card or ACH information you authorize BTS Technologies to charge the Service Fees associated with the Quote Form, including any taxes and fees, to your credit card or bank account.

12. **Professional Services.** Labor for travel, provisioning, setup, installation, troubleshooting, or any other support is only provided to the extent detailed on the Quote Form.
13. **Title to Equipment.** If so indicated on any Quote Form, BTS may sell certain equipment to Customer. Such equipment shall be listed on the Quote Form. Customer shall be solely responsible and liable for user's compliance with these Terms and the proper use of the Equipment. BTS retains title to all equipment sold to Customer pursuant to the Quote Form until the entire invoice for all such equipment has been paid in full, and without regard to any partial payment by, or other credit to, Customer. Customer hereby grants permission for the removal of said equipment in the absence of full payment.
14. **Ownership.** Except for any rights expressly granted herein, these Terms do not transfer any right, title, or interest in, or to, any process, system, software, or device in which BTS has any intellectual property or ownership rights (BTS Technology). These Terms in no way limits or restricts BTS, or any of its affiliates, from developing or marketing on their own, or for any third-party, any BTS Technology without payment of any compensation to Customer, or any notice to Customer. Except for any rights expressly granted herein, these Terms do not transfer from Customer to BTS any right, title, or interest in, or to, any software in which Customer has any intellectual property or other ownership rights ("Customer Software"). Except for any rights expressly granted herein, these Terms do not transfer any right, title, or interest in, or to, any software in which any third-party has any intellectual property or other ownership rights ("Third-Party Software"). All rights, title and interest in, and to, any Third-Party Software remains with the party providing same or with the third-party owner, as appropriate.
15. **Suspension of Service.** If any Customer account is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute) BTS reserves the right to suspend or disable the Services, after providing notice to Customer without liability to BTS, until such account is paid in full.
16. **Taxes and Regulatory Fees.** Unless otherwise stated in the Quote Form, Customer shall be responsible for all sales, use, value added, withholding or other taxes or duties, other than BTS's income taxes, with respect to the Services Quoted. In addition to any taxes imposed by the government or regulatory agencies, BTS reserves the right to charge other authorized regulatory fees, including, without limitation, E911 service fees, universal service fees, and regulatory recovery fees ("Fees"). Any imposition, modification or increases in Fees by a government or regulatory agency or that are intended to recover costs associated with government or regulatory programs shall become effective upon prior notice to Customer.
17. **Surcharges.** The BTS Voice Over Internet Protocol Service rates are net of any applicable origination charges by third-party payphone providers. BTS will pass these surcharges through to Customer and Customer shall be responsible for payment of all such surcharges.

18. **Other Networks; Approval and Usage.** Some BTS Services require the ability to transmit data through third-party networks and carriers, public and private ("Third-Party Networks"). Customer acknowledges that use of, or presence of, Third-Party networks and carriers may require approval of the owners or operators of such Third-Party Networks and will be subject to any terms and conditions that such Third-Party Networks may establish. Customer understands that BTS does not own or control the Third-Party Networks and agrees that BTS shall not be responsible or liable for the performance or non-performance of the Third-Party Networks, or within interconnection points between the Services and the Third-Party Networks.
19. **Term of the Agreement.** These Terms commence on the date of execution of the Quote Form by Customer and continues until all Services expire or these Terms is mutually terminated by the parties.
20. **Term of the Recurring Services.** Any recurring Services are offered for the initial term of service specified in the Quote Form (the "Initial Service Term"). The Initial Service Term shall begin on the Service Activation Date (the "First Service"). Following the Initial Service Term, Services shall automatically renew for additional terms equal to the Initial Service Term unless and until either party notifies the other party in writing at least ninety (90) days prior to the expiration of the Term in effect at the time that it does not wish to renew the Services. (the Initial Service Term and any Renewal Term collectively referred to as the "Term"). If, during the Initial Term or any Renewal Term, Customer adds any additional services to its use of the Service, the amount of Customer's monthly recurring charges shall increase the sum set forth in the associated Quote Form. And, the Service Term for any such additional Services shall be coterminous with the Initial Service Term or any Renewal Term in effect at the time.
21. **Termination of the Agreement.** These Terms and any Services may be terminated by either party for any reason upon ninety (90) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (b) if either party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
22. **Early Termination.** If Customer wishes to terminate the Services under these Terms prior to the expiration of the current Service Term and such termination is not due to BTS's breach, all recurring charges on the most current invoice which would otherwise be due through the end of the Service Term in effect at the time, including all applicable taxes shall be due and payable within thirty (30) days of the effective date of termination. The parties agree that these early termination charges are a reasonable estimate of anticipated actual damages and not a penalty.
23. **BTS Owned Equipment.** Customer is responsible for the reasonable care of any BTS owned equipment located at any Customer location. In the event any BTS owned equipment is damaged, or defaced, during the course or term of any applicable Service or is returned damaged or defaced to BTS during, or at the end of, any applicable Service, Customer will be responsible for repair or replacement fees for the damaged or defaced equipment. BTS is responsible for any equipment owned by Customer co-located at any

BTS location. Upon termination of any applicable Service, if equipment owned by Customer is returned damaged or defaced as a result of acts or omissions of BTS, BTS will be responsible for repair or replacement fees for the damaged or defaced equipment. This does not apply to hardware failure that occurs during the course of normal use. Upon termination or expiration of any applicable Service, Customer shall provide BTS access to Customer location(s) to repossess all equipment owned, or otherwise subject to repossession, by BTS. Payments owed by Customer to BTS shall continue under the applicable Service until such time as all BTS-owned equipment has been obtained or BTS has had a reasonable opportunity to obtain possession. Customer agrees to keep and give access to BTS all BTS-owned equipment at Customer's location in a reasonable operational environment, including without limitation the provision of reasonable lighting, HVAC, security, custodial services, and all minimum requirements set forth in any applicable Quote Form.

24. **Customer-Owned Equipment.** Except as otherwise agreed in writing, BTS shall not be responsible for the operation or maintenance of any Customer-owned equipment. BTS undertakes no obligations and accepts no liability for the configuration, management, performance or any other issue relating to any Customer-owned equipment used for the delivery and access to BTS provided Services.
25. **Insurance.** For any BTS owned equipment located at any Customer location, Customer shall maintain special form insurance against loss, theft, or damage, in an amount not less than such equipment's new replacement value. Customer shall deliver written evidence of insurance satisfactory to BTS within 30 days of request, or BTS will have the right, but not the obligation, to obtain insurance in such forms and amounts as BTS deems reasonable to protect BTS' interests, and the expense for said additional insurance shall be billed to Customer. BTS will discontinue such insurance charges when Customer provides satisfactory evidence of insurance. For any Customer-owned equipment located at any BTS location, Customer shall maintain special form insurance against loss, theft, or damage, in an amount not less than such equipment's new replacement value.
26. **Rules of Use.** Customer must, at all times, use all BTS provided systems and services for lawful purposes only. Customer shall not use the BTS Network and Services to transmit, distribute or store material that is inappropriate, as reasonably determined by BTS, or material that is obscene (including child pornography), defamatory, libelous, threatening, abusive, hateful, or excessively violent. Users shall not use the BTS Network and Services to transmit unsolicited messages, including, without limitation, unsolicited bulk email, where such emails could reasonably be expected to provoke complaints ("spam"). Further, Customer is prohibited from using the service of another provider to send spam to promote a site hosted on or connected to the BTS Network and Services. Customer may not use BTS provided voice Services to preform robo-calling where mass, unsolicited, outbound calls are made. If BTS becomes aware of Customer's violation of the Rules of Use involving BTS Services, facilities, network or third-party networks accessed through the BTS network or, BTS otherwise receives notice or has reason to believe such use may be occurring, then Customer will cooperate in any resulting investigation by BTS or government authorities. Any government determinations will be binding on Customer. If

Customer fails to cooperate with any such investigation, or determination, or fails to immediately rectify any violation of the Rules of Use, BTS may immediately suspend the Services without further liability to BTS. Further, upon notice to Customer, BTS may modify or suspend the Services as necessary to protect its networks, customers or comply with any law or regulation. Under no circumstances will Customer take any actions in connection with its use of the Services that could result in any harm or damage to the network, any third-party network(s), BTS' premises, any equipment of BTS or any other BTS customer.

27. **Contents of Communications.** BTS shall have no liability or responsibility for the content of any communications transmitted via the Services or content stored on networks managed by, or provided by, BTS (except for content solely created by BTS). BTS will not exercise any editorial control and Customer shall defend, indemnify and hold BTS harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's use of Service.
28. **Fraud.** Customer agrees to notify BTS promptly if it becomes aware of any fraudulent or unauthorized use of its account, Service, or Equipment. BTS shall not be liable for any damages whatsoever resulting from fraudulent or unauthorized use of Customer's account and the payment of all charges to Customer's account shall be and remain the responsibility of Customer.
29. **Confidentiality.** Each party acknowledges that it, and its employees or agents, may be exposed to, or acquire, information that is proprietary or confidential to the other party. Each party shall hold such information in strict confidence and shall not disclose any such information to any third-party. Such "Confidential Information" includes: (a) any technical information, design, process, procedure, formula, or improvement, as well as any formulae, specifications, designs, business or work processes and procedures, instructions, and other data relating to the development, production of any work done specifically for the Customer; and (b) the business plans and financial information, regardless of whether such information would be protected at common law. Notwithstanding the preceding, Confidential Information does not include: (a) information that at the time of disclosure is, without fault of the recipient, available to the public by publication or otherwise; (b) information that either party can show was in its possession at the time of disclosure and was not acquired, directly or indirectly, from the other; (c) information received from a Third-Party with the right to transmit same without violation of any secrecy agreement with the other party; and (d) information that must be disclosed pursuant to court order or by law. These Terms are considered confidential and no copy of these Terms, discussions, or negotiations relating to the Quote Form or these Terms, or any other information relating to these Terms may be disclosed to any third-party, except by reason of legal, accounting or regulatory requirements, without the prior written consent of the parties hereto.

30. **Software Rights.** Customer asserts it has title to, or license, or rights to use or modify and has license or rights to permit BTS to use, access, or modify any software that Customer has requested BTS use, access, or modify as part of the Services. Customer shall indemnify BTS and shall hold BTS harmless against any loss, claim, damage or expense, including reasonable attorneys' fees, resulting from any action brought or claim made by any Third-Party claiming superior title or right to any such software or to any component of any such software.
31. **Access to Resources.** Customer shall supply BTS necessary access to its personnel, appropriate documentation, records and facilities in order for BTS to timely perform the Services.
32. **Independent Contractor.** Unless otherwise agreed, BTS will perform all Services solely in BTS' capacity as an independent contractor and not as an employee, agent or representative of Customer. BTS will not be entitled to any privileges or benefits that Customer may provide to its employees, and BTS will remain responsible for payment of all unemployment, social security, federal income (state and local income where applicable) and other payroll taxes or mandatory assessments imposed by any governmental body on employers in regard to those of its employees engaged in the performance of the Services. Neither BTS nor Customer, nor their respective employees or agents, are authorized to act, or to appear to act, as a representative of the other party, whether in performing the Services or otherwise.
33. **Disclaimer of Warranties.** Except as expressly provided herein, Customer acknowledges and agrees that the Services are provided on an "As Is", as available basis. Other than as expressly provided herein, BTS DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR, NON- INFRINGEMENT OR TITLE TO THE MAXIMUM EXTENT PERMITTED BY LAW. BTS does not warrant that the Services will meet the Customer's requirements or that the operation of the Services will be uninterrupted or error-free. Further, BTS does not warrant that all errors in the Services can be corrected.
34. **Disclaimer of Third-Party Actions and Control.** Customer acknowledges and agrees that BTS does not, and cannot, control the flow of data between BTS's network and Third-Party Networks. Such flow depends on the performance of Third-Party Networks and the services provided or controlled by third-parties. Action or inactions caused by these Third-Party Networks can produce situations in which BTS customers' connections may be impaired or disrupted. Although BTS will use commercially reasonable efforts to remedy and avoid such events, BTS cannot issue any warranties over these Third-Party Networks or any disruptions that may occur. THEREFORE, BTS DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO THE PERFORMANCE, NONPERFORMANCE OR INCORRECT PERFORMANCE OF THIRD-PARTY NETWORKS.

35. **Limitation of Liability** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER CAUSED, AND WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, LOST PROFITS, LOST REVENUE, LOST PRODUCTIVITY, OR LOSS OF DATA. UNDER NO CIRCUMSTANCES WILL BTS BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF ANY SYSTEMS OR SERVICES, YOUR ACCOUNT, OR THE INFORMATION CONTAINED THEREIN. BTS'S AGGREGATE LIABILITY FOR DAMAGES HEREUNDER SHALL NOT EXCEED THE TOTAL AMOUNT OF SERVICE FEES PAID AND/OR DUE BY THE CUSTOMER. Because some states and jurisdictions do not allow limitation of liability in certain instances, portions of the above limitation set forth in this section may not apply to Customer. However, the parties agree that neither party will be liable for breach-of-contract damages that the breaching party could not reasonably have foreseen on entry into these Terms. No action against either party arising out of these Terms may be brought by the other party more than one year after the cause of action has arisen.
36. **Indemnification.** BTS shall indemnify Customer and shall hold Customer harmless against any loss, claim, damage or expense, including reasonable attorneys' fees, resulting from any action brought, or claim made, by any third-party claiming the Services, or a BTS Work, infringes or misappropriates the U.S. intellectual property rights of such third-party. The Customer agrees to indemnify and hold BTS harmless against any loss, damage or costs (including reasonable attorney's fees) incurred in connection with Claims made or brought against BTS by a Third-Party arising from or relating to: (a) any act, error, omission, fault, negligence, or misconduct of Customer or any user of the Service or Equipment; (b) Customer's material breach of the Rules of Use; (c) any claim by any employee or invitee of Customer or user other than a claim based on the gross negligence or willful misconduct of BTS; (d) any claim by any customer of Customer, User, or any other Third-Party relating to, or arising from, Customer's use of the Services or Equipment; or (e) violation of any law or regulation by Customer, any User, or any Customer employee, contractor, or agent.
37. **Force Majeure.** Neither party will be liable for any failure or delay in its performance under these Terms, due to any cause beyond its reasonable control, including any act of war, act of God, earthquake, flood, embargo, riot, sabotage, terrorist attack, cyber-attack (hacking and DDOS), acts of public enemies, civil disturbances or general restraint or arrest of government and people, boycott, strike (including a general strike), lockout or other similar industrial disturbance, service interruption by a telecommunications services provider, or connectivity delays with internet providers outside of BTS's reasonable control, provided that the delayed party (a) gives the other party prompt notice of such cause and (b) uses reasonable commercial efforts to correct promptly such failure or delay in performance.

38. **Services Software.** Where applicable, BTS may install certain software on computers in Customer's network for the purpose of delivering Services ("Services Software"). BTS hereby grants to Customer a limited, non-exclusive license to use the Services Software for the term of these Terms and of any applicable Quote Form, subject to any third-party license terms or other requirements. Upon the termination of an applicable Quote Form, Customer shall return or allow BTS to remove the Services Software from Customer's servers and equipment. Customer shall not copy or move any Services Software and shall not use the Customer Software in any way other than as provided in these Terms.
39. **Customer Works.** Unless otherwise agreed to by the parties in a separate writing, any writing or other work of authorship, regardless of medium, created by BTS at Customer's request and specifically described in or otherwise contemplated by any Quote Form including but not limited to software, source code, blueprints, diagrams, flow charts, specifications or functional descriptions, and specifically including any modifications, enhancements, interfaces (other than interfaces to any BTS software) (individually a "Customer Work") is not to be deemed a "work for hire," but rather is and will remain the sole and exclusive property of BTS. To the extent any Customer Work for any reason is determined not to be owned by BTS, Customer hereby irrevocably assigns, transfers and conveys to BTS all of Customer's right, title, and interest in such Customer Work, including, but not limited to, all rights of patent, copyright, trade secret, knowhow, and or other proprietary and associated rights. Customer agrees to execute such documents and take such other actions as BTS may reasonably request to protect BTS' ownership of any such Customer Work. However, BTS hereby grants to Customer a non-exclusive, perpetual, worldwide license to copy and use such writings or works of authorship for Customer's own business purposes or for the business purposes of Customer's affiliates. The scope of such license shall not include any BTS software, BTS Technology, or any modifications thereto, or any BTS Work (defined below).
40. **BTS Works.** Any writing or work of authorship, regardless of medium, created or developed by BTS or Customer in the course of performing the Services under these Terms and relating to the BTS Technology, including but not limited to, any modification, enhancement, interface, upgrade, or change to any BTS-supplied software, and all software, source code, blueprints, diagrams, flow charts, specifications, functional descriptions or training materials relating thereto (individually a "BTS Work"), is not to be deemed a "work for hire," but rather is and will remain the sole, exclusive property of BTS. To the extent any BTS Work for any reason is determined not to be owned by BTS, Customer hereby irrevocably assigns, transfers and conveys to BTS all of Customer's right, title, and interest in such BTS Work, including, but not limited to, all rights of patent, copyright, trade secret, know-how, and or other proprietary and associated rights. Customer agrees to execute such documents and take such other actions as BTS may reasonably request to protect BTS' ownership of any such BTS Work.
41. **Non-Solicitation.** During the term of any Services, and for a two year period immediately following the termination of any Services, neither party shall, directly or indirectly, for itself, or on behalf of any other person, firm, corporation or other entity, whether as principal, agent, employee, stockholder, partner, member, officer, director, sole proprietor, or otherwise, solicit, participate in or promote the solicitation of any employee of the other

party to leave the employ of such party, or hire or engage such employee. Notwithstanding the foregoing, soliciting or hiring an employee who responds to a non-targeted general advertisement for employment shall not be deemed a violation of this section. In the event that a party violates this section, such party shall pay to the other party, as reasonable liquidated damages, an amount equal to 150% of such employee's annualized salary at such party, including bonuses

42. **Voice Over Internet Protocol.** Some BTS services include the transmission of telephone traffic using Voice Over Internet Protocol ("VoIP"). For these Services, BTS will provide telephone calling service, PBX type calling feature, and deliver voice traffic to, and from, the Public Switched Telephone Network ("PSTN") through Session Initiation Protocol ("SIP") signaling using G711 or G729A voice encoding.
43. **Telephone Numbers.** In the delivery of VoIP Services, BTS shall only provide Customer with dedicated Telephone Numbers ("TN's") as requested by Customer, and, accepted by BTS. BTS will exercise commercially reasonable efforts to gain access to telephone number quantities to support the Service as specified by the Customer, but BTS does not guarantee telephone number availability. BTS may, upon ten (10) days' prior written notice, reclaim any TN's provided by BTS to Customer hereunder that have not been used by Customer in connection with any BTS Hosted Business Service within the immediately preceding one hundred and twenty (120) day period. No refunds shall be made to Customer regarding reclaimed TN's.
44. **Long Distance Service.** In the delivery of VoIP Services BTS will include an allotment of outbound domestic long-distance calling subject to the limitations and usage requirements described below. Charges for international long-distance calling will be billed at the then current service rates. These rates fluctuate and the current rates are available upon request. In addition, (a) Long-Distance & International Operator Services (intrastate and interstate); Dial "00" Long-Distance and International Operator Services (intrastate and interstate); Dial "00;" and Long-Distance Directory Assistance (411 or NPA 555-1212) will be charged at the then current service rates. (b) Conference Calling charges will be billed at then-current service rates. And (c) Unlimited US & Canada Long Distance subject to BTS' acceptable Rules of Use policy.
45. **Call Recording.** In the delivery of VoIP Services BTS may provide call-recording services as a product. It is the responsibility of Customer to check with all local, state, Federal, and international regulating bodies to make certain that the use of the service is allowed in the manner implemented by the customer or BTS. Any information provided by BTS is not legal advice. Please consult your legal counsel for guidance on the compliance activities that are appropriate for your organization.
46. **Telephone Number Porting.** In the event Customer elects to port any TN (a "Porting Number") currently supported by BTS VoIP Service, Customer agrees that until such time as the Porting Number is fully ported and no further traffic for such Porting Number traverses the BTS network, Customer shall remain bound by these Terms and the relevant Quote Form (including, without limitation, Customer's obligation to pay for the applicable BTS VoIP Service) for any and all traffic which remains on the Porting Number.

47. **E911 Service.** By use of any BTS VoIP Service, Customer acknowledges the limitations of E911 service. Customer agrees and acknowledges that while some individual services offer access to E911 service, others may not. Customer is advised to thoroughly understand the Service and the options available including, (a) E911 service may not be available during an electrical power outage affecting the Service location; (b) E911 service will not be available if Customer's broadband connection service has been disrupted and not restored; (c) E911 service will not be available if Service has been discontinued for any reason, including Customer nonpayment; (d) E911 Service may not be available at locations other than the location for which a Service address has been furnished to BTS; (e) may not be available or may be routed to emergency personnel unable to respond, if Customer has disabled or damaged any hardware or removed it to a location other than one for which a Service address has been provided to BTS; or may be delayed or unavailable due to network congestion or other problems affecting the network. Customer is strongly encouraged to acquire and maintain alternative means of accessing E911 or other emergency response. By accepting these Terms, Customer acknowledges that it has received the information regarding the limitations of E911 services, understands them, and assumes the risks associated with the E911 limitations. BTS may disclose to the FCC that Customer has acknowledged the E911 Disclosure by virtue of Customer having accepted these Terms. BTS may update the E911 Policy from time to time upon notice to Customer.
48. **Traffic Monitoring.** Customer understands that traffic on BTS managed, or provided, networks may be captured and monitored for troubleshooting purposes. A review of traffic captures and recordings will be done only when requested on specific traffic and only by authorized BTS technical staff for the purposes of troubleshooting.
49. **Service Levels.** BTS will use commercially reasonable efforts to minimize service disruptions and outages. In the event of service disruptions or outages, Customer's sole remedy, and BTS sole obligation, shall be to provide the service level credits based on the cumulative unavailability of the affected BTS Service in a given calendar month as set forth in the following table.

Cumulative Unavailability	Service Level Credit
1 to 4 Hours	1 Day
4 to 8 Hours	2 Days
Each Addition 8 Hours	1 Day
Maximum Credit	30 Days

50. **No Lease.** Except as otherwise provided herein, these Terms and any relevant Quote Form is a services agreement and is not intended to and will not constitute a lease of any real or personal property. In particular, Customer acknowledges and agrees that Customer has not been granted any interest whatsoever (leasehold or otherwise) in any premises, real or personal property, equipment or servers of BTS or in any personal property or server space leased by BTS (except for the Equipment Hardware-as-a-Service), and Customer has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances.
51. **Government Regulations.** Customer will not use the BTS network or the Services to export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations to whose jurisdiction Customer is subject.
52. **Assignment.** Unless otherwise agreed in writing, neither these Terms and any associated Quote Forms nor any of the rights or obligations hereunder may be assigned, delegated or otherwise transferred by Customer without the prior written consent of BTS. BTS will not deny any reasonable request for Customer's transfer or assignment upon satisfactory credit and documentation approval for Customer's proposed assignee. Under no circumstances shall Customer resell or redistribute these Terms or the Services provided hereunder. Customer acknowledges and agrees that BTS may assign or collaterally assign, in whole or in part, its rights, interests and obligations hereunder without limitation to any of its affiliates, any party providing financing to BTS ("Financing Party") and any successor or assign of BTS or such Financing Party without the consent of Customer, provided however, that BTS or its successors shall retain the service obligations contained in all Quote Forms entered into under these Terms. Customer agrees that the holder of any security interest shall not be prevented or impeded by Customer from enforcing such security interest and shall not terminate these Terms without the prior written consent of the assignee. Customer shall execute all consents to assignment and or acknowledgements or any security interest as are requested by BTS to give effect to the foregoing. Such acknowledgements may contain an Agreement to allow the holder of such security interest to cure faults by BTS under these Terms and a consent to allow the assignment to the successors-in-interest of the holder of such security interest. These Terms shall be binding and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
53. **Waiver.** No delay in exercising, no course of dealing with respect to, and no partial exercise of, any right or remedy hereunder will constitute a waiver of any right or remedy, or future exercise thereof.
54. **Survival.** The duties and obligations of the parties with respect to proprietary rights, intellectual property rights, and non-disclosure and confidentiality will survive and remain in effect, notwithstanding the termination or expiration of these Terms and associated Quote Forms.

55. **Amendment.** These Terms may be modified, amended or otherwise changed from time to time by BTS as required. An updated form of the Standard Terms of Service will be published on the BTS website as soon as the changes are completed. The updated Terms of Service will be deemed accepted with Customers continued user of the Services.

56. **Notices.** Except as otherwise provided under these Terms, all notices, demands or requests to be given by any party to the other party shall be in writing and shall be deemed to have been duly given on the date delivered in person, or sent via fax, courier service, electronic mail, or on the date of the third business day after deposit, postage prepaid, in the United States Mail via Certified Mail, return receipt requested. Notices from BTS to Customer will be sent to the Customer's physical address, unless otherwise specified. Notices from Customer to BTS to be sent to address below.

Attn: Operations Department
BTS Technologies
311 West Valley Avenue
Homewood, AL 35209
Email: Service@askBTS.com

57. **Choice of Law and Arbitration.** These Terms and all associated Quote Forms will be governed by and construed in accordance with the laws of the State of Alabama. In the event of any controversy or claim arising from or related to these Terms, its performance or interpretation, the parties, in good faith, will initially attempt to resolve the dispute between them. Except for disputes, controversies, claims or collection efforts regarding Customer's failure to pay any charges, amounts or fees invoiced to Customer, any and all disputes, controversies and claims arising out of or relating to these Terms or any Quote Form, including its/their validity, shall be handled, determined, and resolved by arbitration conducted in Jefferson County, Alabama, before one (1) arbitrator in accordance with the Commercial Arbitration Rules and Mediation Procedures then in effect of the American Arbitration Association. The arbitrator's award shall be final and binding on the parties, and judgment confirming such arbitration award may be entered thereon in any court having jurisdiction over such proceedings. Each party shall bear its own costs and expenses of preparing and presenting its case and shall bear an equal share of the expenses and fees with respect to the arbitration. The arbitrator shall not be empowered to award damages in excess of direct compensatory damages and shall not be authorized to award special, indirect, punitive, incidental, or consequential damages, and each party irrevocably waives any damages in excess of direct compensatory damages.

58. **Attorney's Fees.** If any action is necessary to enforce or interpret these Terms or associated Quote Forms, the substantially prevailing party will be entitled to reasonable attorneys' fees and costs in addition to any other relief to which such party may be entitled.

59. **Period for Bringing Claims.** No claims to be resolved may be made more than six (6) months after the date by which the fault or failure should reasonably have been discovered; failure to make such a claim within the six (6) month period shall forever bar the claim.
60. **Continued Service.** Unless BTS is bringing an action for failure to make payments by Customer for Services not otherwise in dispute, BTS shall continue to provide Services under these Terms, and Customer shall continue to make payments to BTS, in accordance with these Terms, during the period in which the parties seek resolution of the dispute.
61. **Severability.** If any term or provision of these Terms or associated Quote Form is declared invalid by a court of competent jurisdiction, the remaining terms and provisions will remain unimpaired, and the invalid terms or provisions are to be replaced by such valid terms and provisions that most nearly fulfill the parties' intention underlying the invalid term or provision.
62. **Entire Agreement.** These Terms of Service, and Quote Form(s) issued hereunder, represent the complete agreement and understanding of the parties with respect to the subject matter hereof and supersede, to the extent of any conflict, any other agreement or understanding, written or oral, between the parties with respect to the subject matter hereof. In the event of an inconsistency between the terms and conditions of the Quote Form and these Terms of Service, the terms of the Quote Form shall govern. Both parties represent and warrant that they have full corporate power and authority to execute and deliver each Quote Form and to perform their obligations under these Terms and that each person whose signature appears on the Quote Form is duly authorized to execute such document on behalf of the respective party.