



MASTER SERVICE AGREEMENT

This MASTER SERVICE AGREEMENT applies to all Sales Agreements, service orders, trouble tickets, service level agreements, and other contracts, agreements and invoices with Broadcore, Inc. or its affiliates (collectively, "Broadcore") and its Customers. Capitalized terms in this Master Service Agreement are defined in Section 33 unless otherwise defined in this Master Service Agreement.

1. Services, Equipment and Software

Broadcore's "Managed Business Communications Services" (MBCS) offerings can be found at <http://www.broadcore.com>

1.1 Managed Business Communications Services (MBCS)

Broadcore agrees to provide to Customer and Customer agrees to procure from Broadcore certain communications services to be described in the Sales Agreement(s) issued and agreed upon by the parties. Once agreed upon and accepted by the parties, such Sales Agreement(s) will become a part of this Agreement and will be binding upon the parties hereto. Each Sales Agreement will describe the communications services to be provided ("Services"), the agreed-to term ("Contract Term"), the recurring (monthly) and/or non-recurring, one-time (provisioning or other) charges MRC and NRC, respectively, and such information as may be necessary.

1.2 Broadcore's MBCS consist of two distinct services provided through Broadcore and/or its parent, Nextcom, Inc, wholly-owned subsidiaries or agents. "Hosted Services" refers to the services described in page one of the Sales Agreement. Hardware and on-site services (IP phones, routers, etc. referred to as "Hardware") refer to hardware and services described on page 2 (or 2 and 3) of the Sales Agreement and may carry their own terms and conditions (see section 1.7 below).

1.3 Broadband Access Services

1.3.1 The terms of this Section 1.3 are applicable to broadband access services provided by Broadcore.

1.3.2 Customer understands that neither Broadcore nor Broadcore's service providers are responsible for the content of the transmissions that may pass through the Internet and/or the broadband access services. Customer agrees that it will NOT use the broadband access services provided by Broadcore in ways that violate applicable laws or regulations, infringe the rights of others, or interfere with the users, services, or equipment of the network.

1.3.3 Customer acknowledges and agrees that Customer shall not (i) allow its account to be used by any third parties other than Broadcore employees; (ii) post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, pornographic, profane, or otherwise objectionable material of any kind across the network; (iii) use Broadcore Services or Equipment to commit a crime; (iv) use the network to post a single item to more than seven (7) newsgroups or mailing lists; (v) engage in spamming, e.g., mass unsolicited emails; (vi) violate the terms and conditions of any other websites or other network, application or content service providers; (vii) impersonate another user or misappropriate any other telephone numbers, names or email addresses; or (viii) copy, modify, adapt, reproduce, translate, distribute, misappropriate, reverse engineer, decompile or disassemble any aspect of the Services provided by Broadcore. Violations of any of these aforementioned items may result in (i) Broadcore's immediate suspension or termination of Customer's broadband access services provided by Broadcore; and (ii) the prosecution of any and all criminal and civil penalties available under the law. Actions taken by Broadcore may vary based on the level of the offense.



1.3.4 Internet connectivity through the use of broadband access services is provided only to Customer and its personnel. Use of the broadband access services by anyone other than Customer and its personnel and resale of broadband access services is prohibited. Broadcore may suspend the Services or terminate the applicable Sales Agreement effective immediately upon written notice to Customer for Customer's violation of the terms of this Section 1.3. Section 7.3 shall apply to any such termination.

1.4 Emergency Services, 911. Broadcore supports 911 services through its MBCS. The customer is responsible for registering each individual phone/extension with the Broadcore 911 Service through the Broadcore 911 Web interface. Customers who do not register their address with Broadcore will be sent to the national emergency call center when they dial 9-1-1. A trained agent at the emergency call center will ask for the name, telephone number and location of the customer calling 911, and then contact the local emergency center for such customer in order to send help. There is a pass-through charge (see Section 8.2 below) for using the national emergency response center. Examples of situations where 911 calls are sent to the national emergency call center include when there is a problem validating a Customer's address, the customer is identified with an international location, or the customer is located in an area that is not covered by the landline 911 network.

You must register with Broadcore, the physical location where you will utilize Broadcore phone service for each phone line. By using this service, you expressly agree that Broadcore and its affiliates and partners will not be liable in contract or tort or under any other theory of law should you or any person on your premises attempts to use the Service to contact 911 and emergency services. **Broadcore recommends that Customer conduct 911 training sessions as well as maintain an alternative 911-capable calling telephone such as a cell phone.**

Furthermore, since the address Customer registers is automatically associated with its telephone number(s), in the event Customer or Customer's group administrator changes their outgoing Calling Line ID to any number other than their own individual telephone number(s), the information sent to a corresponding emergency service provider will be that of the Outgoing Calling Line ID. If the Outgoing Calling Line ID doesn't have an associated registered address the call will be transferred to the national emergency response center without a corresponding address

Customer acknowledges that 911 dialing will not function in the event of a broadband outage, a power outage (unless a backup power source is available) or if Customer's broadband, ISP or Broadcore phone service is terminated.

1.5 Customer acknowledges and agrees that some or all of the Services provided to Customer may be provided by affiliates of Broadcore that are authorized to provide such Services in certain states or territories, including, without limitation, NextCom, Inc.

1.6 Broadcore will use Best Efforts to provide services when and, as ordered, but provides no guarantees as some services are dependant on local telephone companies, e.g., AT&T, Verizon,... Customer acknowledges that delays in installation may occur depending on several factors, including but not limited to delivery of T-1 loop(s) and local number portability delays from local telephone companies.

1.7 Hardware and On-Site Services. Broadcore provides "Hardware and On-site Services" (IP phones, routers, switches, gateways, and misc. labor), as a bundled solution through MBCS. Hardware solutions are provided as an added value to the Hosted Services and are a one-time



transaction, independent of Hosted Services. Customer has the option to purchase or lease the hardware. Generally a third-party company provides the leasing services and a separate contract is executed directly with the leasing company. Customers can exercise the option to purchase the hardware at the end of the lease term.

1.7.1 Broadcore will provide free maintenance and support services for all IP phones and the routers purchased or leased through Broadcore for as long as the customer remains on the MBCS with Broadcore.

1.8 Software and Intellectual Property

Broadcore may make certain software available to Customer in connection with its services (the "Software"). Customer's use of this Software is subject to any software license terms that Customer is required to consent to as a condition to using the Software. **CUSTOMER ACKNOWLEDGES THAT BROADCORE AND BROADCORE'S THIRD-PARTY SOFTWARE SUPPLIERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THOSE ARISING FROM COURSE OF DEALING AND USAGE OF TRADE WITH RESPECT TO ANY SOFTWARE.**

1.9 Customer acknowledges that equipment providing the MBCS may not function if there is an electrical power failure at its premises, unless a backup power supply is installed. The MBCS may not be available at Customer's premises but will, however, continue to be operable and available to the Customer on the Broadcore network.

2.0 Right to Alter Service. During the term of the contract, customer can add or reduce Services. At no time may the services be reduced to the lower of less than 70% of the highest subscribed services during the term of the contract or below \$650/month, unless agreed to otherwise, in writing, Any increases to existing services during the term of the contract will be billed at the contract rate. Hardware and new services added during the contract term will be billed at the then-current rate/s. **Broadcore uses a tiered pricing system based on the number of users and the contract term. Customer acknowledges that changes in the number of users and/or term may change the rates if a tier threshold is reached.**

3.0 Un-Managed Services for Remote Workers and Mobile Workers. Remote and mobile workers may access the voice services provided as part of Broadcore's MBCS through cable modem networks, DSL networks, cellular data networks or other forms of Internet access. Customer acknowledges that the off-network connections described in the preceding sentence are un-managed services and Broadcore does not provide or guarantee availability or quality of these voice services. Customer further acknowledges that Broadcore does not support Customer-provided remote equipment such as cable/ DSL modems, routers, switches or other devices, except as a third-party service provider with such service billed at Broadcore's standard hourly rate.

4.0 Limitations. Customer shall have no rights in or to MBCS, except as expressly granted herein. Broadcore grants to Customer no right, title, interest in any Software, any trademark, trade name, service mark, or any other proprietary right. Broadcore and its licensors hereby reserve to themselves all rights in and to all such Software and the MBCS not expressly granted to Customer herein. Customer shall not attempt to or knowingly permit or encourage others to attempt to copy, develop a competing product, alter, modify, adapt, translate, prepare derivative works from, decompile, reverse



engineer, disassemble, or otherwise attempt to derive computer source code from any Broadcore Software or MBCS; or rent, sublicense, transfer or grant any rights in the MBCS or Software in any form to any third party.

5.0 Training

Broadcore provides multiple training sessions to familiarize telephone users and administrators with the Broadcore MBCS. Training services are done before, during and after system installation. All training services are provided remotely via a web collaboration and audio conferencing service. Broadcore provides weekly training services, and customers are encouraged to join these online training sessions to receive refresher training as well as participating in one-on-one question and answer sessions on basic or advanced features. To request a specific time for training beyond the weekly training sessions customer must contact customer service in advance. On-site training is available as part of Hardware and On-site services for an additional cost.

6.0 Installation Date

The Installation Date will be the date confirmed by Broadcore for each of the customer's circuits. The Installation Date will be the date that Broadcore can provide individual circuit connectivity as defined in the Provisioning Responsibilities Agreement, at Broadcore's facilities. Customer will accept Services on the Installation Date(s) for the T-1, and equipment installation. Billing for a T-1 begins upon installation and billing for all other services will commence as set forth in Section 7.1 below.

7.0 Term and Termination

7.1 Customer agrees to purchase the services for a Contract Term as set forth in the sales agreement(s). Contract will commence on Start Date as follows:

Broadband Access:

Contract start date for any broadband connection, including but not limited to T1 or DSL, is the day the service is activated by the carrier network and accepted by Broadcore.

Voice Application:

Contract start date for any voice service is the day voice service is provisioned and put into service per Sales Agreement.

Each contract will terminate on the Contract Termination Date. Early termination of contract is subject to Early Termination provisions set forth herein. At the end of the contract Term, the contract is automatically renewed with the existing terms and conditions at the then-applicable service rates, unless otherwise requested by customer in an express written statement within 30 days of automatic contract renewal.

7.2 Broadcore may terminate any Contract between Broadcore and Customer, effective immediately upon notice to Customer, if (i) Customer becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (ii) Customer becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

7.3 Broadcore may terminate any or all Contracts between Broadcore and Customer if any of the following occur: (i) Customer fails to pay on a timely basis, any invoiced amounts, and Customer fails to pay all such past due amounts within three (3) days after receiving written notice from Broadcore; or (ii) Customer breaches any other material term or condition of this MSA (including any Sales Agreement), and Customer fails to cure such breach within thirty (30) days after receipt of written notice of such breach (or within such shorter period as set forth above).

7.4 Customer may terminate any Contract if Broadcore materially breaches that Contract (e.g., materially breaches the terms of this MSA as to the Services covered by the Contract), and Broadcore fails to cure the material breach within thirty (30) days after receipt of written notice of such material breach from Customer. Customer's termination of a Contract as provided herein shall not have an effect on any other Contract then in effect. Customer may terminate a Contract by providing at least thirty (30) days prior written notice to Broadcore, if Customer receives a Service Level Credit (as defined in the SLA Addendum) in excess of eighteen percent (18%) for three (3) consecutive months or for three (3) months during any six (6) month period (a "Chronic Service Level Failure"). Customer shall have no obligation to pay the Early Termination Fees (as defined below) that would otherwise be applicable to a Contract if the Contract is terminated for a Chronic Service Level Failure. Customer has sixty (60) days after Customer is entitled to terminate a Contract for a Chronic Service Level Failure to provide Broadcore written notice of such termination.

7.5 Flexterm, when offered as part of a Sales Agreement provides customers the opportunity to shop around for services with competitive, Managed Business Communications Services providers in the 23rd, 35th or 47th month of contract. If customer finds identical services to those provided by Broadcore at lower rates, Broadcore will allow the Customer to terminate their contract and move their services under certain conditions. To exit the contract, the following conditions must be met: (i) Provide Broadcore with a quote for identical services and terms from one of its competitors, on that competitor's letterhead (ii) Provide Broadcore the first right of refusal to match the competitive quote. If Broadcore decides to match the quote, a new addendum will be added to the contract and pricing will be adjusted at that time for the remaining Term. If Broadcore decides not to match the competitive quote, Broadcore will then re-rate their contract price at the rate in effect on the Contract Start Date for the actual term the service was provided (see Section 2 above). The total of the rate differential must be paid in full before services may be converted to another provider. Hardware contracts with third-party providers or Broadcore are not affected by Flexterm and customer will continue with those obligations as originally contracted.

7.6. Early Termination

7.6.1 If Customer terminates a Contract prior to the end of a Contract Term (except as provided in Section 7.4), or if a Contract is terminated by Broadcore for Customer's breach prior to the end of the Contract Term, then Customer agrees to pay Broadcore (i) any installation charge that was waived at the time of installation, (ii) all disconnection, early cancellation or termination charges reasonably incurred by Broadcore on Customer's behalf, and (iii) the applicable amount indicated in the following table (collectively, the "Early Termination Fees"). The parties agree that Broadcore's damages resulting from an early termination of a Contract as described in this paragraph shall be difficult or impossible to ascertain. Therefore, the provisions provided for in this Section 7.6 are intended to establish liquidated damages in the event of a Contract early termination and are not intended as a penalty. All Early Termination Fees shall be due and payable within thirty (30) days after the Contract Termination Date.

7.6.2 Customers may terminate their term contract at any time with a 30-day written notice and payment, in-full, also at least 30 days prior to the termination date, of the Early Termination Fee based on the following schedule:

Month Disconnected	1-Year Contract	2-Year Contract	3-Year Contract	4 or 5 –Year Contract
Months 1 to 6	75%of MRC X # of months remaining	60% of MRC X # of months remaining	50% of MRC X # of months remaining	40% of MRC X # of months remaining
Months 7 to 12	50%of MRC X # of months remaining	40% of MRC X # of months remaining	30% of MRC X # of months remaining	25% of MRC X # of months remaining
Months 13 to 24		25% of MRC X # of months remaining	25% of MRC X # of months remaining	20% of MRC X # of months remaining
Months 25 to 36			20% of MRC X # of months remaining	15% of MRC X # of months remaining
Months 37 to 60				10% of MRC X # of months remaining

Early Termination provisions apply to all fixed-term and flexterm contracts. Early termination does not apply to hardware leases that may carry their own early termination provisions.

7.7 Broadcore has the right to terminate one or more Sales Agreements if (i) regardless of the cause or reason, Broadcore cannot legally provide some or all of the Equipment or Services for a period exceeding thirty (30) days, including, without limitation, loss of federal, state or local authorizations required to provide the Equipment or Services; (ii) changes in law or regulations make the provision of some or all of the Services unprofitable to Broadcore or make it impracticable or illegal for Broadcore to install, maintain or operate any of the Equipment or provide any of the Services. The Early Termination Fees will not apply to a Sales Agreement termination under this paragraph.

7.8 If Broadcore does not receive full payment from Customer by the due date applicable to the Services provided under a Sales Agreement, then, in addition to any other rights or remedies of Broadcore, Broadcore may, after giving Customer three (3) days notice, suspend all or any portion of the Services provided under any and all Sales Agreements until such time as Customer has paid in full all charges then due, including any late payment charge, resumption fees and collection costs. Following such payment, Broadcore will resume Services to Customer only if Customer pays in advance Broadcore’s costs of, and any other fees for, such resumption and provides to Broadcore assurances satisfactory to Broadcore of Customer’s ability to pay for Services provided under any and all Sales Agreements. Broadcore may assess Customer a charge, as set forth in Broadcore’s Fee Schedule on its



website in the Terms and Conditions section, to restore Customer's Services. If Customer fails to make such advance payment or provide such assurances within five (5) business days of suspension of Services, then Customer will be deemed to have terminated the Sales Agreement and Broadcore may assess Early Termination Fees as set forth above. In addition, Broadcore may not accept any requests for new services or delay any pending requests for new services until all amounts due are brought current.

7.9 Except as otherwise expressly provided herein, neither party will be liable to the other for properly terminating a Sales Agreement in accordance with its terms, but Customer will be liable to Broadcore for any accrued charges owed prior to the termination.

8.0 RATES AND CHARGES

Rates and charges for Services and Hardware will be set forth in the Sales Agreement(s) and commence on the Installation Date. Installation Date represents the day set forth in the Sales Agreement(s), and defined in Section 7.1 above. Delays in installation resulting from actions of the Customer, beyond this date will not delay the commencement of service and billing. Billing will be presented upon Contract Start Date. Any monthly recurring charges ("MRC") will be billed at the beginning of each month for the current month in accordance with the Sales Agreement(s). Broadcore may adjust the rates and charges for renewal terms upon written notice provided at least 30 days prior to the end of the Contract Term or any renewal thereof. Payments are due upon presentation of the billing.

8.1 Broadcore reserves the right to increase the charges for voice services provided under a Sales Agreement upon Customer's improper usage of the voice service for two (2) consecutive months. Improper usage patterns include, but are not limited to, calling patterns where the aggregate minutes of long distance usage per monthly billing cycle for an extension is excessive based on predictive dialing equipment, call center environments, telemarketing use or similar calling patterns without Broadcore' prior written consent.

8.2 Usage. Broadcore provides unlimited usage for fair use of local, local toll and nation-wide long distance calling. Additional fees and usage rates will be charged for service restoration (see Section 7.8 above), returned checks, paper invoices, international calls (at standard per minute usage rates by country called), directory assistance, 800#/Toll Free calls (on a per minute usage basis), 900/976# usage at its specific cost, and calls redirected to the national emergency call center on a pass-through basis (see section 1.4). Rates for these aforementioned types of calls, and miscellaneous fees will be listed on Broadcore's Fee Schedule on its website in the "Terms and Conditions" section. The unlimited usage is not intended for aggregation, telemarketing or unusually heavy calling traffic. Broadcore reserves the right to review and notify customer to remove these types of calling patterns from Broadcore's unlimited usage network.

9.0 PAYMENTS

Invoices for Services and Hardware (if leased internally) are due net 10 days from the due date. Generally the services are pro-rated the first month to allow a first of month billing cycle. If the payments are not received within two days after the net 10-day period, service may be interrupted. Broadcore has the option to suspend services until payment is received. A permanent termination of Services may follow if payment is not received at any time thereafter. If Customer is temporarily disconnected due to nonpayment, a restoration charge, per location will apply. All payments hereunder will be in U.S. dollars.

9.1 Unless otherwise specified, usage-based Services shall be invoiced monthly in arrears and all other Services shall be invoiced monthly thirty (30) days in advance. Customer shall pay all amounts owed promptly upon receipt of invoice but in no event later than the payment due date specified on the invoice and shall send its payments to the address specified on the invoice. Customer may withhold payment associated with good faith billing disputes only where Customer has submitted such disputes in writing to Broadcore within sixty (60) days after the invoice date. Customer shall be deemed to have approved all invoices (and to have waived its right to dispute any charges therein) if Customer fails to object thereto in writing within sixty (60) days after the invoice date. Customer may only withhold disputed payments up to a maximum of ten percent (10%) of any outstanding monthly invoice. If Customer withholds any amount greater than this section permits, Customer stipulates and agrees that such withholding will cause irreparable harm to Broadcore. Payment of fees will not prejudice a party's right to dispute charges so long as they are disputed in the manner and timeframe specified in the MSA. Disputed charges mutually agreed upon in favor of one party will be paid by the other party within five (5) Business Days of the resolution.

9.2 In addition to all of the payments that are required under any Sales Agreement, Customer is responsible for, and Customer shall pay, all federal, state, city, county, municipal, local or other governmental excise, income and franchise, sales, value-added, use, personal and real property, occupational taxes, withholding taxes and any other obligations and other levies and fees now in force or enacted in the future, that arise from (i) the Equipment and Services provided to Customer and any distribution facilities relating to such Equipment whether imposed by virtue of ownership by Broadcore or use by Customer of the Equipment and Services, or (ii) Customer's payment for the Equipment and Services ("Taxes"). Taxes based upon Broadcore's income are excluded from this provision. Broadcore will collect all such taxes, charges or surcharges unless Customer provides Broadcore with proof of exemption. Customer will indemnify Broadcore relative to such exempt status. Broadcore will apply all taxes as dictated by local, state and federal regulators.

9.3 Broadcore may, in addition to any other remedies available to it, impose a late payment charge, on any amount not paid within thirty (30) days of the invoice date (not to exceed the maximum rate allowed under state law). In addition, Customer agrees that Broadcore has the right to collect from Customer any fees, expenses or costs incurred by Broadcore in collecting any amounts that remain due and owing to Broadcore after the due date including, but not limited to, reasonable attorneys' fees, whether or not a suit is instituted, collection agency costs and court costs. Broadcore may assess Customer a fee for any check returned for insufficient funds.

9.4 Broadcore's then current charges will apply to all moves, additions, or changes to the Hardware or new Services that are requested by Customer ("MAC Requests"). The contract rate will apply to any MAC requests for existing services, unless the change in the service reaches a threshold in the tiered pricing system for that service (see section 2) in which case the rate for the entire affected service/s may change. Broadcore may perform MAC Requests unless otherwise provided in this MSA or as otherwise agreed to in writing by Broadcore. Broadcore reserves the right, in its sole discretion, to refuse to perform a MAC Request.



9.5 Broadcore has the right to increase, decrease, change or modify any of its rates for Services at any time; however, if Broadcore raises its rates for Services by more than five percent (5%) during any consecutive twelve (12) month period, Customer may terminate such Services (but not any other Service) without liability for early termination by providing written notice to Broadcore within thirty (30) days after the effective date of such increase. If Customer does not provide timely notice of its election to terminate, such existing Service shall thereafter be billed at the new rate.

9.6 Customer will be charged a fee for any invoice furnished to Customer on paper. This fee will be listed on Broadcore's website in the "Terms and Conditions" section, and may change from time to time. Customer will receive electronic invoices. Such invoices will be provided to Customer at no charge.

10.0 Additional Charges. Customer may be subject to additional charges in the event that non-standard circumstances arise as defined in the Provisioning Responsibilities Agreement.

11.0 Deposits. Without waiving any rights of termination or any other rights hereunder, prior to ordering and implementation of service, Broadcore requires either 1) the total cost of equipment, plus the first month of MRC and the one-time set up fees, NRC, detailed in the Sales Agreement(s) or 2) signed third party lease documents plus the first month of MRC and the NRC detailed in the Sales Agreement(s).

Upon request, Customer will provide Broadcore with information regarding payment history for communications services, number of years in business, financial statements and commercial credit bureau rating. Acceptance of any Sales Agreement(s) issued hereunder is subject to final approval by Broadcore's Credit Department.

12.0 Compliance With the Law. This Agreement is subject to all applicable federal, state, and local laws and regulations, rulings, orders, and other actions of government agencies ("Rules"), including, but not limited to: Communications Act of 1934 as amended by the telecommunications Act of 1996, the rules and regulations of the Federal Communications Commission ("FCC"), and the obtaining and continuance of any required approvals or authorizations with any other governmental agency. Broadcore will use its good faith reasonable efforts to obtain, retain, and maintain such approvals and authorizations. If any such Rule adversely affects the Services or requires Broadcore to provide Services other than in accordance with the terms of this Agreement, either party may, without liability to the other party, terminate the affected Services upon 30 days prior written notice to the other party. In performing their obligations under this Agreement, the parties will comply with all applicable federal, state and local laws, regulations, rules and orders.

13.0 Compatibility. Unless otherwise provided, Customer will provide equipment compatible with the Services and Broadcore's network and facilities. Customer will bear the cost of any additional protective apparatus reasonably required to be installed because of the use of Broadcore's network by Customer, Customer's lessees or assignees.

14.0. Non-Interference. Customer's use of the Services provided herein and any equipment associated therewith will not: (i) interfere with or impair service over Broadcore's network or facilities; (ii) impair privacy of any communications over such network; (iii) cause damage of any nature to Broadcore's assets; (iv) be used to frighten, abuse, torment or harass another; or (v) create hazards to Broadcore's officers, directors, employees, subcontractors, agents or users of the aforementioned network.

15.0 Maintenance and Upgrade of Facilities

15.1 Broadcore will maintain its facilities and equipment used to provide the Services at no additional charge to Customer, except where work or service calls result from failure or malfunction in, or improper operation of, Customer's facilities and/or equipment. In such event, Customer will reimburse Broadcore for the cost of the required maintenance at Broadcore's standard time and material rate plus any federal, state and/or local taxes imposed upon Broadcore related to such maintenance.

15.2 Broadcore reserves the right to suspend service for scheduled maintenance, planned enhancements and/or upgrades to Broadcore's network. This downtime will not count toward service level credits as described in the Service Level Agreement.

16.0 Access to Premises. Customer will grant Broadcore or cooperate with Broadcore in obtaining access to its premises for the installation, operation, removal, repair and maintenance of the equipment for the Services hereunder.

17.0 Relocation

17.1 If Customer moves from Customer's Premises designated in a Sales Agreement(s) prior to the Sales Agreement(s) Termination Date, then Broadcore shall have the right, at Broadcore's option, to provide the Services at Customer's new location for the remainder of the Sales Agreement(s) Term. Customer shall provide Broadcore ninety (90) days prior written notice of the new location and move date.

17.2 If Broadcore elects to provide Services to Customer at its new location, then the following terms shall apply:

(a) Customer shall (i) provide Broadcore sufficient space at Customer's new location for Broadcore to install the Equipment necessary to provide Broadcore's MBCS at Customer's new location; and (ii) execute a new Sales Agreement(s) for an Initial Term equal to or greater than the remaining Term at Customer's existing location.

(b) Customer shall pay Broadcore for all charges resulting from de-installing the Customer's Services and Hardware at the current Premises and re-installing the Services and Hardware at Customer's new location.

17.3 If (a) Broadcore elects not to provide Services to Customer at its new location, or (b) if the proposed monthly recurring charges for Broadcore's MBCS exceeds Customer's current monthly recurring charges for the same MBCS at Customer's existing location by ten percent (10%), then Customer may terminate the Sales Agreement(s) without liability to pay the Early Termination Fees that would have otherwise been applicable to such termination.



17.4 Broadcore, in its sole discretion, may elect not to provide Services to Customer at its new location. If Customer fails to provide Broadcore an opportunity to provide Services at Customer's new location, then such failure shall result in Customer's early termination of the Sales Agreement(s) and obligation to pay Early Termination Fees to Broadcore.

18.0. Limited Warranty. Broadcore will use reasonable efforts, according to industry standards to provide Services on a 24-hour-a-day, 7-day-a-week basis. Broadcore does not warrant that Services will be provided without interruption. In case of a Services interruption caused by Broadcore, Broadcore will credit Customer with Broadcore's service charge for the period during which the Services were interrupted as outlined in the Service Level Agreement "SLA". Such credit will not be given for Service interruptions caused by Force Majeure, or by Customer or by activities or facilities furnished by Customer or third parties.

BROADCORE MAKES THIS WARRANTY IN LIEU OF ALL OTHER WARRANTIES AND MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. Limitations and Exclusions of Liability

19.1 NOTWITHSTANDING ANYTHING IN THIS MSA OR ANY SALES AGREEMENT(S) TO THE CONTRARY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY OR PUNITIVE DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, REPLACEMENT GOODS, LOSS OF TECHNOLOGY (EXCLUDING EQUIPMENT THAT IS DAMAGED OR LOST AS A RESULT OF CUSTOMER'S IMPROPER USE OR NEGLIGENCE, IN WHICH CASE CUSTOMER SHALL BE RESPONSIBLE FOR SUCH LOSS OR DAMAGE), RIGHTS OR SERVICES, LOSS OF DATA, OR INTERRUPTION OR LOSS OF USE OF SERVICE, INCLUDING INABILITY TO DIAL 911 THROUGH VOICE SERVICES PROVIDED THROUGH MBCS, OR OF ANY EQUIPMENT OR BUSINESS, OR ANY OTHER TYPE OF DAMAGES OTHER THAN DIRECT DAMAGES (AND WITH REGARD TO DIRECT DAMAGES APPLICABLE TO BROADCORE, ONLY TO THE EXTENT PERMITTED IN THIS MSA). IN ADDITION, BROADCORE WILL HAVE NO LIABILITY TO CUSTOMER (AND NO LIABILITY FOR SERVICE LEVEL CREDITS) WHERE THE CLAIMS ARISE OUT OF, RELATE TO, ARE CAUSED BY OR INVOLVE OR CONCERN ANY OF THE FOLLOWING: (I) BROADCORE'S COMPLIANCE WITH AN ORDER OR DEMAND TO SUSPEND OR TERMINATE THE SERVICES FROM CUSTOMER'S PREMISES AS A RESULT OF BROADCORE'S COMPLIANCE WITH LEGAL PROCESS OR BROADCORE'S COMPLIANCE WITH A WRITTEN AGREEMENT WITH A SUPPLIER; (II) ANY FORCE MAJEURE EVENT OR OTHER CAUSES THAT ARE BEYOND BROADCORE'S CONTROL; (III) THE FAILURE OR MALFUNCTION OF CUSTOMER'S EQUIPMENT OR FACILITIES; (IV) THE FAILURE OF POWER, EQUIPMENT, SYSTEMS, CONNECTIONS OR SERVICES NOT PROVIDED BY BROADCORE, OR THE UNAVAILABILITY, INADEQUATE, UNTIMELY OR POOR PERFORMANCE OR NON-PERFORMANCE OF ANY FACILITIES UNDER THE CONTROL OF PERSONS OR ENTITIES OTHER THAN BROADCORE; (V) THE INABILITY OF CUSTOMER, CUSTOMER PARTIES OR ANY OTHER PERSON OR PARTY TO DIAL 911 OR ACCESS 911 EMERGENCY PERSONNEL THROUGH SERVICES PROVIDED BY BROADCORE; OR (VI) BROADCORE'S SUSPENSION OF SERVICES ACCORDING TO THE TERMS OF SECTIONS 7.8 OR 1.34. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCTS



LIABILITY, TORT AND ANY AND ALL OTHER THEORY OF LIABILITY.

19.2 IN NO EVENT SHALL BROADCORE'S AGGREGATE LIABILITY TO CUSTOMER (INCLUDING, WITHOUT LIMITATION, LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY CUSTOMER) OR TO ANY THIRD PARTIES (INCLUDING, WITHOUT LIMITATION CUSTOMER PARTIES) WITH RESPECT TO ANY AND ALL CLAIMS ARISING FROM OR RELATING TO ANY SALES AGREEMENT BETWEEN BROADCORE AND CUSTOMER OR THIS MSA, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE LESSER OF (I) THE AGGREGATE AMOUNT OF CHARGES PAID BY CUSTOMER TO BROADCORE UNDER SUCH SALES AGREEMENT DURING THE SIX (6) MONTH PERIOD AFTER THE DATE OF THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM; OR (II) \$25,000.

19.3 Notwithstanding anything in this MSA to the contrary, except for Broadcore itself (and then only to the extent permitted under this MSA), under no circumstances will any of the Broadcore Parties have any liability to the Customer Parties. Notwithstanding anything in this MSA to the contrary, under no circumstances will Broadcore have any liability to any Customer Parties other than Customer (and then only to the extent permitted under this MSA), except to the extent such parties suffer personal injury caused by Broadcore's gross negligence or willful misconduct.

19.4 ALL LIMITATIONS OF LIABILITY APPLICABLE TO BROADCORE IN THIS SECTION 19 ARE ALSO APPLICABLE TO BROADCORE'S LICENSORS, SERVICE PROVIDERS AND EQUIPMENT VENDORS.

19.5 Except as provided in Section 9.1 regarding Customer's dispute of invoiced amounts, all other claims by Customer of whatever nature against Broadcore will be deemed conclusively to have been waived unless Customer notifies Broadcore (specifying the nature of the claim) within six (6) months after the date of the occurrence of the event giving rise to the claim.

19.6 Without limiting the foregoing, with respect to the Broadband access services provided by Broadcore, Broadcore shall not be liable for any claims or damages arising out of or relating to (i) the quality, accuracy, propriety, decency, utility or correctness (or lack thereof) of content, data or information transmitted across Broadcore's network or received by Customer; (ii) loss of content, data or information due to delay, non-delivery, mis-delivery or service interruptions however caused except for the application, when applicable, of Service Level Credits under the SLA Addendum; (iii) unauthorized access to, or misuse, alteration, theft, destruction or corruption of, Customer's data, software, hardware or other systems, including that data protected by a firewall product, or (iv) the inability of Customer, Customer Parties or any other person or party to be able to dial 911 or to access 911 emergency personnel through voice services provided through Broadband access services provided by Broadcore.

19.7 All of the limitations set forth in Sections 19.1 through 19.6 apply to all causes of action and claims, including, without limitation, breach of contract, breach of warranty, negligence, misrepresentation and any other torts.

The provisions of this Section 19 will survive the termination of this Agreement and any Sales Agreement(s) issued hereunder.

20.0 Basis of Bargain; Failure of Essential Purpose. Customer acknowledges that Broadcore has established its prices and entered into one or more Sales Agreements in reliance upon the limitations and exclusions of liability and the disclaimers set forth in this MSA, including Sections 1 and 20, and that the same form is an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this MSA will survive and apply even if found to have failed their essential purpose; and Customer hereby waives its right to contest the enforceability of any provision of this MSA by reason of such failure.

21.0. INDEMNIFICATION

21.1 Broadcore shall indemnify, defend and hold Customer harmless from and against any and all losses, damages, liabilities, penalties, fines, costs and expenses (including, without limitation, reasonable attorneys' fees) arising by virtue of, or relating to, any gross negligence or willful misconduct of Broadcore while on Customer's Premises.

21.2 Customer shall indemnify, defend and hold Broadcore and the other Broadcore Parties harmless from and against any and all losses, damages, liabilities, penalties, fines, costs and expenses (including, without limitation, reasonable attorneys' fees) arising by virtue of, or relating to, (i) Customer's operations or services; (ii) any act, omission, fault, negligence or misconduct of Customer, any of the Customer Parties, or any persons on Customer's Premises other than Broadcore and the Broadcore Parties; (iii) any material breach by Customer of the terms of any Sales Agreement or this MSA or Customer's breach of any warranty, representation or covenant in any Sales Agreement or this MSA; (iv) any claim by any employee or invitee of Customer other than a claim based on the gross negligence or willful misconduct of Broadcore; or (v) any claim by customers or end-users of Customer or any other third party relating to, or arising out of, Customer's services or the Services, Equipment or Software.

The provisions of this Section 21 will survive the termination of this Agreement and any Sales Agreement(s) issued hereunder.

22.0 CPNI. Customer proprietary network information ("CPNI") is information about the quantity, technical configuration, type, destination, location, and amount of use of the telecommunications services that Broadcore or any Broadcore Parties may provide to Customer. Under federal regulations, telecommunications providers such as Broadcore have an obligation to protect the confidentiality of CPNI. By executing a contract, Customer grants permission to Broadcore to use Customer's CPNI to evaluate Broadcore's existing Services and new opportunities to serve Customer better. Broadcore may use Customer's CPNI to identify additional communications related services or products that Customer may desire that will complement the Services already provided to Customer.

23.0 Confidentiality. In the course of performance hereunder, Broadcore may have access to certain information, the ownership and confidential status of which is highly important to Customer, including, but not limited to: information about products, services, business plans, trade secrets, discoveries, ideas, designs, drawings, specifications, techniques, models, data, programs,



documentation, processes, know-how, customer lists, marketing plans, and financial and technical information and other information treated or designated by one of the parties as confidential (herein referred to as "Confidential Information")

Broadcore will not disclose Customer's Confidential Information, directly or indirectly under any circumstances or by any means, to any third person without the express written consent of Customer, and Broadcore will not copy, transmit, reproduce, summarize, quote, or make commercial or other use whatsoever of Customer's Information, except as may be necessary to perform its duties hereunder. Broadcore will exercise the highest degree of care in safeguarding Customer's Confidential Information against loss, theft, or other inadvertent disclosure and take all steps necessary to maintain such confidentiality. The provisions of this Section 23 will survive the termination of this Agreement and any Sales Agreement (s) issued hereunder.

24.0 Force Majeure. In the event that either party's performance is delayed, prevented, obstructed, or inhibited because of any ACT of GOD, fire, casualty, delay or disruption in transportation, flood, war, strike, lockout, epidemic, destruction or shut-down of facilities, shortage of curtailment, riot, insurrection, governmental acts or directives, any full or partial failure of any communications or computer network or any cause beyond such party's reasonable control, the party's performance will be excused and the time for the performance will be extended for the period of delay or inability to perform resulting from such occurrence. The occurrence of such an event will not constitute grounds for a declaration of default by either party.

25.0 Notices. All notices required by or relating to the Services herein will be in writing and will be sent to Customer at the address shown in the Sales Agreement(s) and to Broadcore, Inc. at: 5454 Beethoven Street #200 Los Angeles, CA 90066 , Attn: Finance and Administration Department, with a copy to the Legal Department at the same address. All such notices will be deemed given if mailed postage pre-paid, registered or certified mail, return receipt requested.

26.0 Assignment. Customer may not assign its obligations hereunder without the prior written consent of Broadcore; such consent will not be unreasonably withheld.

27.0 Waiver. The failure of either party to insist upon the performance of any provision herein or to exercise any right or privilege granted to it hereunder will not be construed as a waiver of such provision or any provision herein, and the same will continue in full force. The various rights and remedies given to or reserved by either party herein, or allowed by law, are cumulative, and no delay or omission to exercise any of its rights will be construed as a waiver of any default or acquiescence, nor will any waiver of any breach or any provision be considered a cantonment or any continuing or subsequent breach of the same provision.

28.0 Amendments, Modifications and Supplements. Any amendment, modification, supplement or change hereto must be in writing and signed by the parties hereto.

29.0 Governing Law. This Agreement and the Services hereunder will be governed by and



interpreted in accordance with the laws of the State of California without giving effect to any rules of conflicts of laws.

30.0 Entire Agreement. This Agreement, together with the attached Sales Agreement(s) and any addendum(s) and exhibit(s), set forth the entire agreement of the parties with respect to the subject matter hereof. If any portion of the Agreement is held to be invalid, void, or unenforceable, the remainder of the provisions will nevertheless remain unimpaired and in effect.

31.0 Customer Logo. Broadcore is proud of its association with the Customer and would like to use the Customer's name and logo in future publications of Broadcore, Inc. Customer hereby grants such permission.

32.0 Miscellaneous

32.1 The owner of the Customer's premises (landlord) is not a party to the Sales Agreement(s) between Broadcore and Customer or this MSA. The landlord will have no obligations or liabilities whatsoever under the Sales Agreement(s) between Broadcore and Customer or this MSA with respect to any Services or Equipment, and no representations or warranties are being made by the landlord with respect to any Services or Equipment provided hereunder. Customer acknowledges and agrees that the landlord is not a partner, agent, representative or affiliate of Broadcore, and the landlord is not a provider of communications services under the Sales Agreement(s) between Broadcore and Customer or these MSA. Any cessation or interruption of the Services shall not constitute a default or constructive eviction by the landlord under the lease agreement between the Customer and the landlord. The landlord shall have no responsibility or liability to Customer with respect to the provision, maintenance, failure, or quality of any Services or Equipment provided by Broadcore under any Service Order to which the landlord is not a party, and Customer agrees to hold the landlord harmless from any claims that Customer may have against Broadcore arising hereunder. Customer shall not have any right to abate, decline to pay or otherwise alter its obligations under its lease agreement with the landlord as a consequence of Broadcore's performance or non-performance of any obligations under this MSA or the Sales Agreement(s), and Customer shall not have any right to abate, decline to pay or otherwise alter its obligations under this MSA or the Sales Agreement(s) as a consequence of the performance or non-performance by the landlord of any obligation under its lease agreement with Customer.

32.2 Customer will obtain all approvals for access into Customer's Premises by Broadcore necessary for Broadcore to fully perform under the Sales Agreement(s) between Broadcore and Customer or this MSA. Broadcore shall not be in breach of this MSA if Broadcore is unable to comply with any term of this MSA due to Customer's refusal or inability to secure such access. At no cost to Broadcore, Customer will provide reasonable assistance with respect to any testing that Broadcore performs with respect to the Services or Equipment to the extent requested by Broadcore.

32.3 Nothing in this MSA shall be construed as preventing Broadcore from using independent contractors or other third-parties to perform any of Broadcore's obligations under the Sales Agreement(s) between Broadcore and Customer or this MSA.

32.4 Customer may not sell, assign or transfer any Sales Agreement(s) without Broadcore's prior written consent, except where Customer desires to assign or otherwise transfer same, in whole or in part, to any parent or subsidiary of Customer or to any purchaser of all or substantially all of Customer's assets, or to a purchaser of Customer's business as a going concern, in which case Customer shall not be



released of any obligations hereunder. Broadcore may assign or otherwise transfer any Sales Agreement(s) to any third party with written notice to Customer.

32.5 Broadcore and Customer are independent contractors and any Sales Agreement(s) and this MSA will not establish any relationship of partnership, joint venture, employment, franchise or agency between Broadcore and Customer. Neither Broadcore nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

32.6 Nothing in any Sales Agreement(s) or this MSA shall be deemed to give Customer any right to use, infringe upon, contest or impair any of Broadcore's service marks, trademarks, logos, copyrights or any other ownership rights or intellectual property of Broadcore.

32.7 This MSA, together with all Sales Agreements (whether now or hereafter executed), supersede all prior oral or written statements and represent the sole and entire agreement of with respect to the subject matter, Neither this MSA, any Sales Agreement nor any amendment, revision or modification of this MSA shall be effective unless it is in writing that is signed by Customer. The agreement to, or acceptance by Broadcore of the MSA, any Sales Agreement or any written amendment, revision or modification of the MSA may be evidenced by the signature of an authorized representative of Broadcore, provided that as to any writing which is wholly prepared by Broadcore the provision of services or the performance of work by Broadcore as described in the writing or the invoicing or issuance of a work order by Broadcore related to same shall be evidence of its acceptance of the terms stated in the writing.

32.8 Broadcore and Customer hereby agree that any disputes, controversies, claims or collection efforts regarding Customer's failure to pay any charges or Early Termination Fees invoiced to Customer may be brought in the Superior Court of Los Angeles County, California; provided, however, that any such claim or cause of action may be brought in, or removed to, the United States District Court for the Southern District of California, Los Angeles Division, to the extent that such court would have jurisdiction over the subject matter of such action. Broadcore and Customer hereby consent and submit to the in personam jurisdiction of such courts, and to the extent permitted by law, hereby consent that all services of process may be made by certified or registered mail, postage prepaid and return receipt requested. Each party hereto waives any objection based on forum non conveniens and waives any objection to venue of any action instituted hereunder to the extent that an action is brought in the courts identified above and is not otherwise subject to the arbitration requirements in Section 32.9 below. Customer and Broadcore may bring claims against the other only in their individual capacities, and not as a plaintiff or class member in any purported class or representative proceeding.

32.9 Excluding disputes, controversies, claims or collection efforts regarding Customer's failure to pay any charges or Early Termination Fees invoiced to Customer, any and all disputes, controversies and claims arising out of or relating to this Master Service Agreement or a Sales Agreement, including its validity ("Arbitratable Claims"), shall be settled and determined by arbitration conducted in Los Angeles, California 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. The parties agree that Arbitratable Claims will be resolved individually and shall not be adjudicated on a consolidated or class basis. Even if applicable law permits class actions or class arbitrations, the arbitration procedure agreed to herein applies and the parties waive any rights to pursue any Arbitratable Claim on a class basis. Each party shall bear its own expenses and an equal share of the expenses and fees with respect to the arbitration.

32.10 If Customer and Broadcore execute multiple Sales Agreements, each additional Sales Agreement will supplement rather than replace the prior Sales Agreements. Except for terms designated

as Special Stipulations in a Sales Agreement, this MSA shall govern and control over any conflicting terms in the Sales Agreement to the extent of such conflict.

32.11 Special Stipulations between Broadcore and Customer, if any, are set out in the Sales Agreements and any attachments thereto signed by Customer. To the extent that the terms and conditions set forth in the Special Stipulations differ from those set forth in this MSA, the Special Stipulations shall govern.

32.12 Each party has used, or has had an opportunity to use, an attorney to review this MSA (and will use, or have an opportunity to use, an attorney to review any Sales Agreement), and it is the parties' intent that this MSA and any Sales Agreement will not be construed against either party.

32.13 The covenants, undertakings, and agreements set forth in this MSA will be solely for the benefit of, and will be enforceable only by, the parties hereto or their respective successors or permitted assigns.

32.14 Sections 7.9, 19, 20, 21, 32.8 and 32.9 will survive the termination of a Sales Agreement. In addition, all provisions of this MSA that can only be given proper effect if they survive the termination of a Sales Agreement will survive the termination of such Sales Agreement. This MSA will be valid as to any obligation incurred prior to termination of a Sales Agreement. Without limiting the foregoing, Customer must pay all amounts owed to Broadcore under a Sales Agreement, including, without limitation, any amounts that are not due until after the expiration or earlier termination of such Sales Agreement.

32.15 If any provision of this MSA, as applied to either party or to any circumstance, is adjudged by a court to be invalid, illegal or unenforceable, the same will not affect the validity, legality, or enforceability of the portion of the provision, if any, that is not invalid, illegal or unenforceable, the application of such provision in any other circumstances, or the validity, legality or enforceability of any other provision of this MSA. Further, all terms and conditions of this MSA will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court in any action between the parties is requested to reform any and all terms or conditions to give them as much effect as possible.

32.16 The section headings throughout this MSA are for convenience and reference only, and will not be used to construe this MSA.

32.17 The waiver of any breach or default of this MSA will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

32.18 Notices must be in writing and are deemed given when received at the respective address set forth in the Sales Agreement.

32.19 Broadcore may have or later acquire one or more licensors or service providers whose products or services are incorporated into, or licensed with, the Services or the software provided by Broadcore, and each such licensor or service provider is expressly made a third party beneficiary under the applicable Sales Agreement and this MSA. Such licensor or service provider shall have the right to enforce the terms of the Sales Agreement and this MSA with respect to any terms affecting such licensor or service provider as if such licensor or service provider were a party to the Sales Agreement and this MSA.

32.20 Customer shall comply with all applicable laws, rules and regulations related to the use of the Services.

33.0 Definitions. In addition to terms defined elsewhere herein, the following terms shall have the definitions ascribed to them unless otherwise indicated.



“Business Day” means Monday through Friday excluding holidays recognized by Broadcore.

“Customer” means the person or entity ordering Service or Equipment from Broadcore pursuant to a Sales Agreement.

“Customer Parties” means Customer, its owners, parent, subsidiaries, affiliates, officers, directors, employees, partners and agents.

“Broadcore Parties” means Broadcore, its owners, parent, subsidiaries, affiliates, officers, directors, employees, partners and agents.

“Equipment” means the equipment provided by Broadcore or the Broadcore Parties that is located in Customer’s Premises and is used in, or relates to, the provision of the Services to Customer.

“Requested Installation Date” means, as to each Sales Agreement, the date listed as the Requested Installation Date for that Sales Agreement.

“Force Majeure Event” means any act or event which is beyond Broadcore’s reasonable control, including, but not limited to, national emergencies; acts of war or other civil commotion; acts of God; earthquakes; fires; flood; adverse weather conditions; explosions; other catastrophes; embargo; insurrections; riots; sabotage; strikes; lockouts; work stoppages or other labor difficulties; any law, order, regulation or other action of any governing authority or agency thereof; or failure of the Internet.

“Inside Wiring” means all wiring and cabling in Customer’s Premises that are used by Broadcore to deliver the Services to Customer or that is otherwise connected to the Equipment.

“Inside Wiring Services” means the installation, repair, replacement, re-routing, re-terminating or testing of Inside Wiring whether such services are performed by Broadcore or Customer.

“Premises” means Customer’s location identified in a Sales Agreement for Broadcore’s delivery of Services to the Customer at that location.

“Regulatory Authority” means the Federal Communication Commission (“FCC”), the United States Congress, any United States Bankruptcy Court, any state public service commission, administrative agency, judicial authority, or any other federal, state, municipal, international, or foreign governmental body or agency (including without limitation federal, state and local health, safety and environmental regulatory authorities) having authority over this MSA, the Parties hereto, the Services,, the Equipment or any matter related hereto or thereto.

“Sales Agreement Effective Date” means the date designated as the “Effective Date” in a Sales Agreement.

“Sales Agreement Term” means, as to each Sales Agreement, the period indicated under the heading “Contract Term” in a Sales Agreement.

“Sales Agreement Termination Date” means the date on which the Sales Agreement will expire (i.e., the Sales Agreement Effective Date of such Sales Agreement plus the Sales Agreement Term or any Sales Agreement Renewal Term) or the effective date of a termination of a Sales Agreement according to the terms of Section 7.

“Sales Agreements” means any and all contracts, agreements, entered into by any Customer with Broadcore for (i) the provision of Services, or (ii) any maintenance or other services related to (i) foregoing, together with any Sales Agreements, “move, add, or change requests,” service orders, trouble tickets or similar instruments executed by the Customer (executed either pursuant to a contract or in such other form and substance as Broadcore may prescribe), for the installation,



addition, deletion, moving, removal, reconfiguration, replacement or modification of said Services or Equipment from time to time.

“Services” means all services, products, goods or offerings of any type provided, or required to be provided, by Broadcore to Customer under this MSA, including the Sales Agreements.

“Special Stipulations” means the special terms and conditions, if any, set forth in the Sales Agreements or any attachment thereto, that are identified as Special Stipulations.

All other capitalized terms used herein, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Sales Agreement(s) between the parties.

Additional Documents included with this Master Service Agreement:

Appendix A – Provisioning Responsibilities Agreement (PRA),
Service Level Agreement (SLA)

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Appendix A Provisioning Responsibilities Agreement

The successful and smooth integration of Managed Business Communications Services (MBCS) requires the close cooperation and coordination between the Network Service Provider (Broadcore) and the Customer. This agreement serves to ensure that the Customer understands all roles and responsibilities in the course of provisioning and installation of the network services.

Customer Responsibilities:

- Customer will appoint a person responsible for coordinating the MBCS installation.
- Customer will designate a site contact at each network location to receive equipment, documentation and coordinate scheduling for activities at that location.
- Customer will ensure that site contact is available at each location to receive and direct the personnel responsible for the installation of the T-1 line wiring and router(s).

THIS IS EXTREMELY IMPORTANT— IF THE INSTALLING PERSONNEL CANNOT GET ACCESS TO THE FACILITY, LACK SPECIFIC INFORMATION ABOUT THE LOCATION OF THE ROUTER, OR MUST COME BACK FOR ANY REASON OTHER THAN THEIR OWN, THIS MAY RESULT IN A DELAY IN THE INSTALLATION AND ADDITIONAL CHARGES TO THE CUSTOMER.

- Customer will provide one 15 Amp duplex (standard power) outlet with external surge protector at the location of the router(s).
- Customer will ensure that the location for the router(s) is temperature controlled within a range of 60 degrees F to 90 degrees F and has relative humidity in the range of 30% to 95% non-condensing.
- Unless Customer has specifically contracted with Broadcore to provide Local Area Network (LAN) support and/or LAN/WAN integration services, Customer is responsible for these tasks. Customer understands that, although Broadcore can provide these services, in most instances, they are not included in the standard MBCS installation ordered from Broadcore. Your account executive can provide information regarding consulting and LAN support services available.

1 Broadcore Responsibilities:

Broadcore is responsible for ordering the T-1 services required, coordinating the installation, turn-up, testing and schedule of the services. Broadcore's responsibilities include the communication with the customer and notification of scheduled events throughout this process. These, specifically include:

- Upon receipt of the Customer's signed Sales Agreement, Master Service Agreement, Addendums and deposit, Broadcore will order the necessary T-1 connections.
- Broadcore will schedule approximate installation times with the customer based on the information provided by various telecommunications partners involved.
- Broadcore will track the progress of the installation schedule and promptly advise customer of any changes.
- Broadcore will develop an addressing scheme for the Customer's MBCS and provide the customer with this information.
- Broadcore will order and deliver the proper customer premise equipment (CPE) to the customer's facilities in advance of the date for circuit installation.



- Broadcore will deliver the outside wiring to the minimum point of entry (MPOE) and install a network connection jack and interconnecting wiring at a nearby (within 50 feet) customer-approved location. Broadcore will connect the router to the network jack. Customer is responsible for all inside wiring.
- Broadcore will perform completion testing as defined herein for each individual circuit.
- Consulting support is available if required. Your account executive can provide you with details of these services.

Definitions:

Standard Installation:

Standard Broadband Circuit Installation:

- Broadband Access Circuit is installed and tested by Local Exchange Carrier at the Minimum Point Of Entry (MPOE) or at an extended demarcation point (DMARC) using existing facilities at the customer premise.
- The Broadband circuit will be terminated on an 8-pin, RJ45 (DSL) or RJ48X (T1/DS1) jack and labeled accordingly by LEC representative.

Standard Broadband Router Installation:

- If Broadcore is to provide the broadband router per Sales Agreement, the router will be fully preconfigured based on customer's approved Local Area Network (LAN) specifications and in accordance with Carrier Network parameters, tested and shipped to customer. If customer is providing their own Broadcore approved router, Broadcore will provide remote assistance to help customer configure that equipment.
- Customer is required to plug in the router to an electrical outlet and connect the WAN port of the router to the 8-pin, RJ45 DSL or RJ48X jack using a provided cross RJX connect patch cord. The LAN port(s) of the router may then be connected to customer's Broadcore approved firewall, LAN switch or other LAN equipment. Remote assistance from Broadcore's remote support team is available throughout this process.

Standard Local Area Network (LAN) Switch Installation:

- If Broadcore is to provide the LAN switch per Sales Agreement, the switch will be fully preconfigured based on customer's approved Local Area Network (LAN) specifications, tested and shipped to customer. If customer is providing their own Broadcore approved, Broadcore will provide remote assistance to help customer configure that switch.
- Customer is required to plug in the switch to an electrical outlet and connect to the router and network endpoints using cross RJX connect patch cords. Remote assistance from Broadcore's remote support team is available throughout this process.

Standard Voice Endpoint Device Installation:

- If Broadcore is to provide Voice Endpoint Device(s) per Sales Agreement, the Voice Endpoint Device(s) will be fully preconfigured based on customer's approved Local Area Network configuration and in accordance with Broadcore VoIP parameters, tested and shipped to customer. If customer is providing their own Broadcore approved Voice Endpoint Device(s),



Broadcore will provide remote assistance to help customer configure them.

- Customer is required to plug in the Voice Endpoint Devices to an electrical outlet, if the switch doesn't supply power to endpoints, and connect the LAN port of the Voice Endpoint Devices to the 8-pin, RJ45 DSL or RJ48X jack using cross RJX connect patch cord(s). Remote assistance from Broadcore's remote support team is available throughout this process.

Non-Standard Installation:

- Non-Standard Installation is professional service provided by Broadcore, beyond the Standard Installation, requested by customer and approved by Broadcore.
- Professional service may be provided by Broadcore on hourly or flat rate basis per Sales Agreement terms.

Single Point Installation - Broadcore technical team will coordinate with all parties involved to turn-up service.

End-to-end Connectivity - Broadcore will provide engineering staff to provide end-to-end coordination.

Minimum Site Contact Requirements

- Capable of plugging in and powering on the CPE
- Physical access to room containing CPE

Customer Premise Equipment (CPE) - Refers to the LAN switch, which is utilized at the End User's location to connect them to the Wide Area Network.

Minimum Point of Entry (MPOE) - The place where phone lines first enter a customer's facility, the MPOE can be the CPE or an inside-wiring closet. It establishes the point at which the carrier cabling ends and that of the Customer or building owner begins.

Demarcation Point (DMARC) - That point at which operational control or ownership of communications facilities changes from one organizational entity to another. Note - The demarcation point is usually the interface point between customer-premises equipment and external network service producer equipment.

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Broadcore, Inc. Service Level Agreement (SLA) Addendum

This Service Level Agreement (“SLA”) Addendum to Broadcore’s Master Service Agreement sets forth Broadcore’s service level commitments for its voice and dedicated Internet access services. The services covered by this SLA apply to services provisioned through Broadcore’s Managed Business Communications Services (MBCS).

1.	Service Availability Commitment Time of Major Outage (hr:min:sec) ¹	Measurement Period		Service Level Credit ^{2,3}
	00:00:01 – 00:10:00	Total credits measured monthly by billing cycle; time of Major Outage is measured per incident. ; Multiple incidents Major Outages in one day are considered one incident		No Credit
	00:10:01 – 02:00:00			1 day
	> 02:00:01			1 day per additional 2 hours of Major Outage
2.	Quality of Service ¹ (Internet Access Services)	Measurement Period	Service Level	Service Level Credit ²
	Latency If greater than 95ms and not resolved within 2 hours after trouble ticket opened	Monthly by billing cycle	95 ms or less	20% of monthly T1 charges
	Packet Delivery If less than 99.5% and not resolved within 2 hours after trouble ticket opened	Monthly by billing cycle	99.5% or greater	20% of monthly T1 charges
3.	Customer Service	Service Level (target response times)		
	Major Outage (except for Excused Outage)	Within 4 hours after trouble ticket opened		
	Minor Outage (except for Excused Outage)	Within 24 hours after trouble ticket opened		
	1 to 5 MAC Requests	Within 3 Business Days after trouble ticket opened		
	5 to 10 MAC Requests	Within 5 Business Days after trouble ticket opened		
	More than 10 MAC Requests	Subject to scheduling by Customer and Broadcore		
4.	Installation Lead Times; Minimum Install and Expedite Fee by Order Size			
	Product/Service Change	Standard Install ⁶	Minimum Install ⁶	Expedite Fee by Order Size ⁷
	T1 Service	35 Business Days	15 Business Days	\$1,200 per T1



Notes to Service Level Table

Note 1 – Major Outages and quality of service issues are only measured Monday through Friday, 6:00 am to 5:00 p.m. (Pacific Time), excluding holidays recognized by Broadcore (“Normal Business Hours”). Service Level Credits do not apply to the period of any Major Outages or quality of service issues that occur outside of Normal Business Hours and do not apply to any Excused Outages.

Note 2 – Service Level Credits are applied against the invoice following the month of the credit or a reasonable period thereafter according to the following formulae – (days of Service Level Credit according to the above table) / (total days in billing cycle for the invoice that the credit is applied against) x the recurring charge for the service affected by the service level failure. The limitations and administration of Service Level Credits are described in Sections 3 and 4 below.

Note 3 – Any credits will be applied against 20% of the amount of the total monthly recurring charges.

Note 4 – Basic MACs include adding up to 5 new phone sets, moving a phone, a call appearance change, simple inside wiring work, etc.

Note 5 – Complex MACs include installing 6 or more new phone sets, a new dedicated circuit, a service location move, a transfer of service, access increase that triggers a larger router, etc.

Note 6 – The standard install and minimum install time periods begin on the day after Broadcore receives a signed Sales Agreement from Customer. Installation of Services earlier than the Expedited Install Date is contingent upon Broadcore receiving from Customer a signed Expedite Request Form that indicates an Expedited Install Date that is at least the minimum install lead time.

Note 7 – If Broadcore does not deliver an expedited Service by the Expedited Install Date indicated on an Expedite Request Form, then Broadcore will waive the expedite fee. The expedite fee is in addition to the applicable installation fees indicated in a Sales Agreement or work order. Broadcore’s installation process is further governed by the terms of its Installation Expedite Policy.

All capitalized terms in this SLA that are not otherwise defined in this SLA have the meanings set forth in Section 5 below, or in Broadcore’s Master Service Agreement at <http://www.Broadcorecom.net/terms.html> (the “MSA”) or the applicable Sales Agreement.



SLA TERMS AND CONDITIONS

1. Covered Components. This SLA applies to all equipment, cabling, distribution facilities and network facilities that are under the direct control of Broadcore and that are used to provide voice services or Internet access services to Customer (the “Network”). This SLA does not apply to the public Internet, Customer’s PC, router and hub (unless the router and hub are provided by Broadcore), ILEC local loops, and any other equipment, cabling, distribution facilities or other network facilities that are not in Broadcore’s direct control including, but not limited to, equipment, cabling, distribution facilities and network facilities that are controlled by Broadcore’s service providers. For example, if Customer connects a managed IP communications handset provided by Broadcore to a DSL or other high speed Internet connection that has not been provided by Broadcore, then this use is considered “off-net” and this SLA will not apply because Broadcore does not have direct control of the high speed Internet connection. However, if Customer connects a managed communications handset provided by Broadcore to a high speed Internet connection provided by Broadcore, then this use is considered “on-net” and this SLA will apply.

2. SERVICE LEVEL METRICS

2.1. Grade of Service for Voice Services. Broadcore’s voice services are provided on a P.01 Grade of Service basis and are not designed to be used for call center, telemarketing or similar traffic. If Customer uses Broadcore’s voice services for these purposes without Broadcore’s consent, then Broadcore can terminate the Sales Agreement per Section 7.6 of the MSA.

2.2. Service Availability. Broadcore’s Network availability target for voice and Internet access services is an average of 99.9% per monthly billing cycle. If a Major Outage (excluding an Excused Outage) occurs with respect to Broadcore’s services, then Customer will receive the applicable Service Level Credit indicated in the Service Level Table. Service Level Credits do not apply to Minor Outages.

2.3. Service Quality (Internet Access Services Only)

“Latency” – Latency means the average time an IP packet takes to complete a round trip between the Equipment located at Customer’s Premises and the Broadcore hub.

“Packet Delivery” – Packet delivery refers to the IP packets that are actually delivered between the relevant hub routers. Packet loss refers to delivery failure of an attempted IP packet delivery between the relevant hub routers.

If Customer experiences service levels that do not meet the service levels indicated in the Service Level Table for Latency or Packet Delivery, then Customer will receive the applicable Service Level Credit indicated in the Service Level Table.

3. SERVICE LEVEL LIMITATIONS

3.1. Broadcore has no support obligation or obligation to provide a credit with respect to (i) any person or entity other than Customer, and (ii) any off-net voice or data transmissions.

3.2. Broadcore has no responsibility to support hardware, software or cabling that are not provided or maintained by Broadcore. For example (and without limitation), Broadcore has no obligation to support routers, switches, hubs, firewalls, personal computers, personal computer software and DSL/cable modems unless such equipment and software are provided by Broadcore and located at the service location indicated in the applicable Sales Agreement.



3.3. All Network performance parameters in this SLA are based on the assumption that the network and cabling at Customer's location that has not been installed or provided by Broadcore is appropriately configured and is not damaged. If Broadcore determines, in its sole opinion, that Customer's network and cabling is not appropriately configured or is damaged, then Customer will not be eligible to receive Service Level Credits.

3.4. THE SERVICE LEVEL CREDITS DESCRIBED IN THIS SLA ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND BROADCORE'S SOLE LIABILITY, FOR ANY SERVICE FAILURE OR DELAY OF BROADCORE'S VOICE OR INTERNET ACCESS SERVICES, OR ANY OTHER ISSUE AFFECTING THE PERFORMANCE OF BROADCORE'S VOICE OR INTERNET ACCESS SERVICES. BROADCORE'S LIABILITY IS FURTHER LIMITED BY SECTION 20 OF THE MSA.

4. ADMINISTRATION OF SERVICE LEVEL CREDITS

4.1. Billing. All Service Level Credits shall be issued to Customer's invoice following the month that the service level failure occurred or a reasonable period thereafter; provided that within fifteen (15) days after the date of the occurrence of the event giving rise to the credit, Customer notifies Broadcore in writing that Customer is seeking a credit and specifies the basis for its claim. In no event will Service Level Credits be greater than the monthly recurring charge for the service within any given monthly billing cycle. Customer will have 60 days after receipt of an invoice to dispute the application of Service Level Credits on that invoice.

4.2. Calculation. Total creditable minutes in any given monthly billing cycle will be calculated commencing on the date and time that Customer opens a trouble ticket with Broadcore for the outage event, and ending when the event is corrected (excluding the period of any Excused Outage). Major Outages are measured on a per incident basis. Any Major Outage of 10 minutes or less in duration will not count toward the cumulative monthly Major Outage time. When calculating Service Level Credits, total creditable minutes in any given monthly billing cycle will not include any period of time during which Broadcore's personnel are denied access to Customer's premises or other facilities necessary to remedy the problem. If one incident involves multiple service level commitment failures (for example and without limitation, when an Internet access service Network outage corresponds with a service quality deficiency), then the credits applicable to each service level are not cumulative. Customer will receive the highest available credit that applies to that incident. An incident is defined in terms of location, so for example if several telephone extensions experience an outage at one location then it counts as one incident for purposes of applying the Service Level Credit.

4.3. Eligibility. Customer will not receive Service Level Credits for any service interruption or other transmission problems caused by or contributed to by (i) Customer or Customer's end user(s), customers, suppliers, business partners or visitors, (ii) anyone other than Broadcore, (iii) a Force Majeure Event (as defined in the MSA), or (iv) the failure of an ILEC local loop. Customer is not eligible for Service Level Credits before successful installation of services at Customer's location.

5. DEFINITIONS

"Excused Outage" means a Major Outage that (a) relates to off-net services, or (b) is caused by or is the result of (i) a Force Majeure Event; (ii) Customer's act or omission, or that of Customer's employees, affiliates or agents or any other third party; (iii) the use or failure of any of Customer's equipment or facilities other than the Network, Equipment or Broadcore's distribution facilities; (iv) planned outages for maintenance, upgrades or repair that Broadcore schedules and notifies Customer of, in advance; (v) maintenance of the Equipment and Services performed outside of Normal Business Hours, (vi) a reassigned or revoked IP number, or (vii) the failure of an ILEC local loop.



“Major Outage” means (i) for voice services, any outage (excluding Excused Outages) in which at least 25% of the telephone extensions that are enabled with Broadcore’s voice service (whether through a digital voice service offering or a managed IP communication service offering) are unable to make or receive calls, excluding those telephone extensions that are sending or receiving calls off-net in the case of voice services provided through a managed IP communication offering; and (ii) for Internet access services, a complete failure of the Network to send or receive data transmissions.

“Minor Outage” means any outage of voice or Internet access service (excluding Excused Outages) that is not a Major Outage.

Service Level Credit is the credit indicated under the column heading “Service Level Credit” in the Service Level Table.

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