

## BRIGHTSPEED® INSIDE WIRE PROTECTION SUBSCRIBER AGREEMENT

This Brightspeed® Inside Wire Protection Subscriber Agreement together with the materials referenced herein (“Agreement”) is between Brightspeed and the end user of the Brightspeed Inside Wire Protection service described below (“you” or “Customer” or “Subscriber”). For your convenience, this Agreement combines obligations of multiple Brightspeed entities, but does not create joint liability between the Brightspeed entities. The particular Brightspeed entity providing you Service and the provision and receipt of such is subject to all applicable provisions of this Agreement, unless otherwise specified herein. Please review the Agreement carefully; it governs your use and each Brightspeed entity’s provision of the Service.

Your enrollment in, activation of, use of, or payment for Service constitutes your acceptance of this Agreement, and you represent that you are of legal age to enter into this Agreement and are bound by it. You should read this Agreement in its entirety, but even if you choose not to read it, its terms and conditions will be legally binding upon you. If you do not accept this Agreement, do not use the Service and notify Brightspeed immediately to cancel Service via the methods described at the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#), (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts) or the Brightspeed phone number provided on your bill.

BELOW ARE IMPORTANT PROVISIONS IN THIS AGREEMENT THAT AFFECT YOUR RIGHTS UNDER CERTAIN CIRCUMSTANCES:

- SECTIONS 7 AND 8 CONTAIN LIMITATIONS ON BRIGHTSPEED’S LIABILITIES AND WARRANTIES, INCLUDING LIMITATIONS ON THE DAMAGES YOU MAY RECOVER FROM BRIGHTSPEED FOR ISSUES YOU MAY ENCOUNTER WITH YOUR SERVICE.
- SECTION 10 CONTAINS MANDATORY DISPUTE RESOLUTION PROCEDURES. THESE PROCEDURES LIMIT THE AMOUNT OF TIME YOU HAVE TO RAISE ANY DISPUTE WITH BRIGHTSPEED OR FILE ANY LAWSUIT AGAINST BRIGHTSPEED AND CONTAIN PRE-LAWSUIT DISPUTE RESOLUTION REQUIREMENTS THAT MUST BE MET BEFORE FILING ANY LEGAL ACTION. THESE PROCEDURES ALSO REQUIRE THAT ANY LAWSUIT OR CLAIM BE PURSUED ONLY ON AN INDIVIDUAL BASIS, NOT AS A CLASS OR COLLECTIVE ACTION, AND BE RESOLVED BY A JUDGE, NOT BY A JURY.

BRIGHTSPEED STRONGLY ENCOURAGES YOU TO READ YOUR BILL EACH MONTH.

- All Service is provided to you at the amounts shown on your Brightspeed bill. If you have any question about your bill or any charge on your bill, please contact Brightspeed via the methods described at the websites listed above or the Brightspeed phone number provided on your bill. Brightspeed will work with you to make sure you understand every aspect of your bill and try to resolve any issue or dispute you might have.
- Brightspeed may include important messages related to your Service or changes to the agreements between you and Brightspeed in the body of the invoice or as an attachment, link, or insert with your invoice. It is your responsibility to read and understand these messages.

Brightspeed does not guarantee Service and strongly encourages you to take steps to prevent losses from issues you may encounter with your Service.

### 1. Definitions.

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"Brightspeed" (also "we" or "us") means the affiliate of Lumen Technologies, Inc. (formerly Brightspeed, Inc.) that provides you the Service. Neither Brightspeed, Inc. nor Lumen Technologies, Inc. provide Service, Software, or Equipment.

"Enterprise Class" means any Brightspeed customer (a) billed more than \$500 in MRCs for Service, Software, or Equipment, or (b) with 10 or more employees using the Service, Software, or Equipment.

"Force Majeure Event" means an unforeseeable event beyond the reasonable control of a party, including without limitation: act of God; fire; flood; epidemics, pandemics, or outbreaks of communicable diseases; quarantines; national or regional emergencies; labor strike or unrest; sabotage; cable cuts; acts of terror; power shortage or power failure, e.g., rolling blackouts; material shortages or unavailability or other delay in delivery not resulting from Brightspeed's failure to timely place orders therefore; lack of or delay in transportation; government codes, laws, regulations, ordinances, rules, or restrictions; war or civil disorder; or failures of suppliers of goods and services.

"Inside Wire" means the wire that runs from Brightspeed's connection point (usually a small box on the outside of your premises) to the telephone jacks or outlets inside your premises to which you plug your telephone, high-speed internet, and data equipment. For business key and PBX systems, Inside Wire runs from that connection point to the last connection to your common equipment. Inside Wire and jacks do not include wire or cable serving other electronic systems such as computers or entertainment systems. Inside Wire does not include distribution panels or other non-wire parts of so-called structured wire, or repairs to more complex inside wire.

"Late Charge" is a fee of up to the maximum amount allowed by law that is assessed each month in which any portion of the payment is not received by or immediately available to Brightspeed by the due date.

"MRCs" means monthly recurring charges.

"NRCs" means non-recurring, one-time charges.

"Payment Services" means Brightspeed electronic and online methods you use to view and pay such invoices to Brightspeed, including, but not limited to, the following: MyBrightspeed, AutoPay, eBilling, Quick Bill Pay, and payments you make through interactive voice response systems or through websites associated with or linked from <http://www.brightspeed.com>

"Service" or "Services" means the Brightspeed Inside Wire Protection service (formerly known as Inside Wire Maintenance and Line-Backer Service).

"Taxes" means foreign, federal, state and local taxes, other similar charges, and any other imposition that governmental entities or agencies may levy or assess, Brightspeed collects from Customers and Brightspeed remits what is collected to such governmental entities or agencies.

"Trouble Location" means that Brightspeed will identify the trouble with your service and the location of that trouble, to the best of Brightspeed's ability, including whether the problem is in the inside wire, telephone jacks or outlets, or our facilities located outside your premises. "Trouble Location" does not include trouble located in the voice or data equipment at your premises connected to or used with a connection to the Internet or other services or trouble located in facilities or equipment of other carriers or providers.

## 2. Service Description.

(a) **Service.** The Service provides Trouble Location and repair of your simple inside wire and jacks including identification and repair to inside wire and jacks used to provide Brightspeed voice and/or High-Speed Internet (HSI) service. The Service does not include Trouble Location or repair to voice or data equipment connected to or used with a connection to the Internet or other services or trouble located in facilities or equipment of other

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carriers or providers. You are not obligated to have the Service for Brightspeed to repair your inside wire, and you may repair the inside wire yourself or choose a different provider.

### (i) Coverage

- (A) If Brightspeed concludes, through remote testing, that the Trouble Location does not exist in Brightspeed facilities or your Inside Wire that is covered by the Service, a technician will not be dispatched to your premises. If, upon your demand, a technician is then dispatched and no trouble is found, the applicable one-time charge for a customer-demanded dispatch will apply.
- (B) Service covers repair to existing, working jacks and inside wire, but not initial installation. At least one jack on your premises must be working before the Service is effective.
- (C) Service coverage will commence without delay on the completion date of the Service order as noted on your account. The Service does not cover trouble that exists prior to establishing Service unless you elect to subscribe to the Service prior to a technician being dispatched to your premises for trouble isolation and repair. If you elect to subscribe to Service after our technician is dispatched, the Service will become effective the day following Brightspeed's completed repair of the trouble and if you authorize Brightspeed to make the needed repairs, the applicable repair charges for inside wiring and/or customer-provided equipment will apply.
- (D) (Brightspeed will provide repair work in a reasonable manner, so Brightspeed may reroute wire along baseboards or some other location to avoid replacement or repair of drywall, plaster or other materials and to avoid unnecessary work. If the problem exists in complex inside wire (larger than 6 pair), or the premises riser cable, Brightspeed retains the option to switch your service to a new pair of wires whenever good wire pairs are available (also called "cut to clear").

### (ii) Exclusions. The Service does not cover the following items or situations.

- (A) Repair or replacement of telephone handsets and modems or the cord connecting a telephone handset or modem to the jack.
- (B) Drilling or cutting into metal walls in order to facilitate the repair. Brightspeed technicians will work with you to complete the repair in a safe manner.
- (C) Installation of new jacks and wiring or rewiring. For new customers, Brightspeed will reconnect an existing, working jack to the main phone line if the previous customer had the jack wired to serve an additional line.
- (D) Cable or wiring that runs between or among separate buildings, apartments or dwelling units in a multi-tenant property.
- (E) Complete rewiring for jacks and wiring not installed or existing in accordance with accepted industry standards for telephone wiring. Brightspeed will repair and rewire, if necessary, the jack or outlet that is not working and offer to complete other rewiring, if requested, at our regular, additional installation charges.

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- (F) Distribution panels or other non-wire parts of so-called structured wire systems, and no part of any wiring arrangement that provides you with a service or offering of another firm or provider.
- (G) Wire or cable serving other electronic systems such as computers or entertainment systems, except for any inside wire and jacks providing service for HSI service, but excluding trouble location to, or repair of, data equipment connected to or used with HSI service.
- (H) For business customers, wiring or cabling beyond the last connection to the common equipment for Key and PBX customers.
- (I) The Service is not available to anyone or any business that rents or leases their premises. If you reside in a multi-tenant building, campus, or military housing, Brightspeed suggests you discuss inside wire repair responsibility with the manager or owner. Typically, they are responsible for inside wire repair.

### 3. Changes to Service or this Agreement.

To the extent allowed and effective under applicable law, Brightspeed may:

- (a) Effective upon posting to <https://www.brightspeed.com/legal/wireprotectionagreement/> (or successor URLs), or of any written notice to you, including e-mail and messages on or with your invoice: (i) change the Service, Equipment, Software, and/or this Agreement in a way that does not directly result in a material and adverse economic impact to you. Please check such website and your e-mail regularly for changes.
- (b) Effective upon 30 days written notice to you, including email and messages on or with your invoice: (i) increase MRCs and/or NRCs, (ii) change the Service, Equipment, Software, and/or this Agreement in a way that directly results in a material and adverse economic impact to you, (iii) stop offering the Service, Equipment, and/or Software, and/or (iv) change the Dispute Resolution provision (Section 10). Brightspeed may reduce the foregoing notice period if such increase is based upon Regulatory Activity.
- (c) Your continued use of the Service, Equipment, and/or Software after the applicable notice period constitutes acceptance of any changes. If you later conclude you no longer agree to the terms of your Service, you must immediately stop using the Service and terminate your Service. The Term and Termination provision below describes how you can terminate your Service. Any changes you make or other terms you add to this Agreement, or propose in any other documents, written or electronic, are void.

### 4. Service Limitations.

The following conditions apply to the Service. Brightspeed may suspend, terminate, or limit use of your Service if you violate any of these conditions.

- (a) **Compliance.** The Service cannot be used for any unlawful, abusive, or fraudulent purpose, including without limitation, using the Service in a way that: (i) interferes with Brightspeed's ability to provide service to Brightspeed customers, (ii) avoids your obligation to pay for services, (iii) constitutes a criminal offense, (iv) gives rise to a civil liability, or (v) otherwise violates any law, order, ordinance, governmental requirement or regulation or this Agreement.

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- (b) **No Resale, Distribution, Transfer, or Assignment by You.** You agree not to resell or distribute, transfer or assign this Agreement and/or the Service, except with Brightspeed's prior consent and according to Brightspeed's policies and procedures. This Agreement is intended solely for you and it will not benefit or be enforceable by any other person or entity.
- (c) **Assignment by Brightspeed.** Brightspeed may assign this Agreement and your rights and obligations under this Agreement, in whole or in part, at any time without notice to you and you agree to make all subsequent payments as directed. If Brightspeed does that, Brightspeed has no further obligations to you.

### 5. Rates and Charges; Payment

- (a) **Rates and Charges.** All Service is provided to you at the amounts shown on your Brightspeed bill. If you believe the amounts shown on your Brightspeed bill differ from the rates disclosed to you during the ordering process as reflected in your order confirmation or master service agreement, please immediately contact Brightspeed customer service at the phone number on your bill or via the methods at the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#), (Small Business accounts), or [Enterprise and Strategic Customer Service](#) (Large Business & Government accounts). You are responsible for any charges associated with the Service, including without limitation, monthly Service charges, changes to Service, one-time trouble isolation or assessment charges, activation and installation charges, repair charges, shipping and handling fees, replacements charges, connection charges, Taxes, fees, surcharges and other charges. Brightspeed may impose fees or surcharges to recover amounts assessed to Brightspeed by third parties or related to Brightspeed's provision of Service to you. These fees or surcharges are not Taxes and are not required by law, but are set by Brightspeed and may change. Other than promotional MRCs, plans with MRCs that don't change, and MRCs offered with a term commitment, your MRCs for Service, fees, or surcharges are not guaranteed and may increase during the period in which you subscribe to Service. In the event Brightspeed offers the ability to pay any of the charges in installment payments over time ("Installment Option"), the aggregate payments under the Installment Option may be greater than the charge(s) paid by customers who pay the total charge(s) in one payment. Please see [www.Brightspeed.com/taxesandfees](http://www.Brightspeed.com/taxesandfees) for more information about taxes, fees, and surcharges.

You will not be eligible for any discounts or promotional offers other than those you qualify for at the time you order qualifying Service, unless the discount or promotional offer specifically states that existing customers are eligible and in that instance you will receive the discount or promotional offer strictly in accordance with its terms. Customers who move Service or disconnect and reconnect Service may not be eligible for promotional pricing available to new customers. You may only take advantage of one special pricing promotion per Service per account during any twelve-month period.

#### (b) Payment.

- (i) **Billing.** Charges are billed monthly with MRCs and NRCs billed in advance and usage charges billed in arrears. Your first invoice covers both the partial month of Service from the date your Service is available for your use up to the first day of your first full month of Service, and your first full month of Service. Depending on your location, discounts and promotions may not apply during the partial month of Service. However, you

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still will receive all applicable Service discounts and promotions for the entire promotional period. You will pay all billed charges by the due date set forth in your billing statement, as well as any Late Charge. All payments must be made in U.S. currency.

### (ii) Payment Services.

- (A) *Effect on Paper Invoices.* You may view and pay your invoices from Brightspeed through Payment Services. Certain Brightspeed offers or promotions may require you to enroll in specified Payment Services as a condition to receiving such offer or promotion. Your failure to enroll or maintain enrollment in the required Payment Services may affect the amounts at which Brightspeed provides you Service or Equipment. Certain Payment Services send an email notification to you each month when your new invoice is available for review. However, if you are unable to view your invoice electronically or online for any reason, you are still required to make your payment on time. In such situations, you are responsible for obtaining an invoice copy and/or account balance by contacting Brightspeed via the methods described on the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts). To the extent permitted by applicable law, Brightspeed reserves the right to cease providing you a paper invoice via U.S. postal service once you elect to use or enroll in a Payment Service on a recurring basis. In such instances, you will no longer receive a paper invoice from Brightspeed. Brightspeed also reserves the right to assess additional charges to you if you are enrolled in a Payment Service but request Brightspeed to provide you with a paper invoice on either a one-time or continuing basis.
- (B) *Applicable Policies; Online Payments, Website, Acceptable Use and Privacy.* You agree to comply with applicable Brightspeed policies, including the Brightspeed Electronic and Online Payment Terms and Conditions, Brightspeed Website User Agreement, Brightspeed Acceptable Use Policy, and Brightspeed Privacy Notice, all as posted to <http://www.Brightspeed.com/Pages/AboutUs/Legal> (or successor URL) and incorporated by this reference, when you use Payment Services. If you do not agree with the terms of any of these policies, do not use Payment Services. Brightspeed may, but is not obligated to, monitor the Payment Services for various purposes, and Brightspeed and its third-party vendors may access and use information regarding performance of Payment Services to perform maintenance, support, and other service-quality activities.
- (C) *Unlawful, Abusive, or Fraudulent Purposes.* Payment Services will not be used for any unlawful, abusive, or fraudulent purpose, including without limitation, using Services in a way that: (1) interferes with Brightspeed's ability to provide Brightspeed Services or Payment Services to Brightspeed customers, (2) avoids your obligation to pay for Brightspeed Services, (3) constitutes a criminal offense, (4) gives rise to a civil liability, or (5) otherwise violates any laws.

### (iii) Account Information; Account Security; Authorized Users.

- (A) You will provide all information necessary for Brightspeed to provide and bill for the Service. You affirm that the information you supply to Brightspeed is correct and complete and you will promptly notify Brightspeed whenever your personal or billing information changes. To use or enroll in a Payment Service, you must provide Brightspeed with your email address for the receipt of notices. You agree to keep your email address updated and understand it is your responsibility to provide

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any changes or updates to your email address to Brightspeed. Some Payment Services require you to pay by credit card. If you elect to pay by credit card, you are responsible for directly updating, or notifying Brightspeed, of any changes to your credit card (including, but not limited to card number, expiration date, billing address, or card status). You understand that false or incorrect information may result in Service provisioning or delivery delays or the suspension or termination of your Service.

- (B) You are solely and fully responsible and liable for all activities that occur under your Brightspeed account, password, user ID, credit card/debit card/account numbers, or bank or financial institution information, including all activities related to Payment Services. You agree to immediately notify Brightspeed if you suspect any breach of security such as loss, theft, public use (unrestricted, open, communal or shared use by third parties unrelated and/or not affiliated with you) or unauthorized disclosure or use of your Brightspeed account, password, user ID, credit card/debit card/charge card information or numbers, or bank or financial institution information, provided to Brightspeed by contacting our customer service. You also agree to periodically change your passwords.
- (C) You authorize Brightspeed to provide information about and to make changes to your Brightspeed account, including changes within Payment Services, upon the direction of any person able to provide information Brightspeed deem sufficient to identify you. There is a risk that other users may attempt to access Payment Services on your behalf, such as through the Internet. You acknowledge this risk as inherent to the nature of the Payment Services and you agree to take adequate security precautions to safeguard your data.

### (iv) Payment Information.

- (A) *Payment Services.* For your convenience, you may elect to have Brightspeed retain your payment information, including but not limited to your billing name, address, telephone number, credit card/debit card/charge card information or numbers, bank or financial institution information, applicable expiration dates, and permit such information to be used in future transactions with Brightspeed that you authorize. You are responsible for adding, updating, maintaining, deleting, and verifying the accuracy of any payment information that you ask Brightspeed to retain for you. You agree Brightspeed will not be responsible for any transactions rejected due to erroneous or outdated payment information. Additional fees may be assessed to you when using Payment Services, and you agree to pay all such fees.
- (B) *Another Company or Financial Institution.* If you arrange for payment using Payment Services through another company or financial institution, you will be subject to that company's terms and conditions and you agree that you are responsible for any charges you may incur from the financial institution in order to make such online payments and that Brightspeed will not be responsible or liable for any loss or damage caused or created by that company. In the event that any amount on a third party site does not match the same amount presented at the Brightspeed Website or on your printed Brightspeed invoice, Brightspeed's listed amount is deemed to be the accurate amount. In the event the amount listed at the Brightspeed Website and on your printed Brightspeed invoice do not agree, the printed Brightspeed invoice should be considered the correct invoice and should be used to determine the amount to be paid.

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- (C) *Credit Card Policies.* Regarding payments made by credit card, Brightspeed reserves the right to only accept certain card providers and may modify the list of such providers, including no longer accepting any credit card payments of any kind from any card providers, at any time without prior notice to you. If you provide Brightspeed your credit card information, you authorize Brightspeed to automatically charge your provided credit card for all charges on your account, and Brightspeed will automatically charge your credit card for all such charges on the applicable billing due date shown on your billing statement, to the extent possible. No chargebacks are available or permitted.
- (D) *Partial Payment.* Partial payments are acceptable, however Brightspeed's acceptance of such payments are not to be construed as an acceptable payment arrangement that automatically extends your Service beyond the normal disconnect date. Brightspeed's acceptance of late or partial payments (even those marked, "PAID IN FULL") and Late Charges will not constitute a waiver of any of Brightspeed's rights to collect the full amount due. If you are unable to pay an invoice in full prior to the due date, please contact Brightspeed via the methods described on the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts) before the due date.
- (E) *Invoice Charges; Collections; Other Restrictions.* Brightspeed may charge you an insufficient funds or returned check fee, up to the maximum rate allowed by law, if your check, bank draft, electronic funds transfer, or other order for payment is dishonored or returned for insufficient funds or any other reason. Additionally, you may be subject to Service suspension or account termination at Brightspeed's discretion. You will be informed of such action if required by law. If Brightspeed uses a collection agency or initiates any legal action to recover amounts due, you agree to reimburse Brightspeed for all expenses Brightspeed incurs to recover such amount or pay all such costs and expenses associated with such collections efforts, including attorneys' fees. You will be charged a Late Charge on any amounts withheld that are undisputed or ultimately determined to have been correctly charged. You will not pay for the Services (as defined above), or any related services you may purchase, with funds obtained through the American Recovery and Reinvestment Act (or ARRA) or other similar stimulus grants or loans that would obligate Brightspeed to provide certain information or perform certain functions unless each of those functions and obligations is explicitly identified and agreed to by the parties in this Agreement or in an Amendment to this Agreement. Brightspeed reserves the right to terminate access to Payment Services for any account at any time.

### (v) Disputes.

If you have any questions about your invoice or dispute a charge on your invoice, please contact Brightspeed customer service before the due date at the phone number on your bill or through these websites [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise and Strategic Customer Service](#) (Large Business & Government accounts). The charges will continue unless you inform Brightspeed promptly of any dispute and it determines that any charges were incorrect. IF YOU ARE UNABLE TO RESOLVE YOUR DISPUTE AFTER CONTACTING BRIGHTSPEED, YOU MUST FOLLOW THE DISPUTE RESOLUTION PROCEDURES DESCRIBED IN SECTION 10 OF THIS AGREEMENT.

### (vi) Deposit.

Brightspeed may reasonably modify the payment terms or require other assurance of payment, including a deposit, based on Customer's payment history, lack of established credit, or a material and adverse change in



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Customer's financial condition. Refunded deposit amounts will be credited to your account and any credit balance will be refunded. If you make a cash deposit, you will receive interest at the rate required in the state you receive Service from the date Brightspeed received the deposit until the date Brightspeed refunded the deposit. If you pay a deposit in connection with your Services and the state in which the Services are provided does not require Brightspeed to pay interest on that deposit, Brightspeed will not pay you any such interest.

### 6. Term and Termination.

- (a) **Month-to-Month Term.** Unless otherwise specified herein, Service is offered on a monthly basis for a term that begins on the date your Service order is completed, ends on the last day of the billing cycle during which you placed the order for Service, and automatically renews monthly.
- (b) **Term Commitment and Early-Termination Charge.** IF YOU ORDER SERVICE WITH A TERM COMMITMENT, YOU AGREE TO MAINTAIN THAT SERVICE FOR THE ENTIRE TERM COMMITMENT PERIOD. IF YOU TERMINATE THAT SERVICE BEFORE THE END OF THE TERM COMMITMENT PERIOD YOU WILL BE REQUIRED TO PAY THE EARLY-TERMINATION CHARGE EQUAL TO (1) 100% OF THE MRC MULTIPLIED BY THE NUMBER OF MONTHS REMAINING IN THE THEN-CURRENT TERM COMMITMENT OR (2) SUCH OTHER AMOUNT AS MAY BE IDENTIFIED TO YOU IN A PROMOTIONAL OFFER. FOR PURPOSES OF THIS SECTION, MAKING A CHANGE TO ANY PART OF YOUR SERVICE THAT CARRIES A TERM COMMITMENT IS CONSIDERED TERMINATION OF THE ENTIRE SERVICE. THE EARLY-TERMINATION CHARGE IS NOT A PENALTY. RATHER, IT IS AN OFFSET OR RECOVERY OF BRIGHTSPEED COSTS RELATED TO EARLY TERMINATION AND THE DISCOUNTS ASSOCIATED WITH YOUR TERM COMMITMENT. THE EARLY TERMINATION CHARGE WILL BE WAIVED IF (A) YOU NOTIFY BRIGHTSPEED WITHIN 30 DAYS OF THE DATE YOU ORDERED THE SERVICE WITH A TERM COMMITMENT THAT YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT. Brightspeed may waive the early-termination charge if you move or upgrade Service; your original term commitment period may start over. After the term commitment period, Service will continue on a month-to-month basis (which may be at a charge higher than under a term commitment) until terminated by you or by Brightspeed. You may be given the option to select a new term commitment.
- (c) **Termination.** You may terminate this Agreement and your use of the Services at any time and for any reason by calling Brightspeed at the number listed on your bill or the methods described on the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts); YOU CANNOT TERMINATE YOUR SERVICE BY E-MAIL. Brightspeed may terminate this Agreement, your password, your account, and/or your use of the Service, without notice and for any reason, including, without limitation, if you fail to pay any charges when due or if Brightspeed believes you or someone using your account has violated this Agreement. Brightspeed may, but is not obligated to, send notice of any violations to you before termination. When an account has been terminated or suspended, the reactivation of the old account or the acquisition of a new account will only be allowed by the express approval of Brightspeed and is subject to applicable charges. If Services are terminated by you or Brightspeed on any day other than the last day of your applicable billing cycle, your payment for that month of Services will not be prorated or refunded and your Services will continue to be available through the end of the applicable billing cycle.

### 7. Limitation of Liability.

THE LIMITATIONS OF LIABILITY IN THIS SECTION 7 APPLY REGARDLESS OF THE CAUSE OR LEGAL THEORY UNDER WHICH LIABILITY IS ASSERTED (WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHERWISE), EXCEPT AS TO A PARTY WHOSE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE CAUSED YOUR DAMAGES

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OR LOSSES. TO THE EXTENT THAT ANY LIMITATION IN THIS SECTION IS NOT PERMITTED BY APPLICABLE LAW, THE LIMITATION(S) NOT PERMITTED SHALL BE REDUCED OR MODIFIED TO THE MAXIMUM LIMITATION ALLOWED BY APPLICABLE LAW. THE LIMITATIONS IN THIS SECTION ALSO ARE SUBJECT TO SECTION 10(b)(ii).

- (a) YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE AND THE RESULTS OF YOUR USE OF THE SERVICE AND ACCESS THE INTERNET AT YOUR OWN RISK
- (b) BRIGHTSPEED DISCLAIMS ALL LIABILITY OR RESPONSIBILITY IF THE SERVICE REQUIRES EQUIPMENT CHANGES, DEGRADES EQUIPMENT PERFORMANCE OR SERVICE PERFORMANCE WITH THE EQUIPMENT, OR MAKES EQUIPMENT OBSOLETE.
- (c) BRIGHTSPEED DISCLAIMS ALL LIABILITY OR RESPONSIBILITY FOR ACTS AND OMISSIONS OF OTHER CARRIERS AND PROVIDERS. ADDITIONALLY, IF TROUBLE IS LOCATED IN EQUIPMENT OBTAINED FROM A THIRD PARTY, YOU SHOULD SEEK RELIEF FROM ANY SUCH THIRD-PARTY.

### (d) Payment Services.

- (i) PAYMENT SERVICES UTILIZE, IN WHOLE OR IN PART, OTHER PROVIDERS AND THE PUBLIC INTERNET AND NETWORKS TO TRANSMIT INVOICE INFORMATION AND YOUR ACCOUNT AND PAYMENT INFORMATION. YOU ACKNOWLEDGE AND UNDERSTAND THAT BRIGHTSPEED CANNOT GUARANTEE THAT PAYMENT SERVICES ARE COMPLETELY SECURE. THERE IS A RISK THAT THIRD PARTIES MAY ATTEMPT TO ACCESS PAYMENT SERVICES ON YOUR BEHALF OR ATTEMPT TO OBTAIN INFORMATION AND DATA RELATED TO PAYMENT SERVICES, INCLUDING ACCOUNT AND PAYMENT INFORMATION. YOU ACKNOWLEDGE THIS RISK AS INHERENT TO THE NATURE OF THE PAYMENT SERVICES AND YOU AGREE TO TAKE ADEQUATE SECURITY PRECAUTIONS TO SAFEGUARD YOUR INFORMATION AND DATA.
- (ii) BRIGHTSPEED DISCLAIMS ALL LIABILITY OR RESPONSIBILITY FOR ACTS AND OMISSIONS OF YOU, OTHER PROVIDERS, OR THIRD PARTIES IN CONNECTION WITH PAYMENT SERVICES. EXAMPLES OF THE FOREGOING LIMITATION INCLUDE THAT BRIGHTSPEED HAS NO LIABILITY IF: (A) YOUR FINANCIAL INSTITUTION OR CREDIT CARD PROVIDER SHOWING THAT YOUR DESIGNATED ACCOUNT HAS INSUFFICIENT FUNDS OR CREDIT AVAILABILITY; (B) BRIGHTSPEED IS PROHIBITED BY LAW OR COURT ORDER FROM WITHDRAWING PAYMENT FROM YOUR ACCOUNT; (C) THE ACCOUNT FROM WHICH PAYMENT IS TO BE MADE IS CLOSED, FROZEN, OR OTHERWISE UNAVAILABLE; (D) ANY PART OF THE ELECTRONIC FUNDS TRANSFER SYSTEM OR CREDIT CARD/DEBIT CARD PROCESSING SYSTEM IS NOT WORKING PROPERLY AT ANY TIME, INCLUDING WHEN YOU ARE ATTEMPTING TO USE PAYMENT SERVICES TO PAY YOUR INVOICE; OR (E) THERE ARE ANY DELAYS OR FAILURES IN PERFORMANCE OF PAYMENT SERVICES OR ANY INTERRUPTIONS ARISING FROM ANY CAUSE OR CIRCUMSTANCE BEYOND BRIGHTSPEED'S REASONABLE CONTROL.
- (iii) ACCOUNTS CREDITED WITH A PAYMENT THAT IS SUBSEQUENTLY RETURNED FOR ANY REASON BY YOUR FINANCIAL INSTITUTION OR CREDIT CARD PROVIDER, INCLUDING BUT NOT LIMITED TO INSUFFICIENT FUNDS, ACCOUNT CLOSED OR INVALID ACCOUNT NUMBER, ARE DEBITED FOR THE AMOUNT OF THE ORIGINAL PAYMENT AND ALL APPLICABLE RETURNED CHECK CHARGES OR OTHER, SIMILAR CHARGES. YOUR BRIGHTSPEED ACCOUNT MAY ALSO BE TEMPORARILY SUSPENDED IMMEDIATELY UPON OUR RECEIPT OF THE DENIAL OF PAYMENT OR RETURNED CHECK AND REMAIN SUSPENDED UNTIL PAYMENT IS RECEIVED VIA A CASH TRANSACTION, E.G., CASH, CASHIER'S CHECK, OR MONEY ORDER.

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- (iv) BRIGHTSPEED DOES NOT GUARANTEE THAT PAYMENT SERVICES WILL BE AVAILABLE AT ALL TIMES OR WITHOUT DELAY; YOU REMAIN RESPONSIBLE FOR PAYING YOUR BILL REGARDLESS OF THE AVAILABILITY OF PAYMENT SERVICES. If you are unable to view or pay your invoice electronically or online for any reason, contact Brightspeed Customer service by calling the phone number on your bill or through these websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts).
- (e) AS PART OF PROVIDING SERVICE, BRIGHTSPEED MAY ACCESS YOUR PREMISES, COMPUTER HARDWARE AND SOFTWARE, AND YOUR NETWORKING AND HIGH-SPEED INTERNET-RELATED EQUIPMENT. BRIGHTSPEED DOES NOT REPRESENT OR WARRANT THAT THE TECHNICIANS DOING SUCH WORK HAVE ANY SPECIAL EXPERTISE REGARDING YOUR COMPUTER OR SUCH EQUIPMENT.
- (f) THE LIABILITY OF BRIGHTSPEED, ITS AFFILIATES, AGENTS, AND CONTRACTORS IS FURTHER LIMITED AS FOLLOWS:
- (i) FOR ANY SERVICE RELATED CLAIMS, YOUR EXCLUSIVE REMEDY IS THAT BRIGHTSPEED WILL CORRECT ANY ALLEGED OR ACTUAL DEFECTS IN SUCH WORK OR MATERIALS THAT ARE BRIGHTSPEED'S RESPONSIBILITY, WITHOUT ADDITIONAL CHARGES. IF, FOR ANY REASON, THIS LIMITATION IS HELD TO BE UNENFORCEABLE, YOU AGREE THAT ANY DAMAGES BRIGHTSPEED MIGHT HAVE TO PAY WILL NOT EXCEED THE TOTAL CHARGES PAID BY YOU TO BRIGHTSPEED DURING THE SIX MONTHS PRIOR TO NOTIFYING BRIGHTSPEED OF YOUR DISPUTE.
- (ii) FOR CLAIMS RELATED TO DAMAGES OR LOSSES TO REAL OR PERSONAL PROPERTY, PERSONAL INJURY, AND WRONGFUL DEATH, BRIGHTSPEED, ITS AFFILIATES, AGENTS, AND CONTRACTORS SHALL HAVE NO LIABILITY WHATSOEVER;
- (iii) FOR CLAIMS RELATED TO ANY LOSS OR LACK OF PRIVACY AS TO, USE OR MISUSE OF, THEFT OF, DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, ANY OF YOUR SOFTWARE, FILES, INFORMATION, OR DATA, INCLUDING ANY ACCOUNT OR PAYMENT INFORMATION, BRIGHTSPEED, ITS AFFILIATES, AGENTS, AND CONTRACTORS SHALL HAVE NO LIABILITY WHATSOEVER; AND
- (iv) FOR ALL OTHER CLAIMS, INCLUDING CLAIMS RELATING TO OR ARISING OUT OF THE SALE OF THE SERVICE OR BRIGHTSPEED'S BILLING FOR THE SERVICE, DAMAGES SHALL BE LIMITED TO ACTUAL DAMAGES, NOT TO EXCEED THE TOTAL CHARGES YOU PAID TO BRIGHTSPEED IN THE SIX MONTHS PRIOR TO NOTIFYING BRIGHTSPEED OF YOUR DISPUTE. IF YOU GIVE NOTICE OF A DISPUTE AFTER TERMINATING SERVICE, DAMAGES SHALL BE LIMITED TO ACTUAL DAMAGES, NOT TO EXCEED THE TOTAL CHARGES YOU PAID TO BRIGHTSPEED DURING THE LAST SIX MONTHS BEFORE TERMINATING SERVICE.
- (v) REGARDLESS OF WHETHER BRIGHTSPEED HAS BEEN ADVISED OF THE POSSIBILITY OF LIABILITY, LOSS, OR DAMAGE, BRIGHTSPEED, ITS AFFILIATES, AGENTS, AND CONTRACTORS WILL NOT BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, SPECIAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF USE, LOSS OF BUSINESS, LOST OR IMPUTED PROFITS OR REVENUES, LOSS OF INFORMATION OR DATA, DIMINUTION IN VALUE, COSTS OF COVER, OR INTERRUPTED SERVICE) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR SERVICE EVEN IF ANY SUCH DAMAGES ARE CAUSED BY BRIGHTSPEED, ITS AFFILIATES, AGENTS, OR CONTRACTORS.

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- (g) BRIGHTSPEED, ITS AFFILIATES, AGENTS, AND CONTRACTORS WILL NOT BE LIABLE FOR ANY DELAY OR FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT IF SUCH DELAY OR FAILURE IS CAUSED BY A FORCE MAJEURE EVENT OR CIRCUMSTANCES BEYOND ITS REASONABLE CONTROL.

### 8. Disclaimer of Warranties.

- (a) Even though Brightspeed may take your order for Service, that does not mean Brightspeed will absolutely be able to provide the Service to you. After your order is taken, Brightspeed will be assessing Brightspeed's ability to implement the Service at your location. It may be that Brightspeed is unable to provide the Service to you. If Brightspeed ultimately decides Brightspeed can provide the Service, Brightspeed may need to change the original Service date.

- (b) **Disclaimer of Warranties.** THE SERVICE, INVOICE AND PAYMENT-RELATED CONTENT, PAYMENT SERVICES AND ALL RELATED INFORMATION AND SUPPORTING SYSTEMS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. BRIGHTSPEED PROVIDES THE SERVICE WITHOUT WARRANTIES OF ANY KIND, WRITTEN OR ORAL, STATUTORY, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INTERFERENCE, COMPATIBILITY OF COMPUTER SYSTEMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING OR COURSE OF TRADE AND DISCLAIMS ANY SUCH WARRANTIES. BRIGHTSPEED DOES NOT WARRANT THAT THE SERVICE, PAYMENT SERVICES OR ANY OF ITS WEBSITES WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. NO ADVICE OR INFORMATION GIVEN BY BRIGHTSPEED, ITS AFFILIATES, ITS AGENTS, OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WILL VARY THE TERMS OF THIS AGREEMENT OR CREATE ANY WARRANTY. BRIGHTSPEED IS NOT RESPONSIBLE FOR DEFAACEMENT, MISUSE, ABUSE, NEGLIGENCE, IMPROPER USE, IMPROPER ELECTRICAL VOLTAGES OR CURRENT, REPAIRS BY OTHERS, ALTERATIONS, MODIFICATIONS, ACCIDENTS, FIRE, FLOOD, VANDALISM, ACTS OF GOD, OR THE ELEMENTS. BRIGHTSPEED TECHNICAL SUPPORT IS NOT WARRANTED AND IS USED AT YOUR OWN RISK. TO THE EXTENT THAT ANY LIMITATION IN THIS SECTION IS NOT PERMITTED BY APPLICABLE LAW, SUCH LIMITATION WILL NOT APPLY TO CUSTOMER TO THE EXTENT IT IS BARRED BY APPLICABLE LAW. Some states or jurisdictions do not allow the exclusion of certain warranties. Accordingly, some of the above exclusions may not apply to you.

9. **Indemnification.** You agree to indemnify, defend, and hold harmless Brightspeed and its affiliates, contractors, officers, directors, employees, or agents from any and all third-party claims, liabilities, costs, and expenses, including reasonable attorney fees and punitive damages arising from: (a) violation of any provision of this Agreement by you or others who use your Service; (b) installation, modification, or use of the Service by you and/or any parties who use your Service, with or without your permission; (c) claims for libel, slander, invasion of privacy, or infringement of any intellectual property rights arising from the use of the Service; (d) patent infringement arising from your acts combining or using the Service in connection with facilities or equipment (circuit, apparatus, system or method) furnished by you; (e) negligent acts, errors, omissions, gross negligence, or intentional conduct by you.

### 10. Dispute Resolution.

THIS SECTION 10 SHALL NOT APPLY TO ANY ENTERPRISE CLASS CUSTOMER.

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PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS RIGHTS THAT YOU MAY OTHERWISE HAVE. IT PROVIDES FOR RESOLUTION OF DISPUTES ON AN INDIVIDUAL BASIS (AS OPPOSED TO ON A CLASS, REPRESENTATIVE, MASS, COLLECTIVE, CONSOLIDATED, OR COORDINATED BASIS), THROUGH PRE-SUIT DISPUTE RESOLUTION, AND IF APPROPRIATE, BY COURT ACTIONS DECIDED BY A JUDGE (NOT BY A JURY). IT LIMITS YOUR TIME TO NOTIFY BRIGHTSPEED OF A DISPUTE AND LIMITS YOUR TIME TO FILE ANY CLAIM, DISPUTE, ACTION, OR LAWSUIT. THIS SECTION GOVERNS ALL DISPUTES, CLAIMS, ACTIONS, OR LAWSUITS BETWEEN YOU AND BRIGHTSPEED ARISING OUT OF OR RELATING TO THIS AGREEMENT OR SERVICES, REGARDLESS OF THE LEGAL THEORY.

**(a) Pre-Filing Requirements.** Before filing or commencing any lawsuit, claim, or action in any court, you must first present any claim or dispute to Brightspeed in writing in a manner reasonably sufficient to allow Brightspeed a fair and adequate opportunity to resolve the dispute without litigation ("Notice of Claim"). Any Notice of Claim should be emailed to [legalaffairs@brightspeed.com](mailto:legalaffairs@brightspeed.com) or mailed to Brightspeed, Attn: Legal P.O. Box 1330 Fayetteville, NC 28301-1330.

THESE PRE-FILING REQUIREMENTS ARE MATERIAL TERMS OF THIS AGREEMENT PROVIDING YOU AND BRIGHTSPEED WITH SUBSTANTIVE, NOT MERELY PROCEDURAL, RIGHTS. YOUR FAILURE TO ABIDE BY THEM MAY BE GROUNDS FOR DISMISSAL OF ANY LAWSUIT.

**(i) Notice of Claim Must Be on an Individual Basis.** Your Notice of Claim must be on your own individual behalf and shall not be made on a class, representative, mass, collective, consolidated, or coordinated basis. Without limiting the generality of the requirement that any Notice of Claim must be on an individual basis, it is a violation of this agreement for two or more claimants to include claims in a single Notice of Claim or attempt to settle simultaneously their disputes, unless the two claimants are joint, named account holders of the same Brightspeed account.

**(ii) Fair and Adequate Opportunity to Resolve the Dispute.**

**(A)** Brightspeed commits to work with you in good faith to resolve any disputes you may have. For your individual Notice of Claim to provide Brightspeed a fair and adequate opportunity to resolve the dispute without litigation, your Notice of Claim must include:

- (1) the Brightspeed account number(s) for the account(s) related to the claim or dispute;
- (2) a reasonable description of the facts underlying the claim or dispute, including relevant dates when you experienced billing, service, equipment, software or other issues;
- (3) an estimate of your money damages and how those damages were calculated;
- (4) a description of any relief sought other than money damages; and
- (5) supporting documentation, including copies of your bills supporting any billing dispute.

In addition to the information provided in your Notice of Claim, you also agree to respond within a reasonable time to any request from Brightspeed for additional information to support or clarify your claim or dispute.

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- (B) If your individual Notice of Claim includes any claim based on any alleged false statement, fraud, deception, or misrepresentation, then your individual Notice of Claim also must identify:
- (1) the content of any alleged false or misleading statement or advertisement;
  - (2) the approximate date(s) on which you received, heard, or read that statement or advertisement;
  - (3) how you received that statement or advertisement; and
  - (4) if the alleged false or misleading statement was made by a particular person, that person's name or affiliation with Brightspeed (e.g., Brightspeed employee, Brightspeed-authorized service technician, or contractor).

(C) Using information you provide pursuant to Sections 10(a)(ii)(A) and (B), Brightspeed will use reasonable efforts to search for and identify records of your account history, if any, that might be helpful in resolving your dispute. Brightspeed will also attempt to contact you directly to discuss your dispute. If you do not provide the information required by Sections 10(a)(ii)(A) and (B), Brightspeed is not obligated to search its records.

(iii) *60-Day Pre-Filing Period.* If you and Brightspeed are unable to resolve your claim or dispute within 60 days after Brightspeed receives your Notice of Claim that meets the requirements of Sections 10(a)(i) and 10(a)(ii) ("60-Day Pre-Filing Period"), you may file a court action consistent with these Dispute Resolution Terms. If your Notice of Claim is deficient, incomplete, or defective because it is not made on an individual basis, as set forth in Section 10(a)(i), or because it does not include the information required by Section 10(a)(ii), then the 60-Day Pre-Filing Period will not begin until the first date on which Brightspeed has received information correcting those deficiencies or defects. Further, if your Notice of Claim otherwise meets the requirements of Sections 10(a)(i) and 10(a)(ii), but you fail to respond to a reasonable request from Brightspeed for missing or additional information about your claim or dispute, then the 60-Day Pre-Filing Period will pause and not begin again until you provide the requested missing or supporting information.

(iv) *Pre-Filing Tolling Period.* Any deadline to file a lawsuit will be extended up to a maximum of 60 consecutive days after Brightspeed receives your Notice of Claim ("Pre-Filing Tolling Period"). If you fail to respond to a reasonable request from Brightspeed for missing or additional information, then the Pre-Filing Tolling Period will end 14 consecutive days after the date of Brightspeed's request.

(b) **Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis.** By this Agreement, both you and Brightspeed waive any right to pursue any disputes and claims on a class, representative, mass, collective, consolidated, or coordinated basis.

(i) *Examples of Class, Representative, Mass, Collective, Consolidated, or Coordinated Bases.* Without limiting the generality of the requirement that disputes and claims be pursued and resolved in court solely on an individual basis, it is a violation of this agreement for two or more claimants to (1) include claims in a single Notice of Claim; (2) pursue their claims in a single court action; or (3) attempt to settle simultaneously their disputes, unless the two claimants are joint, named account holders of the same Brightspeed account.

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(ii) *Consideration for Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis.* As consideration for the Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis in this Section 10(b), Brightspeed agrees that:

- (A) Brightspeed will reimburse you for filing fees you incur for filing any lawsuit in small claims court, so long as your filing was consistent with these Dispute Resolution terms, regardless of whether you prevail on any claim in small claims court;
- (B) If you both (1) prevail on a claim in court and (2) receive an award of actual damages that exceeds Brightspeed's highest offer of settlement during the 60-Day Pre-Filing Period, Brightspeed will reimburse you for your reasonable attorneys' fees, as well as any costs and expenses you or your attorney reasonably incurred for investigating, preparing, and pursuing your claims. The calculation of actual damages for purposes of this section excludes any award of attorneys' fees, statutory minimum damages, statutory multiple damages or penalties, consequential damages, exemplary or punitive damages, and any other costs or expenses incurred in pursuing your claims;
- (C) Nothing in this Agreement, including the limitations on liability in Section 7, will prevent or limit the recovery of statutory remedies;
- (D) The damages cap in Section 7(f)(iv) is increased so that it will not exceed the total charges you paid to Brightspeed in the **twelve months** prior to notifying Brightspeed of your dispute. If you give notice of a dispute after terminating service, the damages cap in Section 7(f)(iv) is increased so that it will not exceed the charges you paid to Brightspeed during the last twelve months before terminating service; and
- (E) Brightspeed will waive its right to any award of attorneys' fees, costs, and expenses to which it might be entitled as a prevailing party in the lawsuit you filed, except that Brightspeed retains its right, as allowed by applicable law, to seek attorneys' fees, costs, and expenses on the basis that your claim was frivolous or otherwise brought in bad faith or for the purpose of harassment.

Your right to attorneys' fees, costs, and expenses provided by this Section 10(b)(ii) is not intended to limit your rights to recover these items under applicable law (if any such rights exist). If applicable law entitles you to a greater award to attorneys' fees, costs, and expenses than allowed under Section 10(b)(ii), you may recover that greater amount. However, you may not recover duplicative awards of attorneys' fees, costs, and expenses under both Section 10(b)(ii) and applicable law.

(iii) *Consideration for Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis not severable from Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis.* If a court deems Section 10(b) (Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis) unenforceable as to your claims or action, then Section 10(b)(ii) (Consideration for Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis) shall also be unenforceable and severed from this agreement.

(c) **Waiver of Right to Jury Trial. BOTH YOU AND BRIGHTSPEED WAIVE THE RIGHT TO A JURY TRIAL ON YOUR INDIVIDUAL CLAIMS.** To the extent court action is appropriate under this Agreement, any trial of your claims and Brightspeed's defenses or counterclaims shall be to a judge or court presiding without a jury (i.e., a "bench trial"), except as provided in Section 10(d).

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- (d) **Waiver of Jury Trial Not Servable from Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis.** If a court deems Section 10(b) (Waiver of Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis) unenforceable as to your claims or action for any reason, the Waiver of Right to Jury Trial in Section 10(c) shall be unenforceable and severed from this agreement.
- (e) **Limitation on Time to File Any Claim, Dispute, or Lawsuit.** YOU MUST NOTIFY BRIGHTSPEED OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AS SOON AS IT IS DISCOVERED, BUT IN ANY EVENT, WITHIN 6 MONTHS AFTER IT IS DISCOVERED. FOR EXAMPLE, IF YOU DISPUTE ANY CHARGE ON YOUR INVOICE, YOU MUST NOTIFY BRIGHTSPEED OF THE DISPUTE WITHIN 6 MONTHS OF THE DATE OF YOUR INVOICE. YOU ACCEPT ALL CHARGES NOT DISPUTED WITHIN 6 MONTHS OF YOUR DISPUTED INVOICE. ANY LAWSUIT ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE FILED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ARISES. THE FOREGOING LIMITATIONS SHALL NOT APPLY WHERE PROHIBITED BY APPLICABLE LAW. IF A COURT DEEMS EITHER OF THE FOREGOING LIMITATIONS UNENFORCEABLE, THE LIMITATION(S) FOUND UNENFORCEABLE SHALL BE EXTENDED BY THE MINIMUM TIME NECESSARY TO MAKE THE LIMITATION(S) ENFORCEABLE.
- (f) **Governing Law.** Your disputes, claims, actions, and lawsuits shall be governed by the law of the state in which you receive the Services that are the subject of the dispute, claim, action or lawsuit.
11. **Waiver of Right to Jury Trial and Any Right to Proceed on a Class, Representative, Mass, Collective, Consolidated, or Coordinated Basis for Enterprise Class Customers.**

This Section 11 shall apply only to Enterprise Class customers. **BOTH YOU AND BRIGHTSPEED WAIVE THE RIGHT TO A JURY TRIAL ON YOUR CLAIMS.** By this Agreement, both you and Brightspeed waive any right to pursue any disputes and claims on a class, representative, mass, collective, consolidated, or coordinated basis. Without limiting the generality of the requirement that disputes and claims be pursued and resolved in court solely on an individual basis, it is a violation of this agreement for two or more claimants to (1) pursue their claims in a single court action, or (2) attempt to settle simultaneously their disputes, unless the two claimants are joint, named account holders of the same Brightspeed account.

### 12. **Limitation on Time to File Any Claim, Dispute, or Lawsuit for Enterprise Class Customers.**

This Section 12 shall apply only to Enterprise Class customers. YOU MUST NOTIFY BRIGHTSPEED OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AS SOON AS IT IS DISCOVERED, BUT IN ANY EVENT, WITHIN 6 MONTHS AFTER IT IS DISCOVERED. FOR EXAMPLE, IF YOU DISPUTE ANY CHARGE ON YOUR INVOICE, YOU MUST NOTIFY BRIGHTSPEED OF THE DISPUTE WITHIN 6 MONTHS OF THE DATE OF YOUR INVOICE. YOU ACCEPT ALL CHARGES NOT DISPUTED WITHIN 6 MONTHS OF YOUR DISPUTED INVOICE. ANY LAWSUIT ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE FILED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ARISES. THE FOREGOING LIMITATIONS SHALL NOT APPLY WHERE PROHIBITED BY APPLICABLE LAW. IF A COURT DEEMS EITHER OF THE FOREGOING LIMITATIONS UNENFORCEABLE, THE LIMITATION(S) FOUND UNENFORCEABLE SHALL BE EXTENDED BY THE MINIMUM TIME NECESSARY TO MAKE THE LIMITATION(S) ENFORCEABLE.

### 13. **Notices.**



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Except as otherwise provided herein, all required notices to Brightspeed must be in writing and sent to Brightspeed P.O. Box 1330 Fayetteville, NC 28301-1330. Attn.: Legal Department. Except as otherwise provided herein, you agree that all required notices to you will be provided by one or more of the following: posting, bill message, bill insert, postcard, letter, call to your billed telephone number, or e-mail to an address you provided either when you ordered Service or at a later time. You agree to provide Brightspeed with any and every change to your e-mail address by reason by contacting Brightspeed via the methods described on the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts). If you fail to provide updated e-mail address information to Brightspeed, you agree that any notices sent to the e-mail address provided by you will be deemed to have been received by you.

Except as otherwise provided herein, all notices will be deemed given: (a) when delivered in person to the recipient named above; (b) three business days after mailed via regular U.S. Mail; (c) when delivered via overnight courier mail; or (d) when sent electronically to the email address you provided.

### 14. General.

If any term or provision of this Agreement is held invalid, illegal or unenforceable, such term or provision will be construed as nearly as possible to reflect the original intent of the parties and the remaining terms and provisions will remain in effect. Neither party's failure to insist upon strict performance of any provision of this Agreement will be construed as a waiver of any of its rights hereunder. All terms and provisions of this Agreement that should by their nature survive the termination of this Agreement will so survive. You agree that you will not harass, threaten, or conduct yourself in a verbally or physically threatening or abusive manner toward any Brightspeed employee, vendor, contractor, or agent at any time. Brightspeed reserves the right to terminate your Services without notice in the event of such behavior.

Please contact Brightspeed via the methods described on the following websites: [Residential Customer Service](#) (Consumer/Residential accounts), [Small Business Customer Service](#) (Small Business accounts), or [Enterprise Class Customer Service](#) (Large Business & Government accounts) if you have any questions regarding your account or want more information about your Services and/or account.

Where required by law, customers who cancel their Service within the first three days, or seven days, as applicable, following acceptance of this Agreement will be refunded all charges incurred with respect to their account.