



## Terms of Service

By Receiving White Cloud Communications US, LLC DBA: Broadlink (“BROADLINC” or the “Company”) services, the account holder (“Subscriber”) agrees:

1. **Responsible Party.** I am 18 years old or older and authorized to order and receive service at the service address designated on the *[purchase order/purchase form]*.
2. **Equipment Policy.**
  - a. Any equipment not purchased by Subscriber and installed by a BROADLINC employee or contractor (“Installer”) is the property of the Company (“Equipment”). The Equipment may include but shall not be limited to: cable drops, splitters, connectors, enhanced modem telephone adapter (“EMTA”), cable modems, access points, subscriber antennas, fixed wireless radios, wireless routers, converter boxes or other rented devices.
  - b. Any failure, malfunction, or breakdown of Equipment caused by neglect, accident, abuse or natural disaster, may subject Subscriber to all repair and replacement charges.
  - c. Subscriber is responsible for the total retail value replacement cost, of Equipment lost, damaged or not returned upon disconnection.
    - i. Total retail replacement cost for certain Equipment is up to the amounts as follows: DVR Converters \$300.00; Digital TV Converters \$150.00; WISP radios/antennas \$200; and Modems and voice adapters \$100.
3. **Repairs and service.**
  - a. If Subscriber experiences issues receiving the services from BROADLINC, Subscriber shall report such an issue at the time an issue is observed by calling 855-552-2253 or online at [www.broadlink.com](http://www.broadlink.com) for the Company’s support team to diagnose and assist. If a service appointment for repair is determined to be required, the Company shall dispatch a technician on the next available business day, unless Subscriber requests a later date.
  - b. Subscriber shall not relocate, remove, repair, or replace any Equipment installed by Installer without contacting the Company. Should Subscriber need to make changes to any Equipment installed by the Company, the Subscriber agrees to contact the Company and arrange for an Installer to make the changes.
  - c. If a BROADLINC technician is requested for dispatch and the Subscriber fails to comply with the requirements in this Section 3, or the reason for the dispatch is unrelated to the Company’s equipment, lines, or services being defective, a service charge of \$50/hour, minimum 1 hour labor, plus parts and equipment will be charged to the Subscriber.
  - d. BROADLINC will make all reasonable efforts to repair reported issues during normal business hours.
  - e. BROADLINC makes no claims it will provide service appointments outside of traditional working hours, including weekends or holidays.
4. **Payments, due date, and fees.**

- a. Monthly charges for service are due, on the first day of each billing period. Monthly statements are sent as a reminder of payment due two weeks prior to the due date. Monthly charges are due and payable each month regardless of receiving a monthly statement.
- b. Subscriber's account may be assessed fees in addition to the balances owed under the following conditions: \$9.95 Late fee if not paid within 10 days of the Due date; Door Collection fee of \$15.00 if collected at the service address; Service Reactivation fee of \$15 reactivation fee if service has been suspended; Reconnect fee of \$29.95 if service has been disconnected; and Returned Item fee of \$25.00 fee, or the maximum permitted by applicable law if such maximum permitted fee is less than \$25.00, on payments that are not honored by the bank.

#### **5. Security Deposit.**

- a. BROADLINC at its discretion may require a security deposit for Equipment ("Security Deposit"). If a Security Deposit is required, it must be paid at the time of installation or prior to installation, at BROADLINC's discretion.
- b. Security Deposits will be credited to Subscriber's account following six (6) months of timely payments.
- c. The Security Deposit will be applied to the Subscriber's final bill if the account is disconnected and Equipment returned before six (6) months of timely payments.
- d. Any remaining portions of the Security Deposit not applied to services or fees as described in Section 4 will be refunded to the Subscriber as described in Section 6 below.

#### **6. Refunds and account credits Policy.**

- a. Disruption of service: BROADLINC's services are provided on an "AS IS" and "AS AVAILABLE" basis. In no event shall the Company be liable for any failure or interruption of services, including without limitation circumstances beyond the Company's reasonable control. Subject to applicable laws, BROADLINC may provide credits for monthly subscription fees for qualifying outages of services upon request.
  - i. Credit limitations: Outage credits shall be for no more than actual time of service disruptions, covering only from the time outage was reported until the time it was resolved.
  - ii. Outage reporting: Start time of the outage will begin when BROADLINC support confirms an outage with the customer through an outage notification or through customer reporting the outage.
- b. Overpayment: BROADLINC shall apply any overpayments to the Subscriber's account in full, which will show up as a credit for upcoming monthly services.
- c. Billing Error: Customer must notify BROADLINC immediately when there is a billing error. Retroactive adjustments for billing errors will be limited to up to 90 days prior to notification, and only for the amount of the error within the 90-day notification window.
- d. Paid but Unserviceable: If Subscriber paid for any services prior to installation, and the service address is unserviceable, BROADLINC shall issue a refund in full within 10 business days. Refund will be issued electronically using the same method Subscriber used for payment. If the Company is unable to process a

refund on Subscriber's electronic method, a check will be mailed from the Company's business office within 10 business days.

- e. Balance credit following termination: If after termination of service there is a credit balance due to overpayment or pre-payment, BROADLINC shall issue a refund within 30 days of the due date of the final bill issued following the date of disconnect.
  - f. No refunds will be processed on accounts with unreturned equipment.
- 7. Acceptable Use Policy.** Subscriber acknowledges receipt of and agrees to the BROADLINC Internet Acceptable Use Policy.
- 8. Quality of Service.** Subscriber acknowledges that the Company's services are sold "AS IS" and "AS AVAILABLE" inasmuch that many factors are outside the control of BROADLINC. The Company makes no claims to user experience or uptime for its Residential Services.
- 9. Taxes.** Subscriber acknowledges that all products and services offered are subject to Federal, State, and Local taxes and fees.
- 10. Price Changes.**
- a. BROADLINC, from time to time, may adjust pricing for its products and services to Subscribers.
  - b. Should a change in any price occur for products and services, BROADLINC will provide to the send Subscriber notice a minimum of 30 days before the effective date of such price change, using the billing delivery method Subscriber has chosen (US Mail or Email).
  - c. Account Audits. BROADLINC periodically audits accounts to ensure Subscriber is receiving only what services they are subscribed to. If Subscriber is receiving services that they are not being charged for, the Company will remove such services with or without notice.
- 11. Regulation.**
- a. Subscriber acknowledges that BROADLINC is a service provider subject to governmental and regulatory agencies.
  - b. Subscriber agrees to abide by and be bound by all governmental, regulatory agencies and all reasonable regulations of BROADLINC.
- 12. Promotional Services.**
- a. Subscriber acknowledges should they receive programming or Equipment rental ("Promotional Services") at an abated rate ("Promotional Period") that upon the termination of the Promotional Period, billing will initiate at the current rate of Promotional Services at the time of expiration.
  - b. Should Subscriber wish not to be charged regular pricing for Promotional Services, Subscriber must contact our Subscriber service department prior to the expiration of Promotional Period to have Promotional Services discontinued.
  - c. Should Subscriber's account be terminated for any reason, promotional pricing will not apply upon reconnect.

**13. Termination and disconnection**

- a. Termination by Subscriber: Unless otherwise terminated, these Terms of Service shall automatically renew on a month-to-month basis. Subscriber acknowledges that upon such renewal all pricing is subject to change in accordance with these Terms of Service and to the extent permitted under applicable law. To terminate any recurring service at any time, Subscriber must notify BROADLINC by phone, in person, or in writing of their election to do so.
  - i. Subscriber is responsible for the full monthly charge (without proration) for subscribed Services offered on a monthly subscription basis regardless if termination is prior to the end of the current billing cycle.
  - ii. A final bill will be sent on the 15<sup>th</sup> of the following month for remaining service charges, and any per use phone charges, or fees as described in Section 4.
  - iii. All Equipment must be returned to the nearest BROADLINC office before the 1<sup>st</sup> of the next billing cycle to prevent being charged for that billing cycle.
  - iv. Balances owed up to the date of disconnect must be paid by the due date of the final bill to prevent account being turned over to a collection agency.
- b. **Termination for Bankruptcy:** BROADLINC shall have the right to terminate these Terms of Service immediately in the event that Subscriber makes an assignment for the benefit of creditors, or a voluntary or involuntary petition is filed by or against Subscriber under any law having for its purpose the adjudication of Subscriber as a bankrupt or the reorganization of Subscriber.

14. **Termination for Breach:** BROADLINC may terminate these Terms of Service, upon written notice to Subscriber if the Subscriber:

- i. Breaches these Terms of Service as solely determined by BROADLINC;
- ii. The information required in the application process is or becomes incorrect, absent or incomplete;
- iii. Subscriber threatens or harasses any BROADLINC employee, agent, contractor or representative (e.g., by abusive language, physical threats, etc.);
- iv. Subscriber's payment method fails to compensate BROADLINC; or
- v. The amount of technical support required to be provided to Subscriber is excessive as determined in the sole discretion of BROADLINC.

Subscriber agrees that upon termination of these Terms of Service, the Equipment will be removed. Failure of BROADLINC to remove such Equipment shall not be deemed abandonment thereof. In the event of termination pursuant to subsections (ii) or (iii), above, BROADLINC shall have no liability to Subscriber. Subscriber shall pay reasonable collection and/or attorney's fees to BROADLINC in the event that BROADLINC shall, in its discretion, find it necessary to enforce collection or to preserve and protect its rights under these Terms of Service.

## 15. Collections Referral

- a. Subscriber agrees to pay all reasonable costs, including attorneys' fees, incurred by BROADLINC in collecting amounts owed by Subscriber.
- b. Subscriber agrees that a collection agency may call, email, and send mail correspondence to any and all landline, cellphone, email and mailing addresses provided to BROADLINC for the purposes of collecting a debt that is owed.

**16. Updates.** BROADLINC reserves the right to update these Terms of Service from time-to-time as necessary to adjust fees or terms according to law. BROADLINC will provide notice of any updates to these Terms of Service as required by applicable law. An updated copy may be requested at any time by the Subscriber.

**17. Reservation of Rights.** BROADLINC reserves the right to refuse, suspend or terminate Service to any person at any time for any reason not prohibited by law. When practical or required by applicable law, BROADLINC will provide notice that is reasonable under the circumstances before suspending or terminating service to an existing Subscriber.

**18. Indemnification:** Subscriber agrees to defend, indemnify, and hold BROADLINC, including its officers, directors, employees, affiliates, subsidiaries, and authorized agents (individually and collectively, "BROADLINC Indemnitees") harmless from and against any and all demands, claims, suits, judgments, expenses (including without limitation reasonable attorney or witness fees), loss, damages to, or destruction of personal, real, or intellectual property, bodily injury or death of any person, and other liabilities arising from:

- a. The installation, operation, provision, or other use of BROADLINC services and/or Equipment;
- b. Any violation of BROADLINC's Terms of Service , Acceptable Use Policy, or other published policies or requirements;
- c. The negligence or willful violation of a third party's rights, or failure to comply with applicable law by (i) Subscriber, (ii) members of Subscriber's household, or (iii) Subscriber's guests, or (iv) any other person using the services provided to Subscriber;
- d. Libel, defamation, or slander resulting from any use of the services by (i) Subscriber, (ii) members of Subscriber's household, (iii) Subscriber's guests, or (iv) any other person using the Services provided to Subscriber;
- e. Infringement or misappropriation of any patent, copyright, trademark, trade name, service mark, trade secret, or other intellectual property rights (whether by transmission or material or otherwise) by (i) Subscriber, (ii) members of Subscriber's household, (iii) Subscriber's guests, or (iv) any other person using the Services provided to Subscriber, including that effected through combination of Subscriber's use of the respective Service(s) with facilities, equipment, or services provided or used by Subscriber or obtained from third parties;

- f. Unauthorized, unlawful, or fraudulent use of or access to the services, except as otherwise provided by applicable law; and
- g. Any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, or use of the 911 or E-911 service features and the equipment associated therewith, or by the use of any Voice Services furnished by BROADLINC in connection with the 911 or E-911 service, including but not limited to, the telephone number, address or name associated with the telephone used by persons accessing 911 or E-911 service thereunder, and/or that which arises out of the negligence or other wrongful act of (i) Subscriber, (ii) members of Subscriber's household, (iii) Subscriber's guests, or (iv) any other person using the Services provided to Subscriber.

The foregoing defense and indemnity obligations shall exclude damages to the extent caused by the gross negligence or willful misconduct of the BROADLINC Indemnitees. Subscriber agrees that BROADLINC Indemnitees are not liable for any damages or liability resulting from the loss of services (whether internet, cable, voice, or other services), nor will Subscriber make any claims or undertake any actions against BROADLINC Indemnitees for loss of service. Notwithstanding the foregoing, Subscriber shall be solely responsible for any damage to or loss of BROADLINC Equipment, unless such damage or loss is caused solely by the negligence or willful misconduct of BROADLINC Indemnitees.

#### **19. Limitation of Liability.**

- a. One Year Limitation Period. EXCEPT AS OTHERWISE REQUIRED UNDER APPLICABLE LAW, ANY CLAIM YOU MAY HAVE AGAINST BROADLINC MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CLAIM ARISES. IF SUBSCRIBER DOES NOT BRING A CLAIM WITHIN THIS PERIOD, SUBSCRIBER IS BARRED FROM BRINGING SUCH CLAIM, AND BROADLINC WILL HAVE NO LIABILITY WITH RESPECT TO SUCH CLAIM.
- b. Damages. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL BROADLINC BE LIABLE TO CUSTOMER FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICE OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH, INCLUDING ANY ACTS OR OMISSIONS BY THIRD PARTY SERVICE PROVIDERS OR ANY MANUFACTURER OF SUBSCRIBER PURCHASED DEVICES OR CONVEYED DEVICES, AGENTS OR SUBCONTRACTORS OF BROADLINC, OR RELATING TO ANY SERVICES FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT OR ANY OTHER LEGAL THEORY, AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR

WHETHER ANY OTHER REMEDY PROVIDED HEREIN FAILS. IN NO EVENT SHALL BROADLINC'S LIABILITY TO SUBSCRIBER FOR ANY CLAIM ARISING OUT OF THESE TERMS OF SERVICE EXCEED THE AMOUNT PAID BY SUBSCRIBER DURING THE PRECEDING THIRTY (30) DAY PERIOD. IN JURISDICTIONS THAT DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, BROADLINC'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

- c. SUBSCRIBER ALSO AGREES THAT IT SHALL NOT BE PERMITTED TO BRING ANY CLAIM WHATSOEVER AGAINST BROADLINC THAT RESULTS IN WHOLE OR IN PART FROM SUBSCRIBER'S FAILURE TO COMPLY WITH THESE TERMS OF SERVICE.

THIS SECTION SHALL SURVIVE THE TERMINATION OF THESE TERMS OF SERVICE.

20. **Force Majeure:** BROADLINC shall not be liable for any failure of performance or equipment of any kind (including BROADLINC Equipment) due to causes beyond its control, including but not limited to: acts of God, fire, flood, or other catastrophes; loss of electrical power; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over BROADLINC, or of any department agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or of any civil or military authority; national emergencies; insurrection; riots, wars; unavailability of rights-of-way or materials; or strikes, lock-outs, work stoppages, or other labor difficulties.
21. **Survival of Terms.** In addition to the terms that are specifically noted in these Terms of Service as surviving termination of these Terms of Service, all representations, warranties, indemnifications, and limitations of liability shall survive these Terms of Service. BROADLINC's right to contact Subscriber shall also survive these Terms of Service unless Subscriber opts out in the manner described in these Terms of Service. All other obligations of Subscriber and BROADLINC under these Terms of Service also survive termination if they relate to the period before termination or, if by their terms, they would be expected to survive such termination.
22. **Entire Agreement:** These Terms of Service (including the Terms of Service incorporated herein by reference) constitute the entire agreement between the Subscriber and BROADLINC. No undertaking, representation or warranty made by an agent or representative of BROADLINC in connection with the sale, installation, maintenance or removal of BROADLINC's Services or Equipment shall be binding on BROADLINC except as expressly included herein. Terms of Service. In the event that

any one or more of the provisions contained in these Terms of Service shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of these Terms of Service, and all other provisions shall remain in full force and effect. If any of the provisions of these Terms of Service are held to be excessively broad or invalid, illegal or unenforceable in any jurisdiction, it shall be reformed and construed by limiting and reducing it so as to be enforceable to the maximum extent permitted by law in conformance with its original intent.

Neither the course of conduct between the parties nor trade practice shall act to modify any provision of the Terms of Service.

**23. Acceptance.** Receiving the Company's services constitutes acceptance of these Terms of Service . If Subscriber does not wish to accept these Terms of Service, Subscriber may terminate these Terms of Service in the following manner:

- a.** Subscriber shall pay BROADLINC in full for services and Equipment through the end of the then-current billing cycle.
- b.** Subscriber shall return all Equipment undamaged to BROADLINC. If Equipment is not returned undamaged, Subscriber shall be responsible for charges described in Section 2.