

Adtech IT Solutions

Hosted PBX Terms of Service

This agreement ("Agreement") is between Advanced Technology Distributors, Inc. ("Adtech") and an end user ("End User") of Adtech's Hosted VoIP PBX ("Hosted PBX") service. Any products or services relating to Hosted PBX provided by Adtech to End User shall be governed by the terms and conditions herein. By purchasing and using Hosted PBX service, End User agrees to be bound by these terms of service. End User acknowledges that they are of legal age to enter into this Agreement.

1. TERMS OF SERVICE.

The terms of service stated herein are in lieu of and replace any and all terms set forth in any document by End User, including, but not limited to, purchase orders and other specifications. Any conflicting terms of service are objected to by Adtech and deemed inapplicable to any services rendered.

2. SERVICE LIMITATIONS.

2.1. ELECTRICAL POWER.

End User acknowledges that Hosted PBX service will not function in the absence of electrical power.

2.2. INTERNET ACCESS.

End User acknowledges that Hosted PBX service will not function if there is interruption in Internet service.

2.3. NON-VOICE SYSTEMS.

End User acknowledges that Hosted PBX service is not intended to function with non-voice systems that dial out to third-party services including, but not limited to, security systems, medical monitoring equipment, fax machines, dialup internet, and home entertainment systems. End User acknowledges that Adtech has no liability for interruption or inaccessibility of such systems.

2.4. E911 LIMITATIONS.

Adtech provides E911 service for primary phone numbers only. If End User requires additional phone numbers be made available for outbound E911 service, End User may request the feature addition by contacting customer service for a one-time fee of \$10.00 per additional number and a recurring fee of \$5.00 per additional number per month. End User acknowledges that it is the responsibility of the End User to verify that E911 call centers receive the correct location information and that the 911 call is routed to the proper 911 call center. Updates to location information for primary and secondary phone numbers may be made at End User's request by contacting customer service.

End User acknowledges that Hosted PBX E911 service will not function if there is any interruption in electrical power or internet access and that Adtech will not be held liable for the inability to make E911 calls.

2.5. INTERNATIONAL CALLING.

End User acknowledges that Hosted PBX service is not configured to allow for international dialing. If End User wishes to place international calls, End User must use a third-party calling card service.

3. EQUIPMENT.

In order to provide Hosted PBX service to End User, Adtech may supply equipment to End User. Equipment may include, but is not limited to: IP phones, analog terminal adapters, media gateways, and SIP proxy equipment. End User acknowledges that, unless specifically stated in an original vendor-generated invoice provided to Adtech at the time of installation, any and all equipment supplied for use with Adtech's Hosted PBX service belong part and parcel to Adtech. Adtech owned defective equipment will be replaced by Adtech. End User agrees that upon termination of Hosted PBX service, all equipment must be returned to Adtech within thirty (30) days or End User will receive an invoice for current market value of withheld equipment.

4. LOST, STOLEN, ALTERED OR BROKEN EQUIPMENT.

End User agrees that any lost, stolen or damaged equipment, whether accidentally or intentionally, will be replaced by Adtech and that the End User will be required to pay a replacement charge based on current retail price of equipment. End User agrees to notify Adtech immediately when equipment is lost or stolen. If End User fails to notify Adtech of lost or stolen equipment, End User may be, at Adtech's sole option, required to pay any accrued service charges up to the time Adtech is made aware that equipment was lost or stolen. End User understands that it will be responsible for any unauthorized use of equipment and/or Hosted PBX service.

5. SERVICE LIMITS AND PROHIBITED USES.

5.1. PROHIBITED USES.

Use of Hosted PBX service in any way that causes a disruption of service for other users of Hosted PBX service, whether directly or indirectly, is strictly prohibited and may result in termination of Hosted PBX service at the sole discretion of Adtech. End User understands that neither Adtech nor its vendors and providers are responsible for content of the transmissions that pass through the Internet and/or Hosted PBX service. End User agrees that it will not use Hosted PBX service in ways that violate laws, infringe on the rights of others, or interfere with users, services, or equipment of the network. End User agrees that telemarketing is strictly prohibited on the Hosted PBX service and failure to adhere to national Do Not Call lists may result in termination of the service. Further, End User understands that Adtech may refuse or terminate service without reason to anyone.

5.2. SERVICE LIMITS.

"Unlimited Calling" plans refer to ability to dial any users in the Continental United States without limit. End User understands that while there is no strict limit on the number of minutes a user may use per month, usage over 1500 minutes per trunk in one calendar month ("soft cap") may be indicative of prohibited use of Hosted PBX service. End User acknowledges that if it goes over this soft-cap, Adtech may at its sole discretion assess a per-minute usage fee of eight cents (\$0.08) per minute over the soft cap if found to be engaging in prohibited uses including, but not limited to, cold calling, call-center activities, and telemarketing.

6. TERMINATION.

End User agrees to provide Adtech with a thirty (30) day notice of termination. End User will be responsible for the full monthly service fee for the month during which the notice of termination of service is provided to Adtech.

7. WARRANTY AND LIABILITY LIMITATIONS FOR THIRD-PARTY SOFTWARE.

Adtech makes no warranties, express or implied, for any third-party software included in Hosted PBX service, including, but not limited to, webmail clients, CRM applications, heads-up-displays, operator consoles, voicemail-to-email applications, and fax-to-email applications. End User agrees that Adtech shall not be held liable for any damages, actual or perceived, due to inability to use or misuse of any third-party application included in Hosted PBX service, including, but not limited

to, missing emails, data loss in CRM applications, and missing voicemails. End User agrees that Adtech shall not be held liable for any damages, actual or perceived, due to breach of third-party application databases, including, but not limited to, SugarCRM MySQL database.

8. TERMS.

End User acknowledges that Adtech provides Hosted PBX service on a month-to-month basis with the right to discontinue or deny service at its sole discretion.

9. BILLING, CHARGES AND PAYMENT.

9.1. PAYMENT.

End User acknowledges that any invoices received for Hosted PBX service are due immediately and are considered late after thirty (30) calendar days.

9.2. CHARGES.

End User understands that monthly service charges will not be prorated and that monthly service charges are assessed on the calendar day that service starts.

9.3. LATE PAYMENT/NON-PAYMENT.

End User agrees that if any charges are due but unpaid for any reason, Adtech may suspend or terminate Hosted PBX service and all accrued charges shall be due immediately, plus a late fee.

9.4. RATE CHANGES.

Adtech may change the prices for Hosted PBX service and overage charges from time to time with thirty (30) day notice.

9.5. CREDITS.

End User acknowledges that any credits will be applied to customer accounts and will not be issued in the form of a check or any other monetary device.

9.6. DISCOUNTS.

Adtech may, from time to time, at its sole discretion, offer promotions or discounts for Hosted PBX service. Any promotions or discounts may only be redeemed when service is first purchased. End User understands that promotions and discounts are available for new accounts only and will not be retroactively applied to current accounts.

9.7. BILLING DISPUTES.

End User must dispute any charges for Hosted PBX service in writing within thirty (30) days of the date of the charge by Adtech or End User waives any objection and further recourse. Written statements disputing charges must be sent to:

Billing Department
Advanced Technology Distributors, Inc.
1571 E. Whitmore Avenue
Ceres, CA 95307

Payment may be withheld only for the amounts subject to a dispute and only if the dispute and all required detail and documentation is submitted within the allotted time.

9.8. TAXES.

Prices for Hosted PBX service do not include any customs duties, sales, use, value added, excise, federal, state, local, public utility, universal service or other similar taxes. All such taxes shall be paid by End User and will be added to any amounts otherwise charged to End User unless End User provides Adtech with an appropriate exemption certificate. If any amounts paid for the Services are refunded by Adtech, applicable taxes may not be refundable.

10. INTERNET QUALITY.

End User acknowledges and agrees that Adtech makes no guarantees for the quality of Internet-based Hosted PBX service. Any quality issues or other impairments that arise from using the Internet are outside of Adtech's control.

11. INDEMNIFICATION AND LIABILITY.

11.1. END USER INDEMNIFICATION OF ADTECH.

End User shall save, defend, indemnify, and hold harmless Adtech, its officers and directors, employees, and agents from and against any and all claims, lawsuits, demands, liabilities, and damages relating to this Agreement or arising out of use, installation or sale of Hosted PBX service.

11.2. LIMITATION OF LIABILITY.

END USER ACKNOWLEDGES AND AGREES THAT THE TOTAL LIABILITY OF ADTECH FOR ANY CLAIM ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE USE, INSTALLATION, SALE OR MAINTENANCE OF HOSTED PBX SERVICE, INCLUDING LIABILITY DUE TO DELAYS IN INSTALLATION, DELIVERY OR RESTORATION OF SERVICES, MISTAKES, OMISSIONS, INTERRUPTIONS, ERRORS OR DEFECTS IN TRANSMISSION, OR ANY OTHER ACTS OR OMISSIONS OF ADTECH, SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO ADTECH'S CHARGES FOR THE SERVICE DURING THE PERIOD IN WHICH SERVICE WAS AFFECTED.

11.3. LIABILITY FOR ACTS OR OMISSIONS OF OTHERS.

Adtech shall not be liable for any reason in the event the quality or availability of service is affected by acts or omissions of End User, underlying carriers or other service providers whose facilities are used in providing any portion of the Hosted PBX service to the End User. Adtech shall not be liable for any failure of performance caused by or resulting from any act by Customer or any other entity involved in the delivery or use of Hosted PBX service.

12. FORCE MAJEURE.

Adtech shall not be liable for any impact in quality or availability of Hosted PBX service directly or indirectly cause by or resulting from acts of God, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties of Adtech or Adtech's suppliers as may occur in spite of Adtech's best efforts.

13. TRANSFER OF SERVICE.

The Agreement may not be transferred by End User without prior written consent of Adtech. End User may transfer Agreement to any entity that acquires End User or into which End User is absorbed upon providing Adtech with written notice thirty (30) days in advance and subject to Adtech's prior approval.

14. CHANGES TO AGREEMENT OR SERVICE.

Adtech reserves the right to make changes to the terms of service in this Agreement or Hosted PBX service with thirty (30) days notice to End User.