

# BRIGHTSPEED® CONNECTED VOICE SUBSCRIBER AGREEMENT

This Brightspeed® Retail Product Agreement (“Agreement”) is between CenturyTel Broadband Services, LLC (“Brightspeed”) and the end user of the Brightspeed product(s) described below (“you” or “Customer”). Please review the Agreement carefully, as it governs your use and Brightspeed’s provision of the Product.

YOUR ACTIVATION OF, USE OF OR PAYMENT FOR THE PRODUCT CONSTITUTES YOUR ACCEPTANCE OF THIS AGREEMENT. THIS AGREEMENT REQUIRES THE USE OF MANDATORY ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN LAWSUITS, JURY TRIALS, OR CLASS ACTIONS.

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 PRODUCT AND RETURN THE PRODUCT IN GOOD CONDITION WITHIN THE APPLICABLE PERIOD FOR A REFUND. FURTHER, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND ARE BOUND BY IT.

## 1. Definitions.

“**Product**” means the device(s) purchased by you from Brightspeed and other information and materials provided in connection with such device(s), including firmware and documentation.

“**Force Majeure Event**” means an unforeseeable event beyond the reasonable control of a party, including without limitation: act of God; fire; flood; 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.

“**Regulatory Activity**” means any regulation and/or ruling, including modifications thereto, by any regulatory agency, legislative body or court of competent jurisdiction.

## 2. Product Requirements.

- (a) Broadband Internet access must be purchased separately through your service provider. The Product will not work otherwise.
- (b) In using the Product, it is your responsibility to ensure that you have all required computer, operating system, or networking product elements and that they are compatible and properly configured with the Product. You accept that the Product may not work if the requirements and compatibility have not been met.
- (c) The Product are intended to be accessed and used only for non-time-critical functions and information. The Product is not guaranteed to be reliable or available 100% of the time. In addition, the Product may be subject to sporadic interruptions and failures for reasons beyond Brightspeed’s control, including but not limited to your service provider’s Internet service availability.
- (d) The Product may be used only in the United States and any export of the Product is strictly prohibited.

**3. Changes to Product or this Agreement.** To the extent allowed and effective under applicable law, Brightspeed may:

**(a) Effective upon posting to <https://www.brightspeed.com/aboutus/legal/consumer/terms-and-conditions>:**

(i) stop offering the Product and (ii) change the Product in a way that does not directly result in a material and adverse economic impact to you. Please check such Web site regularly for changes.

**(b) Effective upon 30 days after posting to <https://www.brightspeed.com/aboutus/legal/consumer/terms-and-conditions>:**

(i) change the Product and/or this Agreement in a way that directly results in a material and adverse economic impact to you and/or (ii) change the Dispute Resolution and Arbitration; Governing Law provision. Brightspeed may reduce the foregoing notice period if such increase is based upon Regulatory Activity. Please check such Web site regularly for changes.

Except as specified in the Dispute Resolution and Arbitration; Governing Law provision below, your continued use of the Product constitutes acceptance of those changes. You must immediately stop using the Product and terminate your Service if you do not agree to the changes. Any changes you make or other terms you add to this Agreement, or propose in any other documents, written or electronic, are void.

## 4. Software.

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- (a) Software.** Use of the Service may require or enable you to download or otherwise install or use certain software that is owned by Brightspeed or by third parties (the "Software"). By installing the Software and using the Product with embedded Software you are agreeing to abide by all of the terms and conditions of this Agreement that relate to the Software, including without limitation the terms and conditions of this Section.
- (b) License.** If the Software is accompanied by an end user license agreement ("EULA"), your use of the Software is governed by the terms of that agreement and by the terms of this Agreement where applicable. You must accept and agree to the terms of the EULA before installing the Software. If the Software is not accompanied by a EULA, Brightspeed grants you a limited, personal, revocable, nonexclusive, nontransferable, non-assignable license to install and use the Software for purposes of using the Product. The license is effective upon the earlier of delivery or installation and extends only to Customer's own use of such Software and only on the designated Product.
- (c) No Modification.** You may not modify the Software in any way or change or delete any copyrights, trademarks, service marks or other proprietary rights or notices of Brightspeed or a third-party that appear or are used in connection with the Software. You agree that the Software is the confidential and proprietary property of its owner and may not be disclosed or reproduced unless specifically authorized by Brightspeed or the third-party licensor or supplier. In addition, you agree that you will not de-compile, disassemble, reverse engineer or otherwise reduce the Software to a human readable form.
- (d) Ownership.** You acknowledge that Brightspeed or the third-party licensor or supplier of the Software, as applicable own all right title and interest, including without limitation all copyright, patent, trademark, and trade secret rights in the Software and related documentation, updates, and upgrades. You are not granted any ownership rights in the Software and may not sublicense, loan, rent, lease, distribute, share, or otherwise transfer the Software to anyone else.
- (e) No Export.** The Software may be used only in the United States and any export of the Software is strictly prohibited.
- (f) Updates, Upgrades, or Changes.** Brightspeed may update, upgrade or change the Software and related settings on your Product from time to time. You agree to cooperate with Brightspeed in performing such activities. A program downloaded to your Product will perform automatic updates to certain Product-related Software on a regular basis. This program may collect certain information necessary to perform this function. Any information collected as part of this process will be treated in accordance with Brightspeed's Privacy Policy. You may choose to turn off the automatic updates function. If the automatic updates feature has been turned off, you may be prompted to update Software currently on your Product before the new Software can be downloaded.
- (g) Termination.** Brightspeed may discontinue provision of the Software for any reason, including without limitation if Brightspeed's agreement with a software vendor is terminated. Additionally, for certain third-party vendors Software will no longer be functional if: (i) you or your end users discontinue subscribing to the vendor product for which the Software was provided or (ii) this Agreement is terminated for any reason whatsoever.
- (h) Federal Procurements.** This section applies to all acquisitions of the Software by or for the Federal Government or by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other transaction with the Federal Government which calls for delivery or use of the Software by the Government. By accepting delivery of the Software under any such contract, grant, cooperative agreement, or as part of any such transaction, the Government agrees that the Software qualifies as commercial computer software and that the associated documentation qualifies as commercial computer software documentation within the meaning of the acquisition regulations and contract clauses applicable to this procurement. The terms and conditions of this Agreement are fully applicable to the Government's use and disclosure of the Software and documentation and will supersede any conflicting terms or conditions. No license of any kind is granted in the case of acquisitions which contain or are subject to the clauses FAR 52-227.19 COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS (JUNE 1987) or any other clause which purports to grant to the Government rights greater than, or additional to, those set forth in this Agreement, or which purports to impose additional requirements upon Brightspeed to make the Agreement effective, unless Brightspeed specifically so consents by separate written agreement. Please contact Brightspeed for Software manufacturer information.

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**5. Third-Party Services.** The Product will allow you to access, use, or interact directly with third-party websites, apps, content, products and other services. Please note that when you use third-party services, their own terms and privacy policies, in addition to the terms of this Agreement, as applicable, will govern your use of those services.

**6. Privacy.** Brightspeed takes customer privacy seriously treating all customer information with care and respect to ensure the security of our customers' personal information. Brightspeed shares information with its affiliates, employees, agents and authorized third parties for purposes of performing the services related to the customer's purchase, and for its own marketing purposes. Brightspeed takes commercially reasonable measures designed to protect the data it collects and to insure the privacy of your personal information. Please go to <https://www.brightspeed.com/aboutus/legal/consumer/privacy-notice> for a complete copy of Brightspeed's Privacy Policy.

**7. Term and Termination.** Brightspeed reserves the right to (a) terminate support for the Product if Brightspeed determines in good faith that such your use of the Product violates this Agreement or an applicable law and (b) inform law enforcement of any illegal activity or material relating to your use of the Product and provide law enforcement officials with all requested information Brightspeed may have, including but not limited to the name, phone number, and email addresses of any user account suspected of illegal activity.

**8. Limitation of Liability.** 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.

- (a) YOU ASSUME TOTAL RESPONSIBILITY FOR USE, RESULTS OF USE, AND PERFORMANCE OF THE PRODUCT AT YOUR OWN RISK. BRIGHTSPEED EXERCISES NO CONTROL OVER AND DISCLAIMS ANY RESPONSIBILITY FOR THE CONTENT CREATED OR ACCESSIBLE USING THE PRODUCT AND FOR ACTIONS TAKEN ON THE INTERNET.
- (b) REGARDLESS OF THE LEGAL THEORY UNDER WHICH LIABILITY IS ASSERTED AND 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, PUNITIVE 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, COSTS OF COVER, INTERRUPTED SERVICE, OR RELIANCE UPON THE SOFTWARE AND/OR ASSOCIATED DOCUMENTATION) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR PRODUCT EVEN IF ANY SUCH DAMAGES ARE CAUSED BY BRIGHTSPEED, ITS AFFILIATES, AGENTS, OR CONTRACTORS.
- (c) THE REPAIR OR REPLACEMENT REMEDY SET FORTH IN THE LIMITED WARRANTY IN SECTION 10 BELOW IS THE ONLY REMEDY AVAILABLE WITH RESPECT TO THE PRODUCT.
- (d) BRIGHTSPEED DISCLAIMS ALL LIABILITY OR RESPONSIBILITY FOR ACTS AND OMISSIONS OF OTHER PROVIDERS. ADDITIONALLY, IF PART OF A SERVICE UTILIZED BY THE PRODUCT IS PROVIDED BY A THIRDPARTY AND THE THIRD-PARTY FAILS TO PROVIDE THAT SERVICE, BRIGHTSPEED WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY DEFICIENCIES IN OR LACK OF SERVICE.
- (e) Any claim or dispute arising out of or relating to this Agreement must be brought within one year after the cause of action arises.

**9. Personal Injury, Death, and Property Damage.** BRIGHTSPEED'S LIABILITY TO YOU ON ACCOUNT OF ANY ACT OR OMISSION OF BRIGHTSPEED RELATED TO THIS AGREEMENT WILL BE LIMITED TO ACTUAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY (AS LIMITED IN SECTION 13 ABOVE), OR BODILY INJURY OR DEATH DIRECTLY CAUSED BY BRIGHTSPEED'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE. EXCEPT FOR DAMAGES DESCRIBED IN THE PREVIOUS SENTENCE, YOU WILL NOT BE ENTITLED TO ANY OTHER DAMAGES, INCLUDING INDIRECT OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION. BRIGHTSPEED AND OUR AFFILIATES, AGENTS, AND CONTRACTORS WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, ANY OF YOUR SOFTWARE, FILES, DATA OR PERIPHERALS, REGARDLESS OF THE CAUSE. Damages under this Section will be subject to the limitation of liability in this Agreement but not the Damage Cap. 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.

**10. Warranty.**

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**(a) Limited Warranty for Equipment.** Brightspeed extends a Limited Warranty to the purchaser (you) for the Product. The terms of the Limited Warranty set out below (the "Limited Warranty") are benefits extended to you as the purchaser of the Product. THIS LIMITED WARRANTY IS THE ONLY EXPRESS WARRANTY EXTENDED BY BRIGHTSPEED IN CONNECTION WITH THE PRODUCT. IMPLIED WARRANTIES WHICH MAY NOT BE DISCLAIMED ARE LIMITED IN TIME TO THE DURATION OF THIS LIMITED WARRANTY, AND ALL REMEDIES FOR ALL SUCH IMPLIED WARRANTIES ARE RESTRICTED TO THE REPAIR OR REPLACEMENT REMEDY AND PROCEDURE SET FORTH IN THIS LIMITED WARRANTY. THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, HOWEVER ARISING, AND ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED. SOME STATES OR COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS OR THE EXCLUSION OF LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR CONSUMER PRODUCTS. IN SUCH STATES OR COUNTRIES, SOME EXCLUSIONS OR LIMITATIONS OF THIS LIMITED WARRANTY MAY NOT APPLY TO YOU. FOR CONSUMER TRANSACTIONS, THE LIMITED WARRANTY TERMS CONTAINED HEREIN, EXCEPT TO THE EXTENT LAWFULLY PERMITTED, DO NOT EXCLUDE, RESTRICT, OR MODIFY BUT ARE IN ADDITION TO THE MANDATORY STATUTORY RIGHTS APPLICABLE TO THE SALE OF THE PRODUCT TO YOU.

### LIMITED WARRANTY

- (i) This Product is warranted by Brightspeed to the person originally purchasing the Product, and no others, to be free of manufacturing defects, under normal consumer usage, for a period of one (1) year from the original date of purchase. PLEASE RETAIN A COPY OF YOUR RECEIPT AS PROOF OF PURCHASE.
- (ii) This Limited Warranty covers only the basic operations of the Product, and Brightspeed does not warrant the compatibility of the Product with any computer, operating system, networking product, or third party service provider network configurations nor does this Limited Warranty cover any defect present in any computer, network, or operating or other system.
- (iii) To obtain warranty service, please contact Brightspeed via the options below:  
Email: [support@brightspeed.com](mailto:support@brightspeed.com)  
Phone: 1 833-692-7773
- (iv) If the Product malfunctions due to a manufacturing defect before the one year warranty period expires, Brightspeed will refund purchase amount in full less any shipping-related charges so long as (A) you notify Brightspeed by contacting Brightspeed as set forth in this Limited Warranty, report that the Product's basic operations are not functioning properly, and cooperate with the Brightspeed representative to evaluate the circumstances and (B) the date you so notify Brightspeed is within the warranty period specified above. Brightspeed will refund the purchase price of the Product within thirty (30) days after you comply with this subsection.
- (v) Exceptions and Exclusions. This Limited Warranty does not cover defects or damage due to: (a) improper shipment, handling, storage misuse, abuse, or neglect; (b) improper electrical voltages or current; (c) or accidents, fire, flood, or acts of God or the elements. The defacement or removal of the Product's serial number and the modem's repair, alteration or modification by anyone other than Brightspeed or an approved agent will void this Limited Warranty. No advice or information given by Brightspeed, its affiliates, its contractors, or their respective employees will vary the terms of the Limited Warranty.

**11. 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, Software, and/or Product; (b) installation, modification, or use of the Service, Software, and/or Product by you and/or any parties who use your Product, 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, Software, or the Internet; (d) patent infringement arising from your acts combining or using the Product in connection with facilities or equipment (circuit, apparatus, system or method) furnished by you; (e) negligent acts, errors, or omissions by you; or (f) injuries to or death of any person and for damages to or loss of any property, which may in any way arise out of or result from or in connection with this Agreement, except to the extent that such liabilities arise from the gross negligence or willful misconduct of Brightspeed.

**12. Term and Termination.** PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS RIGHTS THAT YOU MAY OTHERWISE HAVE. IT PROVIDES FOR RESOLUTION OF DISPUTES THROUGH MANDATORY ARBITRATION WITH A

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FAIR HEARING BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY OR THROUGH A CLASS ACTION. THE ARBITRATION PROVISION IS SET FORTH BELOW IN PARAGRAPH (a) ("ARBITRATION TERMS"). YOU MAY REJECT THE ARBITRATION TERMS PROVISION BY SENDING US WRITTEN NOTICE TO THE ARBITRATION NOTICE ADDRESS PROVIDED BELOW WITHIN 30 DAYS AFTER YOU PURCHASE THE PRODUCT. YOUR REJECTION NOTICE MUST STATE THAT YOU REJECT THE ARBITRATION TERMS PROVISION AND INCLUDE YOUR NAME, ADDRESS, ACCOUNT NUMBER, AND PERSONAL SIGNATURE.

- (a) Arbitration Terms.** You agree that any dispute or claim arising out of or relating in any way to the Product or this Agreement (whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory), will be resolved by binding arbitration. This means that the arbitrator, and not any court, shall have exclusive authority to resolve any dispute or claim arising under or relating to (among other subjects) the interpretation, applicability, enforceability or formation of this Agreement, including but not limited to any dispute or claim that all of this Agreement, or any part of this Agreement other than this arbitration, provision, is void, voidable, lacking in consideration, illusory, invalid, unconscionable, or for any reason unenforceable. The sole exceptions to arbitration are that either party may pursue claims: (1) in small claims court that are within the scope of its jurisdiction, provided the matter remains in such court and advances only individual (non-class, non-representative, non-consolidated) claims; and (2) in court if they relate solely to the collection of any debts you owe to Brightspeed. This section shall survive the termination of this Agreement to the greatest extent allowed by law. For example and without limitation, if after the termination of this Agreement you bring a dispute or claim in whole or in part based on, or related to, events or omissions that occurred while you were a Brightspeed customer, this section shall still apply.
- (i) Arbitration Procedures.** Before commencing arbitration, you must first present any claim or dispute to Brightspeed in writing to allow Brightspeed the opportunity to resolve the dispute. If the claim or dispute is not resolved within 60 days, you may request arbitration. The arbitration shall be conducted by the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitration of the dispute. Colorado state law, without regard to choice of law principles, shall otherwise govern and apply to any and all claims or disputes. All face-to-face proceedings shall be conducted at a location which is reasonably convenient to both you and Brightspeed. Arbitration is final and binding. Any arbitration shall be confidential, and neither you nor Brightspeed may disclose the existence, content or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award. The arbitrator may award any relief or damages that a court could award, except an arbitrator may not award relief in excess of or contrary to what this Agreement provides. Judgment on any arbitration award may be entered in any court having jurisdiction.
- (ii) Costs of Arbitration.** The party requesting arbitration must pay the applicable AAA filing fee, except that if you are an individual using the Product for household or personal use and you initiate arbitration against Brightspeed: (1) you must pay one-half the arbitrator's fees up to a maximum of \$125 if your claim does not exceed \$10,000; (2) you must pay one-half the arbitrator's fees up to a maximum of \$375 if your claim is more than \$10,000 but less than \$75,000; and (3) you must pay an Administrative Fee in accordance with the AAA's Commercial Fee Schedule if your claim exceeds \$75,000 or if your claim is non-monetary. Except as provided in the preceding sentence, each party shall pay its own expenses of the arbitration, including the expense of its own counsel, witnesses, and presentation of evidence at the arbitration. If any party files a judicial or administrative action asserting a claim that is subject to arbitration and another party successfully stays such action or compels arbitration, the party filing that action must pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorneys' fees.
- (iii) Changes.** Notwithstanding any provision in this Agreement to the contrary, if Brightspeed makes any future change to this Arbitration Terms provision during the period of time that you are using the Product, Brightspeed agrees to send you the required written notice (including email) of any such change. You may reject any such change by sending Brightspeed a responsive written notice within 30 days to the Brightspeed address provided in the Notices section below. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this provision. No such future changes, however, that are made to this provision after either party has submitted a written notice of dispute shall be effective as to your and Brightspeed's pending dispute and/or arbitration.
- (b) Waiver of Jury and Class Action.** By this Agreement, both you and Brightspeed are waiving rights to litigate claims or disputes in court (except small claims court as set forth in paragraph (a) above). Both you and

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Brightspeed also waives the right to a jury trial on your respective claims and waives any right to pursue any claims on a class or consolidated basis or in a representative capacity.

**13. Notices.** Except as otherwise provided herein, all required notices to Brightspeed must be in writing and sent to 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 posting or e-mail provided by you either when you ordered the Product or at a later time.

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. Brightspeed will not be liable for any delay or failure to perform its obligations hereunder if such delay or failure is caused by a Force Majeure Event. This Agreement, together with the other agreements and policies and posted information referenced herein, constitutes the entire agreement between you and Brightspeed with respect to the subject matter hereof, and supersedes all prior or contemporaneous oral or written agreements or understandings relating to the subject matter hereof. In the event of any inconsistency between this Agreement and any other documents exchanged between you and Brightspeed related to the Product, the provisions of this Agreement will control. 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 support for your Product without notice in the event of such behavior.

Please contact Brightspeed via email at [support@brightspeed.com](mailto:support@brightspeed.com) or phone at 1 833-692-7773 if you have any questions or want more information about the Product.