

SIPConnect Service Description

This document (the “SIPconnect Service Description”) is part of the Master Services Agreement (“MSA”) between Birch® and Customer and provides additional terms and conditions applicable to Birch’s SIPconnect service (the “Service”). The Service is provided to Customer subject to the following terms, which are integral parts of the MSA in addition to the Terms of Service referred to in the MSA.

GENERAL TERMS

1. Services Provided. Birch’s SIPconnect service uses voice over IP (VoIP) to connect Customer’s IP Private Branch Exchange (IP PBX) to the Public Switched Telephone Network via the Internet. The Service provides concurrent virtual call paths using SIP sessions to Customer’s IP PBX. These services require Customer to provide its physical address for each SIPconnect call path and DID. Only telephone numbers (TNs) or Toll-Free TNs provided by Birch or ported to the Birch network can be used in conjunction with this service. Service is also provided in accordance with the online Terms of Service and Acceptable Use Policy (the “AUP”) referenced at www.birch.com/legal, including limitations of liability and dispute resolution provisions, all incorporated herein by reference.

2. SIPconnect Services. This SIPconnect Service Guide authorizes Birch to place the quantity of the Service(s) identified on Birch’s Service Forms under a term pricing arrangement at Customer’s specified location(s) for the requested telephone number(s).

3. Minimum and Maximum Quantities. A ten (10) call path minimum is required to order the Service, where there can be no fewer than 10 SIP call paths for every one (1) SIPconnect trunk. Ten (10) DIDs are required when ordering the Service. There is a maximum of one hundred (100) unlimited call paths per customer; a maximum of 500 metered call paths per customer; and a maximum of 500 DIDs per SIP Trunk. Unlimited and metered call paths cannot be combined on the same trunk.

4. Local and Long Distance Usage Rates. SIPconnect metered call path usage is billed at a rate of \$0.015 per minute per call path. All SIPconnect unlimited call paths are subject to Birch’s AUP.

5. Short Duration Surcharge. Birch’s costs to provide Services increases when a disproportionate number of calls are six (6) seconds or less in duration (defined hereinafter

as “Short Duration” calls). Therefore, Birch will bill Customer a surcharge if the total quantity of Short Duration calls equals or exceeds ten percent (10%) of the total number of calls. As an example, assuming the current tariffed or otherwise published Short Duration Surcharge is \$0.01: If the total quantity of Short Duration calls accounts for more than ten percent (10%) of Customer’s total volume of calls, Birch will invoice Customer an additional \$0.01 per Short Duration call.

6. High Cost Calls. Network costs to Birch are increased when calls terminate in certain towns and cities (defined hereinafter as “High Cost” calls). Wherever Birch call termination results in costs greater than the standard usage rate on a per minute basis, Birch reserves the right to recover the additional expenses by assessing the tariffed or published High Cost Surcharge, calculated as provided in Birch’s tariffs or other published Terms of Service.

7. Birch Codec. The Service uses a G.711 Codec. Customer’s IP PBX equipment must be compatible with G.711. Birch does not guarantee Quality of Service (“QoS”).

8. Data Requirements. Customer must ensure the bandwidth provided by Birch or a third party service provider is sufficient to support the number of call paths subscribed to by Customer. Birch recommends 87 kbps for each call path to support concurrent calls.

9. Installation. Prior to installation of the Service, Customer’s IP PBX will be verified as a Birch compatible IP PBX. If Internet access is being provided via BirchLink, the BirchLink circuit will be installed at Customer’s physical address prior to installation of the Service. Customer may choose self-service activation or scheduled activation call. The scheduled activation call is a scheduled two hour call with Customer’s technical staff and a Birch activation engineer. Customer’s technical staff must be technically proficient with Customer’s IP PBX and able to configure SIP trunking on Customer’s IP PBX. If the activation call exceeds 2 hours, Customer will be billed additional activation charges at \$150 per hour.

10. Service Limitations. The Service does not include any calling features vanity telephone numbers, nor will the service provide any of the following call types: 976, 900, or 1010xxx. Any traffic deemed to jeopardize the integrity of Birch’s network or in violation of Birch’s AUP may be blocked and be grounds for termination of service without notice. This includes, but is not limited to, excessive use. Birch is not responsible for any interruption or disruption of automated outbound dialing systems connected to the Service by Customer. The Service does not support fax capabilities such as T.38 Fax over IP. This SIPconnect Service Guide is further subject to the Terms of Service, including the AUP referenced at <http://www.birch.com/legal>.

11. Service Moves. Customer accepts that failure to properly notify Birch of an intended service move may result in Customer's service being E911 non-compliant. Customer understands that said failure may cause incorrect routing of emergency services and any consequences of such failure rest solely with the Customer. Additionally, Customer understands that continuation of existing DIDs may be restricted by the location of the moved service.

12. 911 Limitation of Liability. Birch is not liable for any Service outage or other inability of devices to dial 911, or any other emergency telephone number, or to access an emergency service operator. **DISCLAIMER OF LIABILITY: CUSTOMER ACKNOWLEDGES AND AGREES THAT BIRCH'S SERVICE IS INTERNET BASED AND THAT 911 SERVICES ARE DIFFERENT THAN THAT OF TRADITIONAL WIRELINE SERVICE. FOR BASIC 911 OR E911 TO BE ACCURATELY ROUTED TO THE APPROPRIATE EMERGENCY RESPONDER, THE CUSTOMER MUST PROVIDE THE TN ASSOCIATED WITH THE TWO-WAY SIPconnect SERVICE FOR THE REGISTERED ADDRESS. CUSTOMER ACKNOWLEDGES THAT THE BIRCH TWO-WAY SIPconnect SERVICE MAY NOT SUPPORT BASIC 911 OR E911 DIALING IN THE SAME MANNER AS TRADITIONAL WIRELINE PHONE SERVICE. CUSTOMER AGREES TO INFORM OF THE POTENTIAL COMPLICATIONS ARISING FROM BASIC 911 OR E911 DIALING. SPECIFICALLY, CUSTOMER ACKNOWLEDGES AND AGREES TO INFORM ALL EMPLOYEES, GUESTS, AND OTHER THIRD PERSONS WHO MAY USE THE SERVICE THAT BASIC 911 AND E911 SERVICES WILL NOT FUNCTION IN THE CASE OF A SERVICE FAILURE FOR ANY OF THE FOLLOWING REASONS: (A) POWER FAILURES, (B) SUSPENDED OR TERMINATED BIRCH SERVICE, (C) SUSPENSION OF SERVICES DUE TO BILLING ISSUES, AND/OR (D) ANY OTHER SERVICE OUTAGES NOT DESCRIBED HEREIN. CUSTOMER FURTHER ACKNOWLEDGES THAT FAILURE TO PROVIDE A CORRECT PHYSICAL ADDRESS IN THE REQUISITE FORMAT MAY CAUSE ALL BASIC 911 OR E911 CALLS TO BE ROUTED TO THE INCORRECT LOCAL EMERGENCY SERVICE PROVIDER. FURTHERMORE, CUSTOMER RECOGNIZES THAT USE OF THE SERVICE FROM A LOCATION OTHER THAN THE LOCATION TO WHICH THE SERVICE WAS ORDERED, I.E., THE "REGISTERED ADDRESS," MAY RESULT IN BASIC 911 OR E911 CALLS BEING ROUTED TO THE INCORRECT LOCAL EMERGENCY SERVICE PROVIDER. CUSTOMER ACKNOWLEDGES AND AGREES THAT BIRCH, ITS UNDERLYING CARRIER, OR ANY OTHER THIRD PARTIES INVOLVED IN THE ROUTING, HANDLING, DELIVERY, OR ANSWERING OF EMERGENCY SERVICES OR IN RESPONDING TO EMERGENCY CALLS, NOR THEIR OFFICERS OR EMPLOYEES, MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, LOSS, FINE, PENALTY OR COST (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES) AND CUSTOMER HEREBY WAIVES ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE PROVISION OF ALL TYPES OF EMERGENCY SERVICES TO CUSTOMER. CUSTOMER FURTHER AGREES AND ACKNOWLEDGES THAT IT IS INDEMNIFYING AND**

HOLDING HARMLESS BIRCH FROM ANY CLAIM OR ACTION FOR ANY CALLER PLACING SUCH A CALL WITHOUT REGARD TO WHETHER THE CALLER IS AN EMPLOYEE OF THE CUSTOMER. CUSTOMER ACKNOWLEDGES AND AGREES TO HOLD HARMLESS AND INDEMNIFY BIRCH FROM ANY CLAIM OR ACTION ARISING OUT OF MISROUTES OF ANY 911 CALLS, OR WHETHER LOCAL EMERGENCY RESPONSE CENTERS OR NATIONAL EMERGENCY CALLING CENTERS ANSWER A 911 CALL OR HOW THE 911 CALLS ARE HANDLED BY ANY EMERGENCY OPERATOR INCLUDING OPERATORS OF THE NATIONAL CALL CENTER. THE LIMITATIONS APPLY TO ALL CLAIMS REGARDLESS OF WHETHER THEY ARE BASED ON BREACH OF CONTRACT, BREACH OF WARRANT, PRODUCT LIABILITY, TORT AND ANY OTHER THEORIES OF LIABILITY.

13. Emergency Services Dialing. Customer will have access to either basic 911 or Enhanced 911 (E911) as its default emergency calling service.

(a) With E911 service, when a caller from Customer's Registered Address dials the digits 9-1-1, the Birch telephone number and Customer's subscriber's registered address is automatically sent to the local emergency center serving Customer's location. The emergency operators will have access to this information regardless of whether the caller is able to verbally provide such information to the emergency call-taker. Accordingly, with E911 service, the emergency call-taker will have the caller's call-back telephone number and registered address information just by virtue of the caller placing the call using the digits 9-1-1. In limited circumstances, Customers equipped with E911 may have their calls routed to the national call center. Please see the description below for an explanation of when this would occur and how this service operates.

(b) With basic 911 service, when a caller from the Customer's Registered Address dials the digits 9-1-1, the call is sent to the local emergency center serving Customer's location. Operators answering the call will not have automatic access to the caller's call-back telephone number or the Registered Address because the emergency center will not be equipped to receive, capture or retain Customer's assigned Birch telephone number and Registered Address. Accordingly, callers must be prepared to provide both call-back and address information. If the call is dropped or disconnected, or if the caller is unable to speak, the emergency operator answering the call will not be able to call the caller back or dispatch help to the caller's address. As additional local emergency centers become capable of E911 functionalities, Birch will automatically upgrade customers from basic 911 to E911 service. Birch will not notify Customer of the upgrade. In limited circumstances, Customers equipped with basic 911 may have their calls routed to the national call center. Please see the description below for an explanation of when this would occur and how this service operates.

(c) National Call Center service. Certain Birch customers do not have access to either basic 911 or E911. If Customer does not have access to either E911 or basic 911, emergency calls placed using the digits 9-1-1 will be sent to a national emergency call center. A trained agent at the emergency call center will ask for caller's name, telephone number, and location and then transfer the caller to the appropriate local emergency center or otherwise determine the best way to provide emergency services to the caller. Like Basic 911, the trained operators answering calls in the national call center will not have automatic access to the caller's telephone number or Registered Address information because the national call center is not equipped to receive, capture or retain Customer's Birch telephone number and Registered Address, so the caller must be prepared to provide this information. **If Customer is located in an area that is not covered by the land line 911 network, or if Customer has basic 911 or E911 service but the call fails to complete, calls will be routed to the national emergency call center for failover purposes.**

14. 911 Indemnification. Customer will defend and indemnify Birch, its officers, directors, employees, affiliates, agents, and vendors affiliated with the Service, from and against all claims, losses, damages, fines, penalties, costs, and expenses (including, without limitation, reasonable attorneys' fees) by, or on behalf of Customer or any third party or user of the Service relating to the failure or outage of call functionality, including without limitation those related to 911 dialing.