

# Birch TotalCloud PBX Service Description

This document (the "Supplement") is part of the Master Services Agreement ("MSA") between Birch and Customer and provides additional terms and conditions applicable to Birch TotalCloud PBX 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.

**1. Bandwidth Requirements.** The Service requires 87kbps per concurrent call of bandwidth to ensure quality of service. BirchLink data connection services provided separately. Service cannot be used with BirchNet DSL.

**2. Acceptable Use Policy.** Customer acknowledges and agrees that Unlimited Seats purchased by Customer are subject to Birch's [Acceptable Use Policy](#), which Customer has read and shall comply with.

**3. Call Recording and Monitoring.** Customer shall utilize the Service in accordance with applicable law. Customer understands that the use of call recording and call monitoring applications is governed by laws and regulations which may prohibit, limit, or impose certain legal obligations upon Customer with respect to such activities. Customer acknowledges that the informational resources listed below do not constitute legal advice and are stated for Customer's reference only:

<http://www.fcc.gov/cgb/consumerfacts/recordcalls.html>

<http://www.rcfp.org/taping/>

<http://telecom.hellodirect.com/docs/reviews/CallRecorders.1.050201.asp>

<http://www.telephonerecordersdirect.com/legalcallrecording.asp>

**4. Equipment.** Customer is responsible for installation, operation and maintenance of Equipment. Rented Equipment remains the property of Birch; Equipment purchased under a monthly installation payment plan remains the property of Birch until Customer's balance is paid in full. Equipment will be deemed to be in good working condition unless Customer

notifies Birch to the contrary within five (5) business days of receiving the Equipment. If Equipment malfunctions during normal use and not due to abuse, misuse or neglect (as determined by Birch), Birch will replace affected Equipment free of charge. Customer shall return Equipment to Birch at Customer's own expense. Customer agrees to pay Birch an Equipment replacement fee in an amount equal to one hundred percent (100%) of Customer's monthly Equipment rental or installation purchase payment, multiplied by the number of months remaining in the then-current term, where: (i) Customer terminates the Service, or Service is disconnected for nonpayment or other Customer breach prior to the end of the term for any reason; (ii) Equipment is damaged, lost or stolen while in Customer's care. Customer agrees to ensure that no liens attach to any Equipment owned by Birch and will immediately cause any such liens to be removed at Customer's expense. Customer may not exchange the Equipment model previously provided by Birch for another Equipment model during the first twelve (12) months of the Service term; exchanges are subject to \$30 restocking fee and new monthly pricing.