



Terms of Service

These Terms of Service define the Constructure Technologies, LLC Cloud Services, Business Advanced, Business Complete and other Service Contract (Services) provided by Constructure Technologies, LLC to the Client.

1. **Services Definition.** Constructure Technologies, LLC and its affiliates (“Constructure Technologies, LLC”) provide a variety of Voice, Data, Cloud and Cyber Security Services.
 - **Resale** Client may not resell Services provided under contract by Constructure Technologies, LLC.

2. **Servers, Storage and Network Infrastructure.** Client is allocated a specific amount of server, storage and network resources in accordance with the estimate provided by Constructure Technologies, LLC. Up to the maximum allowed for each plan, Client can increase allocation of Services by contacting Constructure Technologies, LLC sales. Performance of server, storage and network may be impacted if purchased resources reach the maximum limits. Constructure Technologies, LLC shall not be responsible for unavailability or data loss related to resource unavailability. Shared infrastructure is used across multiple Clients. Constructure

Technologies, LLC takes measures to logically separate Clients. However, performance of shared infrastructure cannot be guaranteed. Client may not use any shared system in a way that unnecessarily interferes with the normal operation of the shared system, or that consumes a disproportionate share of the resources of the system.

3. **Software and Applications.**
 - **License** All software licensing is subject to terms and conditions set forth by the vendor. Use of software keys or licensing which is inconsistent with acceptable use in a hosted environment is prohibited. This includes but is not limited to all software licensed by Constructure Technologies, LLC on Client’s behalf under partner programs. Any fees or penalties for misuse by Client of software licenses are solely the Client’s responsibility.
 - **Currency** Client will maintain current versions of applications

running on Constructure Technologies, LLC shared infrastructure. Constructure Technologies, LLC may require Client to upgrade versions of software or applications to current versions to ensure supportability or compatibility. Constructure Technologies, LLC may be required by its third-party software licensors to upgrade to the latest version of software.

- **Configuration** Constructure Technologies, LLC will leverage industry standard practices to ensure that software applications are installed properly. If multiple options exist to install the software, Constructure Technologies, LLC, in its sole discretion, will choose the method that is most appropriate.
- **Incompatibilities** Constructure Technologies, LLC is not responsible for incompatibilities arising from new versions of software, client content, or shared applications. Constructure Technologies, LLC is not responsible for incompatibilities or performance related to applications not designed to function in a shared infrastructure. Constructure Technologies, LLC will use commercially reasonable methods to assist Client in finding a solution.
- **Updates and Patches** Constructure Technologies, LLC will use commercially reasonable methods to promptly install security patches

and software updates. Updates may change the behavior of systems and applications and as such may negatively impact the performance of services contracted by Client. Constructure Technologies, LLC cannot predict nor can it be responsible for negative service impacts due to updates and patches. If a disruption does occur, Constructure Technologies, LLC will use commercially reasonable methods to remedy the issue as soon as possible after Client notifies Constructure Technologies, LLC of the problem.

4. **Preventative Maintenance**

- **Scheduled Maintenance** Constructure Technologies, LLC performs regular maintenance on the server, storage and network infrastructure to ensure optimal performance. Scheduled maintenance is performed during Constructure Technologies, LLC's regularly scheduled maintenance windows. During scheduled maintenance, Services may be impacted or suspended. Constructure Technologies, LLC will use commercially reasonable efforts to minimize impact to Client's contracted Services. Client will be notified of scheduled maintenance via email to the Client authorized contact. Services impacted by scheduled maintenance are not included in any service availability calculations.

- **Unplanned Maintenance** At times, it may be necessary for Constructure Technologies, LLC to perform emergency maintenance on server, storage or network infrastructure. Examples may include security events or hardware replacement. Constructure Technologies, LLC may not provide Client with advanced notice in case emergency maintenance is required. Services impacted by unplanned maintenance are not included in any service availability calculations.

5. Data

Integrity and Backups

- **Core Systems** Constructure Technologies, LLC will use various methods and applications to backup servers, storage and network configurations to protect against data loss in the event of a server or disk failure. Core system backup does not include backup of Client applications and content or data. Constructure Technologies, LLC's core system backups are intended for disaster recovery purposes only. Core system backup scope and scheduling is at Constructure Technologies, LLC's sole discretion.
- **Client Applications and Data** Client may contract with Constructure Technologies, LLC to provide backup of Client applications and data. Additional fees may apply and

will vary according to method, application and retention period required.

- **Security Threats** Client agrees that Constructure Technologies, LLC may quarantine or delete any data stored on a shared system that is infected with a virus or otherwise corrupted and has the potential to infect or corrupt the system or other customer's data that is stored on the same system.
- **Data Retention** Constructure Technologies, LLC shall not be responsible for Client data after a Client's account is terminated. All Client data is deleted from servers and storage after Client account is terminated. All Client data is deleted from backups during regular scheduled backup rotation. Constructure Technologies, LLC is not responsible for restoring, providing Client data on storage media or sending Client data pertaining to terminated accounts unless specifically noted in a customized service agreement.
- **Privacy** Constructure Technologies, LLC is committed to protecting Client privacy and the confidentiality of Client data to the maximum extent permitted by law and/or accepted by industry standards. Constructure Technologies, LLC will not access, view or review any Client data except as follows:

- **Government or Law Enforcement** Client, government or law enforcement agency specifically requests Constructure Technologies, LLC to provide data.
- **Operational** During performance of backup/ restore operations and during security events such as virus scanning, removal, spam or content filtering.
- **Safety** If access is urgent and required to protect personal safety, perform troubleshooting, restore systems operation in the event of server or disk failure, remove material in violation of Acceptable Use Policy (AUP) or to prevent service failure.

6. **Support**

- **Monitoring** Constructure Technologies, LLC will provide fundamental monitoring of core Services related to servers, storage and network to ensure that systems are operational.
- **Technical Support** Constructure Technologies, LLC will provide technical support through Client's authorized account contacts. Support includes setup and configuration of Client's account and access to the Services. Fees may apply. Only Client's authorized account contacts may request information, changes and support related to these Terms of Service and the applicable Service

Agreement.

7. **Service Level Agreement (SLA)**

- **Cloud Servers** Constructure Technologies, LLC Cloud Servers are virtualized services running a variety of operating systems. This includes the Network connectivity, Server and Storage services required to support the Constructure Technologies, LLC Cloud Servers contained within the Constructure Technologies, LLC data center. Applications above the operating system level are not included in calculating SLA performance. The Constructure Technologies, LLC Cloud Servers service is architected for 99% uptime.
- **Cloud Service Availability Monitoring** Constructure Technologies, LLC monitors the infrastructure and applications supporting Constructure Technologies, LLC Cloud Services in whole. Constructure Technologies, LLC uses a combination of methods to monitor and measure service performance. Monitoring is performed in pre-determined intervals for the purposes of monitoring and measurement calculations.
- **Business Advanced Service Contract** Provides our clients unlimited remote support on the Voice and Data products and services outlined in the cost estimate provided by Constructure

Technologies. Please contact Constructure via phone at 631.396.7777 or e-mail at helpdesk@ctny.net. An immediate to same day response time will be adhered to for all Voice and Data Network outages and critical network infrastructure issues that are causing our clients company-wide outages. All Remote service calls will be available 24 X 7x 365. Live Support is available Monday – Friday 8:30am – 5:30pm. After hour emergency calls are also for critical issues. Please call 631.396.7777 and a technician will be paged and will contact you back within (1) hour. All Onsite Service calls will be billed at the hourly defined rate plus overtime and travel related costs. All Add, Moves and Changes to the client’s infrastructure are not included in the Business Advanced Service Contract. In the event of a Security Breach or Ransomware Attack; recovery of the clients data will not be covered under the Business Advanced Service contract.

- **Business Complete Service Contract** Provide all items from the Business Advanced Service Contract and includes the highest level of support with unlimited On-Site Services. All Add, Moves and Changes to the client’s infrastructure are not included in the Business Complete Service Contract. In the event of a Security Breach or Ransomware Attack; recovery of the clients data will not

be covered under the Business Advanced/Complete Service contract.

- **Limitations** Client accounts must be in good standing and not in breach of the Terms of Service. The total liability of Constructure Technologies, LLC for any damages to Client arising out of the Cloud Services is limited to a maximum of 50% of the monthly fees charged to Client for Constructure Technologies, LLC Cloud Servers in the month that the downtime occurred.
8. **Acceptable Use Policy (AUP)** Client agrees to abide by Constructure Technologies, LLC’s AUP. Violations to Constructure Technologies, LLC’s AUP may result in termination of Services for failure to comply with any of the following:
- **Copyrighted Material** Client may not use Constructure Technologies, LLC’s servers, storage or network infrastructure to download, distribute, publish or otherwise copy any work protected by copyright law unless Client has been authorized by the owner of the copyright to use the work in that manner.
 - **Service Availability** Constructure Technologies, LLC’s service availability calculations do not apply to service interruptions resulting from AUP violations.

- **Abuse** Client may not use Constructure Technologies, LLC's servers, storage or network infrastructure to engage in, support, or promote illegal, abusive or irresponsible behavior.
 - **Bulk Email** Client may not use Constructure Technologies, LLC's servers, storage or network infrastructure to send bulk, unsolicited email without express consent by Constructure Technologies, LLC.
 - **Prohibited and High Risk Uses** Client shall not use or access the Services in a manner that materially interferes with or harms the Constructure Technologies, LLC infrastructure or any third parties or is tortious or violates any third-party rights. High risk use of the Services is strictly prohibited. Example of high-risk use is any use where a failure of or defect in the Services could result in death or bodily injury to a person or damage to property.
9. **Warranty** Constructure Technologies, LLC will promptly use commercially reasonable methods to return Services to a working state.
10. **Disclaimer** No representation, express or implied, is made that Services will be uninterrupted, error-free, and completely secure. Client acknowledges that there are risks inherent in Internet connectivity that may result in the loss of privacy, Confidential Information,

and the loss or damage to property. Constructure Technologies, LLC shall have no obligation to provide security other than as stated in these Terms of Service. Constructure Technologies, LLC disclaims any and all warranties not expressly stated herein, including the implied warranties of merchantability and fitness for a particular purpose.

11. **Suspension of Services** Constructure Technologies, LLC shall provide reasonable advance written notice of a suspension and an opportunity to cure the grounds on which the suspension are based, unless Constructure Technologies, LLC determines, in its reasonable commercial judgment, that a suspension on shorter or contemporaneous notice is necessary to protect Constructure Technologies, LLC or its other Clients from imminent and significant operational or security risks. Constructure Technologies, LLC may suspend Services without liability if:
- Constructure Technologies, LLC reasonably believes that the Services are being used (or have been or will be used) in violation of the Terms and Conditions.
 - Client refuses to cooperate with Constructure Technologies, LLC's reasonable investigation of any suspected violation of the Terms and Conditions.
 - Suspension of Services is necessary to protect Constructure Technologies, LLC's network or other Clients
 - Payment for the Services is overdue.

- Suspension is required by law.

12. **Indemnification**. Client agrees to defend, indemnify and hold Constructure Technologies, LLC harmless from all third-party claims, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees, arising from Client's use of the Services.

Constructure Technologies, LLC agrees to defend, indemnify and hold Client harmless from all third party claims that Client's use of the Services infringes the intellectual property rights of a third party.