

PASS-THROUGH TERMS

Customer agrees to comply with the applicable terms and conditions set forth below (the “Pass-Through Terms”), which are hereby incorporated by reference into the applicable branded calling services agreement (the “Agreement”), as these terms may be amended from time to time. To the extent any of the Pass-Through Terms conflict with the terms of the Agreement, the Pass-Through Terms shall govern. As used herein, “Services” means the branded calling services provided to Customer under the Agreement.

1. Customer represents and warrants that Customer: (a) is an entity that may validly engage in the activities for which it is using the telephone numbers registered for the Services (for example, a government entity engaging in outreach to citizens, or a legitimate business entity engaged in communications with its customers); (b) has sufficient rights, by ownership or otherwise, to the telephone numbers which it is registering; and (c) is authorized to use the names, marks, and other information that it wishes to have displayed to recipients of telephone calls.
2. Customer shall comply with all applicable laws, regulations and rules including, by way of example and not by way of limitation, the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act, the Do Not Call Registry, the Telemarketing Sales Rule and Truth in CallerID (and their implementing regulations), and in particular the rules requiring consent from recipients to receive calls.
3. Customer acknowledges and agrees that its right to access and use the Services is subject to the following conditions: (a) Customer is responsible for, and assumes all risks and liability associated with, all acts and omissions of its users of the Services; and (b) Customer shall not, directly or indirectly: (i) attempt to decompile, reverse engineer, sell, transfer, assign, sublicense or otherwise provide third parties any rights to the Services, in whole or in part; (ii) circumvent or disable any security or other access controls of the Services; (iii) use the Services and/or any documentation for the purpose of developing a competitive product or service; (iv) access or use the Services in any manner or for any purpose that infringes or misappropriates third party intellectual property or proprietary rights.
4. Customer acknowledges that the Services are designed only to deliver a branded call experience to called parties and are not designed (nor may be used) to satisfy any legal or regulatory requirement applicable to Customer.
5. Customer agrees to comply with the Acceptable Use Policy found at <https://firstorion.com/acceptable-use-policy/> in connection with its use of the Services.
6. Customer acknowledges and agrees that First Orion uses third-party networks to support the Services, including wired and wireless networks and First Orion’s own data hosting services.
7. Customer acknowledges that the use of the Services is subject to the application of phone call assessment by a Distribution Partner or its analytics provider which may result in call blocking or warnings overriding the branded call display.
8. Customer acknowledges that the Services may be suspended for Customer’s violation of these terms or in connection with any request or directive by a Distribution Partner.

The following provisions apply to Customers branding on the AT&T network:

1. Customer acknowledges that Hiya, Inc. (“Hiya”) and Neustar Information Services, Inc. (“Neustar”) are authorized sales and billing agents of AT&T for the limited purpose of delivering branded calls through the AT&T network. For such limited purpose, the Agreement will be considered a contract between Customer and AT&T. Nothing herein, however, shall be construed as creating a third-party beneficiary contract with AT&T or otherwise granting Customer any additional rights or remedies with respect to the Services.
2. AT&T can suspend the Service(s) in its entirety, at an enterprise level, or on a telephone number basis, at any time subject to complying with this section if: (a) AT&T reasonably determines that the Service(s) violates, misappropriates, or infringes the rights of a third party or of AT&T; (b) Customer has breached the Pass-Through Terms and failed to cure such breach; (c) AT&T is required by law, regulation, or other governmental or court order to take such action; (d) AT&T reasonably determines the Service(s) is materially adversely impacting the operation of the AT&T services used in connection with this Agreement. If this condition exists for thirty (30) days without remedy after written notice, this would constitute a breach of Agreement.
3. Solely for the limited purpose of delivering branded call notifications through the AT&T network, Neustar and Hiya are acting as the sales and billing agent of AT&T and the Agreement will, for such purposes only, be considered a contract between Customer and AT&T. For purposes of the preceding sentence, “AT&T” means AT&T Services, Inc., a Delaware corporation, on behalf of itself and its affiliates. Neustar and Hiya are authorized to act for AT&T in these matters.