

TERMS AND CONDITIONS OF USE OF NORTHERNTEL SERVICES

PLEASE READ CAREFULLY. THESE TERMS AND CONDITIONS GOVERN YOUR USE OF THE SERVICES THAT YOU HAVE ORDERED FROM NORTHERNTEL. IN USING NORTHERNTEL'S SERVICES, YOU ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS AS CONTAINED HEREIN AND ACCEPT TO BE BOUND FOR EACH AND ALL OF THE SAID TERMS AND CONDITIONS.

1. Services. Subject to the terms and conditions hereof, including payment of applicable charges, NorthernTel, Limited Partnership, acting through its sole general partner Bell Canada ("**NorthernTel**") hereby agrees to provide you the following services pursuant to your choice of one of the following service bundles (the "**Services**"):

a) For the Bundle Home Phone + Internet 8 Mbps:

- a.1) Basic residential local service, as described in NorthernTel's General Tariff as approved by the Canadian Radio-television and Telecommunications Commission (the "**CRTC**") or the Unregulated Terms of Service, if applicable;
- a.2) A residential high-speed Internet access service via DSL, according to the following specifications: (i) Internet high-speed connection with a transmission speed of up to 8 Mbps; (ii) instant and unlimited bandwidth access; (iii) simultaneous telephone conversation and net surfing; (iv) up to five (5) e-mail addresses; (v) unlimited data transfer per month as per the conditions mentioned in section 2 a) and d)(vi) 5 MB (megabytes) of personal Website space; (vii) 15 hours a month of remote dial-up access (long-distance charges are extra); (viii) free technical assistance 24 hours a day, 7 days a week; (ix) modem included;
- a.3) At your choice but conditional to technology availability, an unlimited choice between the eleven (11) of the following Call Management Services: (i) Call Display Name and Number; (ii) Call Waiting; (iii) Visual Call Waiting; (iv) Three-Way Calling; (v) Call Forwarding; (vi) Personalized Ring; (vii) Speed Calling (8 codes); (viii) Call Return; (ix) SimRing; (x) Intercommunication;(xi) Speed Calling (30 codes);
- a.4) The Voice Mail service;

b) For the high speed internet service:

- b.1) A residential high-speed Internet access service via DSL includes: (i) Internet high-speed connection with a transmission speed of up to 2 Mbps, 5 Mbps, 8 Mbps or 12 Mbps, as the case may be; (ii) instant and unlimited bandwidth access; (iii) simultaneous telephone conversation and net surfing; (iv) up to five (5) e-mail addresses; (v) data transfer limit per month (total upload and download) of 35 GB (gigabytes) for a transmission speed of up to 2 Mbps, 5 Mbps or 8 Mbps, as the case may be, or 100 GB for a transmission speed of up to 12 Mbps; (vi) 5 MB (megabytes) of personal Website space; (vii) 15 hours a month a remote dial-up access (long-distance charges are extra) (viii) free technical assistance 24 hours a day, 7 days a week and (ix) auto-installation;

c) For the high speed internet service without a telephone line

- c.1) A residential high-speed Internet access service via DSL includes: (i) Internet high-speed connection with a transmission speed of up to 5 Mbps, 8 Mbps or 12 Mbps, as the case may be; (ii) instant and unlimited bandwidth access; (iii) simultaneous telephone conversation and net surfing; (iv) up to five (5) e-mail addresses; (v) data transfer limit per month (total upload and download) of 35 GB (gigabytes) for a transmission speed of up to 5 Mbps or 8 Mbps, as the case may be, or 100 GB for a transmission speed of up to 12 Mbps; (vi) 5 MB (megabytes) of personal Website space; (vii) 15 hours a month a remote dial-up access (long-distance charges are extra) (viii) free technical assistance 24 hours a day, 7 days a week and (ix) auto-installation

In order to benefit from the Services, you must subscribe to all of the services included in the bundle's description that you have chosen, as described above.

If you are located in a forborne local exchange, your subscription to the Services is also subject to the application of the terms and conditions set out in the Unregulated Terms of Service located on NorthernTel's Internet site at <www.northerntel.ca>, in the "Legal, security and privacy info" section, with the exception of contrary provisions contained in these terms and conditions which shall prevail.

If you are located in a non-forborne local exchange, your subscription to the Services is also subject to the application of the terms and conditions set out in Section N80 of NorthernTel's General Tariff as approved by the CRTC, except contrary provisions contained in these terms and conditions which shall prevail.

2. Applicable Provisions to the Internet Service included in the Services.

The following provisions apply to any Internet service included in the Services:

- a) **Limitations of the Internet service.** You acknowledge and agree that the term "unlimited", when used in connection with access to the Internet service, and that you agree to comply to the Acceptable Use Policy as mentioned in sections 2 a) and d) in respect with the abuse and excessive use of bandwidth conditions, that the transmission speeds are offered where the technology is available and may fluctuate, including as a result of the type of technology used, the distance between your location and the Central Office, the computing equipment and the interior wiring.. Furthermore, the remote dial-up access includes 15 hours a month of remote dial-up access (long-distance charges are extra) and after 15 hours of use, charges in the amount of \$1.50/hour shall apply. Please note that charges relating to abuse or excess use of the Internet service will be invoiced and payable in the month following the month in which they are incurred.
- b) **Licence.** In the event that an Internet installation kit is provided to you with the Internet service included in the Services, NorthernTel hereby grants you a non-exclusive, non-assignable licence to use the NorthernTel Internet software installation kit (the "**Internet Software**"), as more fully described in the licence agreement provided with the Internet Software.
- c) **Your Responsibilities Regarding the Internet Service.** You are responsible for configuring the network connection on your computer and, as the case may be, installing the Internet Software to receive the Internet service included in the Services. You agree to notify NorthernTel forthwith of any defect in the modem or in any other equipment received. You declare that you possess a computer system which satisfies the current minimum requirements for the use of the Internet service included in the Services, which requirements are described on the NorthernTel Website at <http://www.northerntel.ca/ntl@home/default_internet.htm>, in the "Internet System Requirements" tab in "Internet Solutions" section. You acknowledge that you are solely liable for any use of the Internet service included in the Services made with your user name attributed by NorthernTel and with your password. NorthernTel shall not be liable for any act or omission on your part or on the part of any person using your user name or password, nor for your e mail address or addresses or the use thereof. You are responsible for the protection of your computer system against any corrupted file or virus which could impair your use thereof. You have sole responsibility for the transmittal of confidential data via the Internet service included in the Services.
- d) **Rules of Use of the Internet Service.** As part of these terms and conditions and of your utilization of the Internet service included in the Services, you agree to comply with the *Internet Rules of Use* and the *Acceptable Use Policy* which are available on the NorthernTel website at <http://www.northerntel.ca/ntl@home/default_internet.htm> in the "Internet Solutions" section. In addition to the terms and conditions hereof, you agree that the provisions of the *Internet Rules of Use* and *Acceptable Use Policy* apply.
- e) **Modem.** If a modem is included in the Services you acknowledge such modem is rented from NorthernTel and that NorthernTel shall remain the owner of such leased modem provided in connection with the Internet service. Modem rental fees are not included in the monthly price of the Services, unless indicated otherwise. Repair costs will also be charged in the event we need to repair the modem. A \$79.95 replacement charge for a missing modem will be applied to your account if you fail to return the leased modem in good repair and working order within thirty (30) days after terminating the Services. As regards the installation of the modem at your residence by a specialized technician, you agree to assume the costs thereof, which will be indicated to you at the time of the installation request. The modem will be delivered to you by mail without further delay once you have chosen the Services you wish to receive.
- f) **E-mail Address.** NorthernTel shall at all times remain the owner of any e-mail address, IP address and host name attributed to you. NorthernTel may decide to modify or delete the same at any time, at its sole discretion. IP addresses that will be assigned to you are not static IP addresses but dynamic IP addresses. NorthernTel shall not be liable for any claim of any nature whatsoever resulting from the suspension or modification of an e-mail address, IP address or host name.

3. **Equipment Software.** You attest to the fact that you do not have, nor will acquire, any property rights or interest in any of the software provided with the NorthernTel equipment hereunder (the "**Equipment Software**") other than the license permitting you to use the said software in conjunction with the equipment. You agree to use the software in strict compliance with the software licenses in a manner consistent with the sole intent of using the equipment. You attest to the fact that the Equipment Software is provided for the purposes of using the equipment

and that said software is not provided to you by NorthernTel with the permission for use in any other manner or pursuant to a distinct license or contract.

4. Installation of the equipment. You are responsible for the installation of the equipment. NorthernTel is not responsible for any prior setup of the equipment or Software Equipment necessary for the installation.

5. Charges and Payment. On the Services activation date and in consideration of the services provided by NorthernTel in the Services, you agree to pay to NorthernTel the monthly charges corresponding to the Services as agreed at the time of your choice and as modified from time to time by NorthernTel in compliance with these terms and conditions. Long-distance charges, excluded from the long distance plan, service charges and all applicable taxes will be added to the rates and charges of the Services. All rates and charges are payable monthly in advance, on the due date appearing on the statement of account. In the event that charges remain unpaid after the due date, such charges and other costs, including administrative charges for any cheque returned due to insufficient funds or for each pre-authorized payment refused by your financial institution, shall be invoiced pursuant to the terms and conditions of NorthernTel's general rates as approved by the CRTC.

6. Term and Termination. Subject to the provisions hereinafter set forth, this agreement shall become effective on the Services activation date and will remain in force for an indeterminate period. Each of NorthernTel and yourself may terminate this agreement by notice to the other party. You may ask NorthernTel to subscribe to other services of equivalent or greater value than the Services, subject to a price adjustment. In the event of a default on your part under any of these terms and conditions or under the *Internet Rules of Use* (see Section 1.d) or the *Acceptable Use Policy* (see Section 1.d), NorthernTel may terminate this agreement or interrupt the Services at any time without prior notice to you, the whole without prejudice to any of its rights. In this regard, NorthernTel will notify you of the reason for termination or interruption, the amount due and owing, and the applicable charges and damages, as the case may be. In the event that this agreement is terminated, you agree to return to NorthernTel any modem rented to you in connection with the Services, where applicable. In which case, please note that under no circumstances may you deduct or set-off charges or damages that you may feel are due to you pursuant to this agreement or otherwise.

7. Changes and Modifications. To the extent permitted by applicable law, NorthernTel may at any time modify the Services, these terms and conditions or any other document which forms part thereof. NorthernTel shall notify you in advance of any modification hereto or of any material change made to the Services by sending you a notice to that effect. The notice may be enclosed with or printed on your monthly statement of account or may be sent separately by other written notice. No provision hereof shall be interpreted as requiring you to accept the services included in the Services after any change to the Services or to these terms and conditions. However, your sole recourse, should you choose not to accept such modification, will be to terminate this agreement and the Services, without any penalty, provided that you pay all charges that are or become due hereunder.

8. Non Performance / Delays. NorthernTel shall not be liable for any loss or damage resulting from non-performance by NorthernTel or its suppliers under these terms and conditions or from any delay in delivery of the equipment due to fire, labour unrest or strikes, delays in transportation or shipping, acts of God, war, acts of a public enemy, severe weather condition, accident, or any other cause or causes beyond the control of NorthernTel.

9. Maintenance and Support Services. NorthernTel shall not be liable for any maintenance and support services for the equipment provided by NorthernTel hereunder. The manufacturer of the equipment shall be responsible for such maintenance and support, in accordance with the manufacturer's limited warranty provided with the equipment. You shall receive details of the manufacturer's warranty and other relevant information with the equipment, and shall address all questions of warranty, maintenance and support for the equipment to the manufacturer.

10. Limitations on Warranties and Liability. GIVEN TECHNICAL CONSTRAINTS, INCLUDING THE TYPE OF TECHNOLOGY USED, NORTHERNTEL CANNOT GUARANTEE ANY TRANSMISSION SPEED AND HAS ONLY IN THIS RESPECT AN OBLIGATION OF MEANS. YOU HAVE NO REMEDY IN THE EVENT THAT THE INTERNET SERVICE INCLUDED IN THE SERVICES DOES NOT REACH THE TRANSMISSION SPEED INDICATED. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NORTHERNTEL DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS, WHETHER EXPRESS OR IMPLIED, IN RESPECT OF ANY OF THE SERVICES INCLUDED IN THE SUPERVALU SERVICE, MODEM, INTERNET SOFTWARE, OR ANY OTHER SERVICE OR PRODUCT PROVIDED HEREUNDER. THE SERVICES, MODEM, INTERNET SOFTWARE AND ANY AND ALL OTHER SERVICES AND PRODUCTS PROVIDED PURSUANT HERETO, ARE PROVIDED "AS IS" AND "TO THE EXTENT AVAILABLE". Without limiting the generality of the foregoing, NorthernTel does not guarantee (i) the uninterrupted functioning of any of the services included in the Services or of the hardware and software components related thereto; (ii) that the services included in the Services will meet your requirements and that the use thereof will be free of bugs or viruses; nor does it guarantee (iii) the performance, availability, use or uninterrupted use of any of the services included in the Services, and, where applicable, (iv) that all functional problems can be resolved. NorthernTel does not guarantee that the data or files transmitted or received by third parties will be transmitted without being corrupted or within a reasonable time or that the same will not be intercepted. Except in the event of

gross negligence or wilful misconduct on the part of NorthernTel, NorthernTel will not be liable to you or to any other person for any damages incurred, regardless of their nature. Without limiting the generality of the foregoing, NorthernTel will not be liable for any material loss (including loss relating to software) resulting from a modification in the software configuration, from a computer virus, from the content, use, validity or quality of the services provided in the Services, or from an Internet breakdown, from the loss or destruction of data due to intrusion or otherwise or from the unauthorized interception of communications or from delays in their transmission or receipt. In the event that NorthernTel is nevertheless held liable for loss or damage of any nature whatsoever, its liability shall be limited to crediting you with an amount equal to the corresponding monthly charges payable by you hereunder for a maximum period of one month. Under no circumstances does NorthernTel guarantee that the Services are compatible with your software and hardware.

11. Indemnification. You agree to indemnify and to defend NorthernTel from and against any claim, action, suit or formal notice, including judicial and extra-judicial costs, fees and expenses incurred, whether or not the cause of action is well-founded, filed or commenced by a third party against NorthernTel or its affiliates and alleging facts which constitute or could constitute misconduct on your part or failure on your part to fulfil any of your obligations hereunder, and you further agree to indemnify NorthernTel and/or its affiliates from and against any damage caused by you as the result of your misconduct or default under your obligations.

12. Entire Agreement. These terms and conditions and its schedules, the statements of account you receive with modifications to these terms and conditions made pursuant to these term and conditions, the Unregulated Terms of Service for forborne local exchanges (or for non-forborne local exchanges, Section N80 of NorthernTel's General Tariff), the *Internet Rules of Use*, the *Acceptable Use Policy*, any user licence agreement accompanying or relating to any software or documentation distributed, and any policy, practice or document that you may be invited to read upon adhering to the Services or during the use thereof constitute the entire agreement between you and NorthernTel with respect to the provision of the Services and replace any prior written or verbal agreements.

13. General. These terms and conditions shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without reference to principles of conflict of laws. The parties submit and consent to the exclusive jurisdiction of the courts of the Province of Ontario in any action or proceeding instituted hereunder. You may not assign or transfer this agreement. You are not authorized to resell, lease or license the Services. The division of these terms and conditions into Articles, Sections and Subsections and the insertion of recitals and headings are for convenience of reference only and shall not affect the construction or interpretation hereof. Each provision of this agreement is intended to be severable and if any provision is determined by a court of competent jurisdiction to be illegal or invalid or unenforceable for any reason whatsoever, such provision shall be severed from these terms and conditions and shall not affect the legality or validity or enforceability of the remainder of these terms and conditions or any other provision hereof unless it significantly alters the intent of the contract. Except as expressly provided in Section 7 hereof, these terms and conditions may not be amended except by written instrument signed by the parties hereto. No waiver of any term, covenant or condition by any party shall be deemed to be a waiver by such party of its rights to require full and timely compliance with the same term, covenant or condition thereafter, or with any other term, covenant or condition of these terms and conditions at any time. The terms of these terms and conditions that are stated to or which, by their nature, extend beyond the termination of these terms and conditions shall survive any termination of these terms and conditions and continue in full force and effect as provided for herein. The parties have required that these terms and conditions be drafted in English only. *Les parties ont demandé que cette modalités soient rédigées en anglais seulement.*

14. To Contact NorthernTel. You may address any question concerning NorthernTel or these terms and conditions to NorthernTel, Limited Partnership, Customer Services, P.O. Box 1110, 850 Birch Street South, Timmins (Ontario) P4N 7J4, by telephone at 1 800 360-8555 or by e-mail to service@nt.net