

1. TERMS OF SERVICE

Backland Communications Inc. ("Service Provider") provides its services to the end user ("you", "your"), subject to the terms of service set out in this agreement ("TOS"), which may be updated by us from time to time without notice to you. You can review the most current version of the TOS at any time on Service Provider web site. In addition, when using particular Service Provider services, you are subject to any posted guidelines or rules applicable to such services, which may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the TOS.

2. DESCRIPTION OF SERVICE

a) Your payment obligations with regard to the Service are as set out in your subscription application. See also paragraph 4 of this agreement.

b) Service Provider currently provides users with access to the service with the functionality described in your subscription application (the "Service"). Unless explicitly stated otherwise, any new features that augment or enhance the current Service shall be subject to the TOS. You understand and agree that neither Service Provider nor its suppliers assume responsibility for the timeliness, deletion, mis-delivery, non-delivery or failure to store or accurately store, any user communications, addresses or personalization settings.

c) You are responsible for obtaining access to the Service and that access may involve fees to Service Provider or third party fees (such as Internet service provider or airtime charges).

d) You must provide and are responsible for all equipment necessary to access the Service.

3. CERTAIN SUBSCRIPTION OBLIGATIONS

You agree to:

a) provide true, accurate, current and complete information about yourself as prompted by the Service's subscription form ("Subscription Data"); and

b) promptly update the Subscription Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or Service Provider or its suppliers have reasonable grounds to suspect this, Service Provider or its suppliers have the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof), including any transition rights. Service Provider is concerned about the safety and privacy of all its users, particularly minors. For this reason, if you wish to allow anyone else access to the Service, you should assist them in setting up any relevant accounts and supervise their access to the Service. Allowing anyone access, means s/he will be able to access all components of the Service. As the subscriber, it is your responsibility to determine whether any of the Services and/or Content (as defined in this Agreement), which may be delivered to you, are appropriate for any person to whom you allow access.

4. PAYMENT OBLIGATIONS

You agree:

a) To pay Service Provider for the use of the Service at the time, and in the amounts specified in your Service subscription.

b) Service will be suspended 15 days after due date of invoice if payment has not been received. Service will be terminated after 30 days of non-payment.

c) A late payment charge of 24% per annum calculated monthly will be applied to all sums outstanding for more than 30 days.

e) A \$40.00 charge will be applied to all NSF cheques.

f) A \$40.00 charge will be applied to all credit card chargebacks.

g) A \$5.00 charge will be applied to all credit card refusals by your credit card company.

h) A \$10.00 charge will be applied when we have to remind you to pay your account.

i) In the event of missed billing by the Service Provider, to pay all recovered billing on terms agreed upon by you and the Service Provider.

5. CHANGE IN RATES AND TERMS OF THIS AGREEMENT

a) Service Provider may, upon thirty (30) days written notice to you, change any rates or charges for the Service or the nature or type of plan provided to you. All such changes shall be deemed to be included in this Agreement.

b) You may, subject to the approval of the Service Provider, change to another price plan provided by the Service Provider.

6. RENEWAL AND TERMINATION

a) This Agreement shall automatically renew for successive terms on the expiry of the initial and each successive term, unless you or Service Provider gives the other notice in writing of termination as provided herein.

b) Either party may terminate this Agreement on thirty (30) days written notice.

c) Notwithstanding the termination hereof, you agree to pay all charges owing to the Service Provider at the date of termination in accordance with this Agreement, whether termination is

made on 30 days written notice or for cause pursuant to the Agreement.

7. TERMINATION FOR CAUSE

a) For the purpose of this Agreement, default shall mean

i) failure of Customer to pay when due all charges, rates, taxes;

ii) breach of any provision of this Agreement or of any rule or regulation promulgated by the Service Provider;

iii) the bankruptcy or insolvency of you (your company);

b) The Service Provider may terminate this agreement forthwith upon default without notice to you and upon termination the Service Provider will disconnect the Service.

8. EQUIPMENT

You agree that any and all equipment provided by the Service Provider is the sole property of the Service Provider, and shall be returned to the Service Provider upon request. You also agree to allow the Service Provider access to any and all equipment provided, upon request from the Service Provider. You take full responsibility for any damages to or loss of equipment provided by the Service Provider.

9. SERVICE PROVIDER PRIVACY POLICY

Subscription Data and certain other information about you is subject to our Privacy Policy as published on our web site.

10. MEMBER ACCOUNT, PASSWORD AND SECURITY

You may receive a password and account designation upon completing the Service's subscription process. You are responsible for maintaining their confidentiality, and for all activities that occur under your password or account. You agree to

a) immediately notify Service Provider of any unauthorized use of your password or account or any other breach of security, and (if applicable); and

b) exit from your account at the end of each session. Service Provider, and its suppliers, cannot and will not be liable for any loss or damage arising from your failure to comply with this agreement.

11. MEMBER CONDUCT

All information, data, text, software, music, sound, photographs, graphics, video, messages or other materials ("Content"), transmitted over the Service, by you or others using your account are your responsibility. You, and not Service Provider, are entirely responsible for all Content that you, or others to whom you provide access, send, post, or otherwise make available via the Service. Service Provider does not control the Content made available via the Service and, as such, does not guarantee the accuracy, integrity, quality or appropriateness of such Content for any particular viewer. By using the Service, you may be exposed to Content that is offensive, indecent or objectionable, including spam, or which may contain viruses, and other destructive elements. Under no circumstances will Service Provider or its suppliers be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use or viewing of any Content posted, emailed, transmitted or otherwise made available via the Service.

You agree to not use (or permit others to use) the Service to:

a) send, post, email, transmit or otherwise make available (collectively "send") any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;

b) harm minors in any way;

c) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;

d) forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service;

e) send any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as, without limitation, inside information, proprietary and confidential information);

f) send any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party;

g) send any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of unauthorized solicitation, or otherwise violate our abuse policy;

h) send any material that contains software viruses, worms or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

i) interfere with or disrupt the Service or servers or networks connected to the Service, or

disobey any requirements, procedures, policies or regulations of networks connected to the Service;

j) intentionally or unintentionally violate any applicable local, provincial, state, national or international law, including, but not limited to, rules, orders and regulations having the force of law;

k) violate applicable laws regarding transmission of technical data exported from the country in which you reside;

l) take any action that imposes an unreasonable or disproportionately large load on the Service Provider or its suppliers; or

m) "stalk" or otherwise harass another.

You agree Service Provider and its suppliers do not, and Service Provider agrees it, and its suppliers, shall not without cause, pre-screen Content, but shall have the right (but not the obligation) in their sole discretion to refuse or move any Content that is available via the Service, including without limitation any Content that violates the TOS or is otherwise objectionable. You agree to evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content, and acknowledge that you may not rely on any Content created by, or submitted to, Service Provider. You agree Service Provider (or its suppliers) may preserve and disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to:

a) comply with legal process;

b) enforce the TOS;

c) respond to claims that any Content violates the rights of third- parties; or

d) protect the rights, property, or personal safety of Service Provider, its users and the public. You understand that the technical processing and transmission of the Service, including your Content, may involve

i) transmissions over various networks; and

ii) changes to conform and adapt to technical requirements of connecting networks or devices.

12. INDEMNITY

You agree to indemnify and hold Service Provider, and its suppliers, and Service Provider's and its suppliers' affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable legal fees, made by any third party due to or arising out of Content you submit, post, transmit or make available through the Service, your use of the Service, your connection to the Service, your violation of the TOS, or your violation of any rights of another.

13. GENERAL PRACTICES REGARDING USE, STORAGE AND SERVICE MODIFICATION

You agree that Service Provider or its suppliers:

a) may establish general practices and limits concerning use of the Service, including without limitation, the maximum number of email messages that may be sent from or received by an account on the Service, the maximum size of any email message that may be sent from or received by an account on the Service, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time;

- b) have no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by the Service;
- c) reserve the right to log off accounts that are inactive for an extended period of time;
- d) reserve the right to change these general practices and limits at any time, in its or their sole discretion, with or without notice;
- e) reserve the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof) with or without notice;
- f) may supply any or all of the Software or Service on its own behalf, or as a sublicensor or reseller on behalf of a third party supplier, and may substitute such third party suppliers without notice;
- g) may quarantine suspected messages;
- h) may modify any domain and user settings with or without notice, including without limitation, altering settings so that spam or bulk email is denied, rather than being quarantined, to avoid space capacity issues which jeopardize the technical or economic viability of the services offered, or the system used to implement the services;
- i) will not permit open relay (ie third party relay of email messages); shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service which may occur for routine maintenance, routine or extraordinary repairs, or the need to respond to a virus or other attack on the system or using the system.

14. TERMINATION AND SUSPENSION

You agree that Service Provider, in its sole discretion, may (or may instruct its suppliers to), suspend or terminate your password, account (or any part thereof) or use of the Service, remove and discard any Content within the Service, deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Service, discontinue providing the Service, or any part thereof, with or without notice if Service Provider believes that you have violated or acted inconsistently with the letter or spirit of the TOS, and have not either cured the breach (if curable) or provided a satisfactory undertaking to Service Provider or the applicable authorities, within five (5) business days of receiving a notification of the breach, or for maintenance purposes. Further, you agree that Service Provider shall not be liable to you or any third-party for any termination or suspension of your access to the Service.

15. DEALINGS WITH THIRD PARTIES

Your interaction with third parties, including (without limitation): participation in promotions of, advertisers found on or through the Service, payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third parties, and that Service Provider and its suppliers shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or the presence of such third parties on the Service.

16. SERVICE PROVIDER'S PROPRIETARY RIGHTS

You agree the Service and any necessary software used in connection with it ("Software" contain proprietary and confidential information protected by applicable intellectual property and other laws, including but not limited to copyright, and trade and service mark protections, and is owned by Service Provider or its suppliers. Service Provider grants you a personal, non-transferable and non-exclusive right and license to use the object code of its Software on a single computer, provided you do not (and do not allow any third party to) reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software or Service, copy, modify, rent, lease, loan, sell, distribute, or create derivative works of or based on, the Service or the Software, in whole or in part, or use modified versions of the Software, including (without limitation) to obtain unauthorized access to the Service. You agree not to access the Service by any means other than through the interfaces provided by or through Service Provider for use in accessing the Service.

17. DISCLAIMER OF WARRANTIES, REPRESENTATIONS AND CONDITIONS

a) YOU EXPRESSLY UNDERSTAND AND AGREE THAT: YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. SERVICE PROVIDER AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, REPRESENTATIONS, GUARANTEES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b) SERVICE PROVIDER AND ITS SUPPLIERS MAKE NO WARRANTY THAT

i) THE SERVICE WILL MEET YOUR REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE,

ii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE,

iii) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND

iv) ANY ERRORS IN THE SERVICE OR SOFTWARE WILL BE CORRECTED.

c) ANY MATERIAL TRANSMITTED, RECEIVED, DOWNLOADED OR OTHERWISE OBTAINED OR SENT, THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE OPENING, DOWNLOAD OR SENDING OF ANY SUCH MATERIAL.

d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SERVICE PROVIDER OR ITS SUPPLIERS OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

e) YOU ACKNOWLEDGE THAT:

i) AS VIRUSES ARE FREQUENTLY CREATED AND DISTRIBUTED, THE ANTIVIRUS COMPONENT OF THE SERVICE IS INTENDED TO DETECT ONLY SPECIFIC KNOWN VIRUSES AND SOME UNKNOWN VIRUS BEHAVIOR PATTERNS. THERE IS NO WARRANTY THAT THE SERVICE WILL DETECT ALL VIRUSES PRESENT ON OR SENT TO YOUR COMPUTER SYSTEM, NETWORK OR EMAIL SERVER; YOUR RESPONSIBILITIES INCLUDE TO ENSURE YOU HAVE SUFFICIENT BACK-UP SYSTEMS IN PLACE; AND

ii) AS PURVEYORS OF SPAM ARE CONSTANTLY SEEKING TO EVADE SYSTEMS DESIGNED TO BLOCK BULK EMAIL (ALSO KNOWN AS SPAM OR JUNK EMAIL), AND AS A USER MAY NOT WISH ALL BULK EMAIL TO BE BLOCKED, THE BULK EMAIL COMPONENT OF THE EMAIL SERVICE WILL NOT DETECT OR BLOCK ALL BULK EMAIL, AND MAY ADDITIONALLY BLOCK EMAIL WHICH YOU DID NOT WISH TO HAVE BLOCKED. THERE IS NO WARRANTY THAT THE SERVICE WILL BLOCK ALL BULK EMAIL, OR ONLY BLOCK THE BULK EMAIL YOU DESIRE TO BE BLOCKED.

18. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT SERVICE PROVIDER AND ITS SUPPLIERS, SHALL NOT BE LIABLE FOR ANY, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER TANGIBLE OR INTANGIBLE LOSSES (EVEN IF SERVICE PROVIDER OR ITS SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM:

a) THE USE OR THE INABILITY TO USE THE SERVICE;

b) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE;

c) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA;

d) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR

e) ANY OTHER MATTER RELATING TO THE SERVICE. LIABILITY FOR DIRECT DAMAGES SHALL BE LIMITED TO A MAXIMUM OF THE FEES YOU HAVE ALREADY PAID TO SERVICE PROVIDER FOR THE MONTH IN WHICH THE EVENT GIVING RISE TO THE LIABILITY OCCURRED.

19. EXCLUSIONS AND LIMITATIONS

Some jurisdictions bar limitation or exclusion of certain warranties, representations and conditions or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations of this Agreement may not apply to you.

20. NOTICE

Notices to you may be made via email, fax, courier or regular mail. The Service may also provide notices of changes to the TOS or other matters by displaying notices or links to notices to you generally on the Service.

21. TRADEMARK INFORMATION

Without Service Provider's prior permission, you agree not to display or use in any manner, the Service Provider's or its suppliers' trademarks or service marks.

22. GENERAL INFORMATION

Your subscription form (e.g. covering your term, method of payment, price etc.) and this TOS, constitute the entire agreement between you and Service Provider and govern your use of the Service, superseding any prior agreements between you and Service Provider related to services. Additional terms and conditions may apply when you use other services (such as domain name registration services), third-party content or software. The TOS and the relationship between you and Service Provider shall be governed by the laws of the Ontario, Canada without regard to its conflict of law provisions. You agree to submit to the personal and exclusive jurisdiction of the courts located within the City of Barrie. The failure of Service Provider to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should try to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred. The section titles in the TOS and schedules are for convenience only and have no legal or contractual effect.