

COGECO CABLE CANADA INC. General Terms and Conditions - Residential Services

Last revision: ~~May 20, 2005~~ June 26, 2009

PLEASE RETAIN FOR FUTURE REFERENCE

1. ~~COGECO~~ Cogeco Cable Canada Inc. ~~and its Affiliates (as defined in the Canada Business Corporations Act)~~ ~~[hereafter (“COGECO”)]~~ provides Residential Cable, ~~Residential High Speed Internet and Residential~~ Digital Phone services as well as other value added services to its Customers (~~hereafter, “COGECO’s Services” or “Services”, unless the context requires otherwise).~~ As of September 1st, 2009, the Services shall be provided by Cogeco Cable Canada LP.
2. In this Agreement, i) ~~)-~~ “Customer” shall mean an individual acting for personal, family or household purposes, the person named on the invoice, residing in the Province of Ontario, and responsible for paying the charges for the Services provided under ~~the~~ this Agreement and ~~shall be~~ entitled to receive any notice and information relating to this Agreement or the Services; and ii) “Agreement” shall mean the agreement in effect from time to time between COGECO and the Customer which is subject to amendment in accordance with section-section 16 hereof, including, but not limited to, the present Terms and Conditions, and any other document or form that may be designated by COGECO from time to time in accordance herewith as forming part of the Agreement.
3. By using ~~COGECO’s~~ the Services provided by COGECO in Ontario, the Customer expressly agrees to be bound by the terms and conditions of this Agreement. If the Customer does not agree with the terms and conditions of the Agreement, the Customer may exercise the right to terminate the Agreement according to the termination provision included herein and cease using the Services. The Customer shall be responsible for ensuring that the Services are used in accordance with this Agreement.
4. COGECO Customer accounts are due and payable in full by the due date ~~shown indicated (i) on the front of the invoice or as agreed by the Customer through;~~ (ii) on the Customer statement issued following its initial pre-authorized bank withdrawals or credit card payment authorization, if applicable; or (iii) as otherwise indicated by COGECO to the Customer.
5. The Customer agrees to pay the total charges due in accordance with section 4 hereof using any of the following methods: (i) automatically by pre-authorized bank withdrawals or credit card payment; (ii) by mailing a cheque or money order to COGECO; (iii) by telephone/PC banking; ~~or (iv) at any financial institution; or (v) by credit card, through the call center or COGECO website.~~
6. An administration charge will be levied, if the Customer’s cheque is returned for insufficient funds (~~NSF~~) or in the case of a refused bank account or credit card pre-authorized debit. Any amount unpaid after the due date shall bear interest at a rate of 2% per month ~~(24% per annum),~~ calculated and compounded monthly (26.82 % per annum). An additional collection charge will be levied if costs are incurred as a result of collection efforts on outstanding amounts.
7. Overdue accounts ~~for any particular Service billed by COGECO~~ may result in cancellation of the Services referred to thereon. If a service call is required to restore any Customer’s Service which has been terminated for non-payment, a reconnection charge will then apply.
8. COGECO reserves any and all rights, whenever it will observe that the ~~consumption by the Customer of incremental transactional Services~~ use of Services or related products (such as, and without limiting the generality of the foregoing, long-distance telephone service, Pay-Per-View movies or events, or Video on Demand movies) by the Customer exceeds a reasonable limit ~~for such Services,~~ as determined by COGECO in its sole judgement, to temporarily suspend or restrict the Customer’s access to those Services or products and/or any other Services-products related thereto, without ~~the necessity of any prior notice to Customer or delay.~~ The Customer will then have the obligation to contact COGECO’s customer service, which may at that time require from the Customer, as applicable, a payment to cover the ~~cost~~ costs incurred by prior excessive consumption of those Services, enabling the Customer to have access again to such Services. For the purposes of this Agreement, shall be considered as exceeding a reasonable limit any usage that restricts or inhibits other users from using or enjoying the Services in an adequate manner, creates an unusually large burden on the COGECO network, generates levels of traffic impeding other users’ ability to transmit or receive information, or that could eventually result in significant amounts to be paid by the Customer related to the use of such Services or related products.
9. Only one television set, FM receiver or cable modem may be connected to any outlet. In the event that the Customer fails to comply with the present section, COGECO shall have the right to recover from the Customer any and all charges in order to render the Customer’s use of the Services authorized and lawful.

10. It is acknowledged by the Customer that there are provisions in the *Criminal Code* of Canada which refer specifically to “telecommunication services” or “computer services”, which include the Services provided by COGECO, and that any unauthorized connection to COGECO’s Services or equipment, interfering or tampering with COGECO’s Services or equipment or unauthorized use of COGECO’s Services or equipment without the payment of the prescribed fees is prohibited and may constitute theft under the *Criminal Code* of Canada. The Customer must immediately inform COGECO, either in writing, by calling COGECO’S customer service at 1--800-267-9000 or by accessing the www.cogeco.ca website, if the Customer notices becomes aware, at any time, that any of the Services is either stolen or being used unlawfully.
11. The Customer agrees not to use the Services in a manner that is contrary to applicable laws or regulations. Any breach of applicable laws or regulations may result in the immediate termination of this Agreement and/or any the disconnection or suspension of the Services-Service used wrongfully being disconnected or suspended illegally and any other Service related thereto.
12. The Customer agrees that all the equipment installed or provided by COGECO shall remain the property of COGECO, except for equipment purchased and paid for by the Customer, which equipment is neither returnable to nor refundable by COGECO. Fees may be charged to the Customer for the installation of the Services and/or equipment. The Customer will protect COGECO's equipment from defacing, tampering or damage, and will not permit anyone other than a representative of COGECO to perform any work, repairs, modifications on such equipment, unless otherwise expressly allowed by COGECO. COGECO’s equipment shall remain where the Services were initially installed and as long as the Customer subscribes to those Services. The Customer acknowledges and accepts full responsibility for all equipment installed by COGECO at the service address and use thereof and agrees to reimburse COGECO for the full cost of the repair or replacement of any lost, stolen, unreturned, damaged, mortgaged, sold, transferred, leased, encumbered or assigned equipment or part thereof. The Customer is responsible for returning COGECO’s relevant equipment upon termination of a Service or this Agreement, to COGECO’s closest retail location place of business or, in the absence of such retail location place of business, to contact COGECO to arrange for equipment return. In the event the Customer fails to return said equipment or fails to comply with the terms and conditions of this Agreement, COGECO may, at its option, repossess such equipment whenever possible and charge the Customer any costs incurred in connection therewith, or charge the Customer the full replacement cost of the unreturned COGECO’s equipment.
13. The Customer hereby grants COGECO, its employees, representatives, contractors, subcontractors and agents reasonable access to the Customer’s premises or service address at reasonable hours to install, inspect, service, maintain, restore, remove or disconnect COGECO’s Services or equipment. Charges may apply if a service call is required to restore any of the Services of a Customer and it is determined that the problem does not originate from COGECO’s network or equipment. Charges may also apply if the Customer solicits COGECO’s technical assistance by telephone. In addition, charges may apply in the event that the Customer expressly requests that the Cable Services delivered by wishes to switch to a lower-rate package for a COGECO be downgraded Service.
14. If the Customer does not own the premises where the Services are provided, the Customer warrants represents that the Customer has the consent of the owner of the premises or otherwise has the authority to allow COGECO to install, inspect, service, maintain, remove or disconnect COGECO’s Services.
15. The Customer can may obtain more information about the fees applicable under this Agreement on the www.cogeco.ca website or by contacting COGECO’s customer service at 1-800-267-9000.
16. COGECO may propose to change, modify, add or remove any provision of this Agreement (including the Acceptable Use Policy referred to below, if applicable) at intervals of at least 30 days. Such changes may also include, without limitation, modifications, additions to or removals from the Services, their features and charges, or the terms and conditions upon which COGECO distributes and the Customer receives the Services.- COGECO will provide written notice to the Customer at least 30 days but not more than 90 days before the effective date of change, modification, addition or removal, which notice may be sent using any means allowing the Customer to become aware thereof and namely, via e-mail or mail or any other means of providing written notice. Following receipt of such notice, the Customer may agree to accept any such change, modification, addition or removal by continuing to use the affected Service. If the Customer does not agree to any such change, modification, addition or removal proposed in the notice, the Customer may, before the effective date, notify COGECO that the Customer is terminating the Agreement in accordance with section 17 of this Agreement and/or the provisions of the notice and cease using the Service in question thereafter. If the Customer does not give any such notice to COGECO by the effective date, then the proposed changes to this Agreement will become effective on the effective date.
17. Subject to the qualification set out in section 18 section below or unless the Agreement is concluded for a defined term, the Customer may at any time, upon at least thirty (30) days’ prior notice to COGECO, cancel this Agreement or any Service provided under the Agreement. Applicable charges shall continue to apply until the thirty (30) days have elapsed or, as the case may be, until the expiration of the term provided for in the Agreement. If the Agreement is concluded for a defined term, and unless COGECO is otherwise notified by the Customer, the Agreement shall automatically renew at the expiration of the defined term at the regular rates then in effect for the Services, and may thereafter be terminated in accordance with the terms set out at the beginning of this section. The Customer shall remain liable for the payment of all outstanding balances accrued up to the date of termination or expiration.

18. ~~If an Agreement results from~~In the event the Customer ~~subscribing~~subscribed to a Service as part of a promotion (“Promotion”) offered by COGECO whereby the Customer enjoys lower rates than would have been the case without such Promotion, this Agreement shall then be for a term of at least the minimum contract period required by the Promotion (the “Promotion Period”). Should the Customer cancel a Service before the expiry of the Promotion Period, the Customer shall pay COGECO the penalties indicated in the Promotion and in the Agreement, if applicable. The regular rates then in effect for the Services shall apply at the end of the Promotion. Following the expiry of the Promotion Period, the Customer may also terminate the Agreement or cancel the Service at any time upon at least thirty (30) days’ prior notice to COGECO.
19. In addition to all other rights given to COGECO under this Agreement (including in the Acceptable Use Policy referred to below, where applicable), COGECO may:
- (a) ~~at any time, upon at least five (5) days’ prior notice to the Customer, cancel this Agreement or any Service provided under the Agreement; or~~
- (b) ~~at any time and without prior notice to the Customer, disconnect or suspend the Customer’s access to the Services or cancel the Agreement (i) if the Customer fails to comply with one or more of the provisions of the Agreement other than the Customer’s payment obligations contained in sections 4 and 5 hereof, in which case paragraph (a) shall apply; or (ii) upon the occurrence of any act of bankruptcy on the part of the Customer, or if the Customer becomes insolvent, relies upon any law governing insolvency, bankruptcy or arrangements with creditors or upon the commencement of bankruptcy proceedings against the Customer.~~
20. ~~**COGECO DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE SERVICES. COGECO WILL NOT BE LIABLE FOR ANY INTERRUPTIONS IN SERVICE OR ANY DELAY OR FAILURE TO PERFORM. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COGECO DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE SERVICES PROVIDED TO THE CUSTOMER. COGECO DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE SERVICES. COGECO WILL NOT BE LIABLE FOR ANY INTERRUPTIONS IN SERVICE, LOSS OF DATA OR ANY DELAY OR FAILURE TO PERFORM. COGECO DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE SERVICES PROVIDED TO THE CUSTOMER. THE CUSTOMER ACKNOWLEDGES THAT COGECO AND ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, SHAREHOLDERS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS AND CARRIERS, SUPPLIERS SHALL NOT BE HELD LIABLE WITH REGARD TO ANY DAMAGE ARISING, DIRECTLY OR INDIRECTLY, FROM THIS AGREEMENT. IN NO EVENT SHALL COGECO HAVE ANY LIABILITY TO THE CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THIS AGREEMENT. WHERE PERMITTED BY APPLICABLE LAW, COGECO’S IN NO EVENT SHALL COGECO HAVE ANY LIABILITY TO THE CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THIS AGREEMENT. COGECO’S MAXIMUM LIABILITY LIABILITY TOWARD THE CUSTOMER SHALL BE LIMITED TO SHALL BE LIMITED TO THE TOTAL AMOUNT PAID TO COGECO BY THE CUSTOMER UNDER THE AGREEMENT AGREEMENT DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. THE PRESENT SECTION WILL SURVIVE TERMINATION OF THE AGREEMENT.**~~
21. The Customer shall be liable for any damages, claims, losses, actions, suits, proceedings or causes of action whatsoever, including legal fees and expenses (a “Claim”) arising out of (i) the breach of any provision of this Agreement or any applicable law; (ii) the use of the Services; or (iii) the posting or transmission of any information or other materials through the Services. The Customer shall be liable for and indemnify and hold harmless COGECO, its affiliates and their respective officers, directors, employees, agents and suppliers against all Claims. The Customer agrees to promptly notify COGECO after becoming aware of any unauthorized use of the Services or its account and shall take such reasonable measures as are necessary to prevent any reoccurrence of such event. COGECO reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any matter otherwise subject to such indemnification. The Customer shall co-operate as fully as reasonably possible in the defense of any Claim assumed by COGECO in such a case.
22. COGECO collects personal information on its Customers ~~and, which it uses such information for the following purposes:~~
- to communicate with its Customers;
 - ~~to develop and maintain its relationships with its Customers, its employees and other persons; ;~~
 - ~~to provide its Services, or to receive services it requires, and to ensure that all related transactions are supported and implemented; in order to deliver the Services;~~
 - to ensure that all actions required for the purposes mentioned above are taken;
 - ~~to understand and assess the interests, wants and needs of Customers with a view to improving current Services, or to offer new services; Services;~~

- to manage its business ~~and~~;
- to ensure the efficiency, reliability and security of its systems; ~~and~~ network; and
- to fulfill its obligations under the law.-

Unless a Customer provides express consent or unless disclosure is ~~pursuant to a legal power, all~~ otherwise required or allowed by law, COGECO will not disclose personal information ~~kept by COGECO~~ regarding the ~~a~~ Customer, other than the Customer's name, address and listed telephone number, ~~is confidential and may not be disclosed by COGECO~~ to anyone other than:

- the Customer;
- a person who, in the reasonable ~~judgment of the company~~ judgement of COGECO, is seeking the information as an agent of the Customer;
- another telephone company, provided the information is required for the efficient and cost-effective provision of telephone service and disclosure is made on a confidential basis with the information to be used only for that purpose;
- a company involved in supplying the Customer with telephone or telephone-directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose; or
- an agent retained by COGECO in the collection of the Customer's account, provided the information is required for and is to be used only for that purpose.

Express consent to disclosure may be ~~taken~~ deemed to be given by a Customer where the Customer provides:

- written consent;
- oral confirmation verified by an independent third party;
- electronic confirmation through the use of a toll-free number; ~~or~~
- electronic confirmation via the Internet;
- oral consent, where an audio recording of the consent is retained by the carrier; or
- consent through other methods, as long as an objective documented record of customer consent is created by the Customer or by an independent third party.

~~In light of the above, By entering into this Agreement, the Customer hereby expressly consents to COGECO requiring, collecting~~ obtaining from and providing to third parties, ~~including but not limited to, credit reporting agencies, credit history information regarding its Customers and their accounts. The Customer also hereby expressly consents to COGECO requiring and collecting from the Customer, and providing to third parties,~~ personal information on the Customer or on the Customer's account, for the ~~sole~~ sole purposes set ~~forth~~ out in the first paragraph of this section, ~~and for those purposes only.~~ In addition, and whenever applicable, the Customer hereby consents that COGECO obtains and uses credit history information and personal information therein contained and provides same to credit reporting or collection agencies, if applicable.

For more information about the privacy of the Customer's personal information, please visit our website at ~~www.cogeco.ca~~ www.cogeco.ca.

23. The failure of COGECO to enforce any provision of this Agreement, for whatever reason, shall not be construed as a waiver of any right to do so at any time. The Customer agrees that if any portion of this Agreement is held invalid or unenforceable, the remaining portions will remain in full force and effect.
24. The Customer shall not assign this Agreement, the rights or obligations herein contained, nor the equipment belonging to COGECO, as applicable, without first having obtained the prior written consent of COGECO. In the absence of any such consent, any assignment shall be deemed null and void. COGECO shall be entitled to assign its rights or obligations in this Agreement, or part thereof, without the prior consent of the Customer.
25. This Agreement shall be governed by, and construed in accordance with, the laws ~~of~~ applicable in the Province of Ontario ~~and the laws of Canada applicable therein.~~

26. A French version of this Agreement is available on the www.cogeco.ca website or available on request.

**SPECIFIC TERMS AND CONDITIONS APPLICABLE TO-
COGECO HIGH SPEED RESIDENTIAL INTERNET SERVICE—**

27. By using ~~COGECO's~~ the High Speed Residential Internet Service provided by COGECO in Ontario, the Customer agrees not to use this Service in a manner that is contrary to applicable laws or regulations and COGECO's Acceptable Use Policy ("AUP"), which forms part of this Agreement. ~~— The current AUP is available on the www.cogeco.ca website.—~~ If the Customer does not agree with the terms and conditions of the AUP, the Customer must immediately stop using the High Speed Residential Internet Service and notify COGECO's customer service that the Customer is terminating this Service.

**SPECIFIC TERMS AND CONDITIONS APPLICABLE TO-
COGECO RESIDENTIAL DIGITAL PHONE SERVICE**

28. The COGECO Residential Digital Phone Service (the "RDPS" in Ontario) should only be used ~~from~~ with the Customer's telephone located at the service address specified ~~in~~ by the Customer's ~~Agreement~~, which is connected to COGECO's multifunction ~~cable~~ modem and is provided to the Customer as a residential user, for personal, ~~and solely~~ residential, ~~non-use, excluding~~ business and ~~non-professional use.~~ commercial use. This means that the Customer shall not use ~~this Service for any mercantile~~ the RDPS for any commercial activities, including, without limiting the generality of the foregoing, for the operation of a home office, business, sales, telecommuting, telemarketing (including without limitation charitable or political solicitation or polling), autodialing, continuous or extensive call forwarding, fax broadcast, fax blasting or any other activity that would contravene or be inconsistent with normal residential usage patterns. This also means that the Customer is not to resell or transfer ~~this Service~~ the RDPS to any other person for any purpose, or charge any fees for the use of ~~this Service~~ the RDPS, without express prior written permission from COGECO.

~~COGECO, upon~~ Upon discovering that use of this Service or any functionalities related thereto by Customer is contravening the terms of the present section or exceeds, ~~in COGECO's sole judgment~~, reasonable usage limits determined by COGECO, at its sole discretion, with regard to such a personal or residential use, COGECO may, at any time and without prior notice, limit or suspend access by the Customer to ~~this Service.~~ the RDPS. In such cases, the Customer must contact COGECO's customer service which may require payment of ~~owed charges~~ fees in order to restore Customer access to this Service.

29. **THE CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THIS SERVICE MAY BE DISRUPTED IN THE EVENT OF AAN ELECTRIC POWER OUTAGE, AN INTERRUPTION OR SUSPENSION OF THE INTERNET SERVICE OR THE SUSPENSION OF INTERNET SERVICE BY COGECO, OR FOR ANY OTHER REASON BEYOND THE CONTROL OF COGECO. THE RDPS MAY ALSO BE INTERRUPTED AT THE CUSTOMER'S REQUEST OR BY COGECO, SHOULD THE CUSTOMER FAIL TO PAY ANY FEES WITH RESPECT TO SERVICES PROVIDED BY COGECO.**

30. The Customer acknowledges that modification or alteration of the equipment installed, provided, rented or lent by COGECO is prohibited.

31. COGECO reserves the right to change the number assigned to the Customer, but will, however, take all reasonable measures to prevent such an occurrence. In the event of such a change, COGECO will endeavour to give reasonable prior notice to the Customer.

1. ~~The COGECO Residential Digital Phone Service allows access to the 911 emergency service in a traditional manner, as long as COGECO's multifunction cable modem connected to the Customer's telephone set remains at the same physical address given by the Customer to COGECO at the time the initial subscription to the COGECO Residential Digital Phone Service was made.~~

32. ~~COGECO's multifunction cable~~ modem shall remain where ~~this Service~~ the RDPS was initially installed and as long as the Customer subscribes to ~~COGECO's Residential Digital Phone Service~~ the RDPS, in order to ensure that the 911 calls will be handed off to the Emergency 911 Call Center serving the Customer's residence, and that the address from which a 911 call is placed will correspond to the physical address registered in the 911 database associated with the Customer's telephone number. **The Customer understands that any breach hereof may result in the 911 emergency services being unavailable.**

The RDPS allows access to the 911 emergency service in the traditional manner, as long as COGECO's multifunction modem connected to the Customer's telephone set remains, as required, at the same physical address given by the Customer to COGECO at the time the initial subscription to such Service was made, or at any other time thereafter.

Emergency 911 service will not work properly if the Customer experiences one of the following (but not limited to these) technical problems with ~~COGECO's Residential Digital Phone Service~~ the RDPS: failure of COGECO's multifunction ~~cable~~ modem; a gateway configuration problem; an electrical power outage or an Internet Service outage.

IN LIGHT OF THE CHARACTERISTICS AND LIMITATIONS OF THE 911 SERVICE DESCRIBED ABOVE, THE CUSTOMER ACKNOWLEDGES THAT COGECO ~~AND~~, ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, ~~SHAREHOLDERS~~, OFFICERS, EMPLOYEES, ~~AGENTS, CONSULTANTS AND CARRIERS~~, **SHALL NOT BE HELD LIABLE WITH REGARD TO ANY DIRECT OR INDIRECT DAMAGE ARISING, DIRECTLY OR INDIRECTLY, FROM THE OPERATION OF THE 911 SERVICE, ~~THE WAY IT OPERATES OR DOES NOT OPERATE.~~**

33. ~~Certain non-voice communication equipment, including, but not limited to, home security systems that are set up to make automatic phone calls, and medical monitoring devices, may not be compatible with the COGECO Residential Digital Phone Service. COGECO will not connect its Residential Digital Phone Service to any home security or emergency medical alert system. Nevertheless, should the Customer decide to connect any home security or emergency medical alert system to the Residential Digital Phone Service of COGECO, COGECO will not provide technical support for any such connection and will not incur nor assume any kind of liability whatsoever resulting arising from the connection to the RDPS of non-voice equipment, such a connection as medical monitoring devices or home security systems. By accepting this Agreement, the Customer waives any claim against COGECO for any interference with or disruption of such systems due to their connection to COGECO's Residential Digital Phone Service the RDPS. In the event the Customer decides to proceed with the connection of such equipment to the RDPS, the Customer shall ensure that the same is compatible and may be used efficiently with the RDPS and COGECO shall have no obligation to provide any technical support with respect to such equipment or connection thereof. The Customer understands that that interruption or disconnection of the RDPS, for any reason whatsoever, may prevent the non-voice equipment connected thereto from performing adequately.~~

2. In the case of errors or omissions in directory white page standard listings, whether or not the error or omission is with regard to a telephone number, COGECO's liability is limited to correcting the error or omission that has occurred.

34.