



COMMUNICATIONS

1. **Contractual Considerations**

- 1.1 **Agreement.** This Agreement represents the complete Agreement (called the "Agreement") and understanding between ABC Allen Business Communications, Ltd., (called "ABC") and you, the customer. Any Communications by either party required or contemplated under this Agreement may be delivered by electronic mail or other notice published on-line.
- 1.2 **Supremacy.** When this Agreement and any other agreement between you and ABC are in conflict, this Agreement shall supersede any other written or oral agreement between you and ABC.
- 1.3 **Termination.** The customer may terminate this Agreement at any time (subject to the conditions in this Agreement) by notifying our accounting department at +1-888-235-1174 (or +1 (250)612-5270 from Prince George, +1 (250)992-1230 from Quesnel) requesting that ABC close their account.
- 1.4 **Consideration.** In consideration for the provision of service(s) by ABC, the customer agrees to pay the fees associated with the service(s) and abide by the terms and conditions set out in this Agreement.
- 1.5 **Infancy.** You affirm that you are at least 19 years of age.
- 1.6 **Waiver.** Customers less than 19 years of age must have a parent or legal guardian agree to these conditions to indicate acceptance and knowledge of these terms and an Agreement to supervise access by such customers.

2. **Billing & Personal Information**

- 2.1 **Contact Information.** You are required to provide proper name, telephone number and address information so that ABC is able to contact you if required. You are required to provide ABC with details of any changes to this information. ABC may suspend accounts that are found to have false, missing or misleading personal information.
- 2.2 **Fee Changes.** ABC reserves the right to set and change fees and will publish a notice of fee increases 30 days before such increase takes effect.
- 2.3 **Accounting Cycle.** The ABC accounting cycle begins on the first of each month. Charges for new accounts are prorated based on the number of days remaining in the month. Charges for terminating accounts are not prorated. Your payment, in full, is due in advance of the services rendered on the first day of each calendar month. Usage sensitive fees will be billed in the month following the usage. Registration/setup fees are non-refundable.
- 2.4 **Delinquent Accounts.** Accounts that remain unpaid at the beginning of the next accounting cycle following the due date for payment may be placed on hold at ABC's discretion. Accounts that remain unpaid for three consecutive accounting cycles may, at ABC's discretion, have their files archived or purged. ABC accounts continue to accrue charges while they are on hold. There is a service reconnection charge equal to the currently charged set-up fee to removed accounts from hold status. You acknowledge responsibility for the account until payment is received in full by ABC. Past due amounts are subject to a late payment fee of 2% per month (24% per annum) from the

- date of invoice, subject to the maximum rate permitted by law, in addition to all costs of collection including attorney fees and collection agency fees incurred.
- 2.5 **Purchase orders.** You may submit a purchase order for the setup fee and service fee, provided the purchase order meets ABC requirements. In the event of any conflict arising between the purchase order and the terms of this Agreement, this Agreement shall take precedence.
- 2.6 **Credit Bureau.** ABC reserves the right to obtain and/or exchange information with credit grantors and credit reporting agencies for the purposes of verifying financial standing. If ABC notifies you that you do not have a sufficient credit rating, you must make payment before ABC commences or reinstates service or delivers equipment.
- 2.7 **Long distance charges.** ABC assumes no responsibility for any long distance charges that you may incur while accessing the Internet through an ABC account.
- 2.8 **Requests for information.** Requests for historical account or billing information may be subject to an administration fee, to be determined by ABC.
- 2.9 **Billing disputes.** If you believe ABC has billed you incorrectly, you must contact ABC no later than 60 days after the period of the first billing statement in which the error or problem appeared. Notifications after this period of time will not be eligible to receive adjustments or credits.
- 2.10 **Plan changes.** You may request a change to your ABC pricing plan by contacting ABC customer service. Price plan changes only take effect at the start of the next billing cycle following ABC's receipt of the change request.
- 2.11 **Cancellations.** Your ABC account will be renewed on a month-to-month basis unless you are in breach of this Agreement or you cancel the service. Your request for cancellation must be received in writing via e-mail, fax or postal service or by telephone prior to the commencement of the next billing period. Any termination of this Agreement shall not relieve you from any amounts owing or other liability accruing hereunder prior to the time that such termination becomes effective.
- 2.12 **Payment verification.** All payments on accounts must be verified prior to crediting accounts. NSF cheques or rejected credit card transactions will be charged back to the members account along with a \$25 service charge.
- 2.13 **Responsibility to pay.** Customer is responsible for charges incurred at the time the service is used and ABC may apply the amount due to member's credit card at any time.
- 2.14 **Responsibility for account abuse.** As the account holder, you are responsible for all use of your account, by anyone, unless it can be conclusively proven, to the satisfaction of ABC to have been an unauthorized intrusion. Additionally, you are responsible for the maintenance of your password. If you believe that there has been unauthorized access to your account, please notify ABC immediately.
- 2.15 **Announcements.** We reserve the right to distribute information to you that is pertinent to the quality or operation of our services and those of our service partners. These announcements will be predominately informative in nature and may include notices describing changes, upgrades, new products,

or other information to add security or to enhance your identity on the Internet.

2.16 **Release of information.** Information provided by you to ABC, will be kept confidential, provided that such information may be disclosed in confidence to:

2.16.1 persons who, in the reasonable opinion of ABC, are your agents; or

2.16.2 ABC agents or consultants, provided such agents or consultants agree to be bound by these provisions.

3. Service Specifics

3.1 Dialup services

3.1.1 **Personal use only.** Member understands and agrees that individual dial-up accounts are for single-user, interactive use only. Other use not explicitly authorized by ABC -- including, without limitation, connection of networks or bulletin board systems, resale of Internet services, or non-interactive bulk file transfer -- is prohibited.

3.1.2 **Account sharing.** Except as specifically authorized by ABC, member accounts are to be used only by members of the group or organization named by the account.

3.1.3 **Interactive use only.** You agree not to use individual dialup access services for unattended automated operations or server connectivity applications

3.1.4 **Servers not permitted.** You are not permitted to operate an e-mail, web, news, file or other similar servers through an ABC service, except as negotiated with ABC.

3.1.5 **Right to disconnect.** ABC reserves the right to disconnect sessions after a pre-defined period of inactivity and to restrict the length of sessions. You further agree not to use Internet applications for the purpose of simulating network activity to avoid session inactivity disconnection.

3.1.6 **Right to prioritize.** ABC reserves the right to prioritize access connectivity for customers not using the flat rate (unmetered) accounts, if required in periods of peak network demands (generally early evening hours). You acknowledge that access for flat rate accounts may be temporarily restricted.

3.2 ADSL and Wireless services

3.2.1 **Servers not permitted.** You are not permitted to operate an e-mail, web, news, file or other similar servers through an ABC service, except as negotiated with ABC.

3.2.2 **Termination prior to expiry of service contract period.** You may terminate service prior to the expiry of the initial contract period, subject to an early termination payment of 30% of the remaining monthly fees for the balance of the contract period.

3.2.3 **Customer premises equipment.** From time-to-time, ABC may install equipment on the customer's premises which is owned by ABC.

3.2.3.1 **Property of equipment.** This equipment remains the property of ABC and is only available to the customer for the duration of service.

3.2.3.2 **Access to equipment.** The customer must provide ABC with physical access to the equipment given reasonable notice.

- 3.2.3.3 **Equipment to be returned upon termination.** The equipment must be returned to ABC in good condition (normal wear and tear excepted) upon termination or cancellation of the service.
- 3.2.3.4 **Customer responsible.** In the event that the customer chooses not to comply with one or more of sections 5.3.1-5.3.3, the customer is responsible for the cost of the equipment.
- 3.2.3.5 **Suitable access to power.** You must provide an adequate, standard household power outlet within 1.8 meters of the location that the ABC provided equipment is to be installed.
- 3.2.3.6 **Suitable location.** You must provide a suitable location for the installation of the ABC equipment within 1.8 meters of your network access point. The location must provide reasonable ventilation and protection from damage to, theft, or loss, of the ABC equipment.
- 3.2.3.7 **Special equipment.** Additional charges shall apply when it is necessary for ABC to install special equipment or to incur an unusual expense in establishing the ABC service.
- 3.2.3.8 **Customer equipment.** Customers may elect not to use ABC provided equipment, in which case the customer accepts that ABC cannot guarantee the performance of the service and is not expected to support the equipment.
- 3.2.3.9 **Customer equipment to be paid for by customer.** ABC is not responsible for reimbursement of any customer owned equipment
- 3.2.4 **IP address ownership.** IP addresses that are assigned to you for this service will be retained by ABC in the event that service is terminated. Though the IP addresses may be installed in your hardware or software for the duration of your service with ABC, they remain the property of ABC. These addresses are NOT portable and WILL NOT be sold.
- 3.2.5 **Installation and maintenance responsibility.** ABC is not responsible for any damage to or loss of data or software from your computer while installing or maintaining the service. We recommend that you backup all existing computer files by copying them to a different storage device prior to the installation or maintenance of any ABC service hardware or software.
- 3.2.6 **Support for components.** ABC will provide support only for the ABC service components. ABC is not required to provide support for components of your computer or network.
- 3.2.7 **Reverse ADSL use on the access facility is not permitted.** This means that you cannot have a higher upload than download speed.
- 3.2.8 **ABC high-speed services are currently available only in selected areas.** Final confirmation of service availability can not occur until the installer is at your premises. You hereby authorize the installer to disclose to ABC and Telus the necessary information to confirm service availability on your premises.
- 3.2.9 **Re-termination of circuit.** Re-terminating the circuit refers to relocating the termination point of the telephone company's dedicated leased line at your premises. The leased line connects you to the service. Should you deem it necessary to re-terminate the circuit, you will be responsible for certain ABC and telephone company fees. ABC is not responsible for service disruptions caused by the re-termination.

- 3.2.10 **Internet filtering.** ABC may, at its sole discretion, provide filtering on routers under the following terms and conditions:
 - 3.2.10.1 **Security considerations.** ABC is not responsible for the security of your connection. Dedicated Access service is provided with routers that are free of filtering in order to allow maximum flexibility of your own security strategy. ABC recommends hiring a specially trained security consultant if your network contains sensitive data and you wish to utilize the best protection available.
 - 3.2.10.2 **Packet filtering.** ABC may provide packet filtering based on network number and protocol for non-Customer networks, and on an individual host basis for customer host computers.
 - 3.2.10.3 **Security persons.** You will designate primary and secondary security persons whose names, telephone numbers, fax numbers, and electronic mail addresses must be provided to ABC. ABC will take direction only from these contact persons for filtering.
 - 3.2.10.4 **Audit trail.** The contact persons will request filtering via electronic mail or fax to the designated ABC address to facilitate an audit trail.
 - 3.2.10.5 **Filter modification charges.** You will be charged for each update to the filtering profile at a rate to be determined by ABC.
- 3.3 Hosting services**
 - 3.3.1 **Domain name.** You assume responsibility for selecting your domain name and ensuring that use of the domain name does not conflict with the rights of any other individual. Without limitation, ABC shall not be liable to you or any other individual arising from actual or threatened termination of your right to use a domain name.
 - 3.3.1.1 **IP address ownership.** You acknowledge that ABC is the owner of the Internet Protocol (IP) number assigned to the domain name and web site hosted by ABC.
 - 3.3.1.2 **Third party costs.** Unless otherwise specified as part of the service, you agree to pay any third part costs associated with obtaining a domain name or otherwise using the services provided by ABC.
 - 3.3.2 **Restrictions.** While using the service, you may not:
 - 3.3.2.1 Restrict or inhibit any other user from using and enjoying the Internet;
 - 3.3.2.2 Post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, offensive, indecent, pornographic, profane, or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, including without limitation the Canadian or U.S. export control laws and regulations, and laws protecting intellectual property including copyright, trademark, trade secret, misappropriation and anti-dilution laws;
 - 3.3.2.3 Post, publish, transmit, reproduce or distribute any information or software which contains a virus or other harmful component;
 - 3.3.2.4 Post, publish, transmit, reproduce, distribute or in any way exploit any information, software, or other material obtained through the service for commercial purposes (other than as expressly permitted by the provider of such information, software, or other material);

- 3.3.3 **Prohibited material.** ABC reserves the right to refuse to display advertisements for; establish links to or from; and provide any applicable service to, any web site that contains, advertises or links to any other web site that contains prohibited material.
- 3.3.4 **Prohibited material defined.** Prohibited material shall include the following:
 - 3.3.4.1 Nudity, sexual situations, pornography, and sexual material of a lewd, lecherous or obscene nature and intent as determined by ABC at its sole discretion;
 - 3.3.4.2 any material that violates local, state or any federal laws;
 - 3.3.4.3 any material that violates or infringes in any way the rights of any third party, including without limitation, copyright, trademark or other intellectual or industrial property rights;
 - 3.3.4.4 hate propaganda or hate mongering, swearing, or fraudulent material or activity;
 - 3.3.4.5 any material that is threatening, abusive, harassing, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, indecent, or otherwise objectionable or inappropriate as determined by ABC at its sole discretion;
 - 3.3.4.6 any material that promotes, encourages, or provides instructional information about illegal activities;
 - 3.3.4.7 any material that is or may be misleading or deceptive;
 - 3.3.4.8 any software, information, or other material that contains a virus, "Trojan Horse," corrupted data, or any other harmful or damaging component; or
 - 3.3.4.9 any software or information to promote or utilize software or services designed to deliver unsolicited email.
- 3.3.5 **Advertising considerations.** In addition, ABC reserves the right to reject any advertising that contains prohibited material.
- 3.3.6 **Personal home pages.** ABC reserves the right to remove personal home pages that generate in excess of 10 megabytes of data transfer per month.
- 3.3.7 **Web space reselling.** Reselling of web space on our web servers is prohibited.
- 3.4 Universal service Specifics**
 - 3.4.1 **ABC offers a variety of access speeds and accounts.** All services are subject to the availability of suitable equipment and facilities and consequently not all services are available at all locations.
 - 3.4.2 **Customer equipment must be adequate.** The service provided by ABC is subject to your equipment satisfying standards of transmission and supporting communications protocols required for access to the Internet through the existing ABC equipment and facilities.
 - 3.4.3 **Service reselling prohibited.** You agree that you will not share, resell, or provide, as part of any commercial transaction, the ABC service to any third party.
 - 3.4.4 **Commercial use requires commercial account.** Use of ABC services for profit-seeking activity associated with advertising or promotion of a commercial product or service without an ABC business account is prohibited.
- 4. Acceptable Use and Right to Limit and Terminate**
 - 4.1 **Right to limit or terminate services.**

- 4.1.1 **No mail relaying.** ABC does not offer mail relaying or news server privileges from external access points. These ABC services are provided for use by ABC customers from ABC access points only.
- 4.1.2 **E-mail storage limited.** All e-mail accounts are provided 5 megabytes of storage space. If you reach this limit, additional e-mail messages will not be accepted.
- 4.1.3 **User is solely responsible.** All files, messages, and other information posted to any network on the Internet by an ABC customer are the sole responsibility of that customer.
- 4.1.4 **Right to remove, limit or modify inappropriate material.** Notwithstanding section 4.1.3, ABC reserves the right to prohibit, remove, modify and/or block access to any content or Internet capability, including any pages, Usenet newsgroup and/or IRC channel, at any time for any reason, including those which contain hyperlinks to material ABC deems inappropriate; material which promotes or induces illegal activity, or material which ABC otherwise deems inappropriate or undesirable to publish
- 4.1.5 **Investigation.** You authorize ABC to investigate any violations of the terms of this Agreement and acknowledge that ABC has the right to suspend access to the account, or discontinue any or all services temporarily or permanently. The suspension may be rescinded at the discretion of ABC and may require the payment of a service reconnection charge.
- 4.1.6 **Errors in investigation.** Occasionally, unintentional abuse is misclassified as intentional. Account holders who believe their activity has been misclassified may appeal to the ABC Abuse Department Manager. The account holder's sole remedy and ABC's sole liability in respect of any misclassification of activity shall be credit for service fees for the duration of the misclassification applied to the account holder's account.
- 4.1.7 **Remedies for violation.** Violation of these guidelines, or intentional damage to ABC systems or other networks via our systems, may result in civil or criminal liability and/or monetary penalties plus clean-up costs. Clean-up costs are charged to the customer at a minimum of \$200/hour.
- 4.1.8 **Account termination permanent.** If your account is terminated by ABC for the reasons described in sections 4.2-4.4, you agree not to register another account with ABC without written permission.
- 4.2 **Internet abuse.** Certain activities falling under the general category of "Internet abuse" are strongly discouraged and are be grounds for termination of your account without notice. The final decision to terminate your account lies solely at the discretion of ABC. The following guidelines may be used to determine if an activity constitutes abuse of Internet resources. Please remember that the Internet is a global community of people, sharing resources for mutual benefit. This community upholds a set of rules, commonly referred to as "netiquette." ABC expects that you will abide by these rules and promote ethical and responsible behavior on the Internet.
- 4.2.1 **Unsolicited e-mail.** You may not use your ABC account to send out large quantities of unsolicited e-mail, whether of a commercial nature or not. Abusive messages that are threatening, harassing, or coercive in nature are similarly not permitted. You may not continue sending e-mail messages to

another individual or another system who has explicitly requested that you cease.

- 4.2.2 **Cross posting articles.** Posting a single article or substantially similar articles to an excessive number of newsgroups or continued posting of articles which are off-topic (e.g. off-topic according to the newsgroup charter or the article provokes complaints from the regular readers of the newsgroup for being off-topic).
- 4.2.3 **No Spam.** "Spam" is a popular term used to describe the mass posting of substantially similar messages to one or many Usenet newsgroups. The term is also applicable to similar behaviour in e-mail. Posting multiple messages to individual newsgroups or posting to a large number of newsgroups with a single message are equally prohibited. Please limit your messages to a small number of newsgroups, suited to the subject matter of your message. Maliciously flooding a newsgroup with the intent to disrupt the use of that group by other participants is strictly prohibited.
- 4.2.4 **Chain letters.** The distribution of chain letters, pyramid schemes, "Ponzi" schemes, multi-level marketing scams, etc. are strictly prohibited in any form (through e-mail or Usenet, on IRC, on a Web page, etc.).
- 4.2.5 **Impersonating.** Impersonating another user or otherwise falsifying one's username in e-mail, Usenet postings, on IRC, or with any other Internet service, with the intention to defraud or to avoid recriminations arising from abusive activity are not permitted.
- 4.2.6 **Harassment.** Harassment of any member, non-member or system operator.
- 4.2.7 **Illegal activities.** Encouraging, facilitating, or engaging in illegal activities. Violations of this type will be immediately reported to the appropriate authorities. You agree to not:
 - 4.2.7.1 transmit or link to any communication where the meaning of the message, or its transmission or distribution, would violate any applicable law or regulations, including those which deal with obscene communications, or its transmission is for the purpose of making an annoying or offensive communication to any other person;
 - 4.2.7.2 obstruct the ABC service's identification procedures in electronic communications that you initiate, while anonymous services may be used provided that you do not attempt to impersonate others;
 - 4.2.7.3 disrupt or interfere with the ABC services or any service of any other Internet access provider;
 - 4.2.7.4 knowingly interfere with the lawful use, by others, of their accounts;
 - 4.2.7.5 modify, reverse engineer or, decompile, disassemble, or create derived works based on ABC provided software;
 - 4.2.7.6 deliberately release computer viruses or other unauthorized or unwanted computer programs or data onto the Internet;
 - 4.2.7.7 violate copyright, moral rights, or any other rights of any person, firm or corporation;
 - 4.2.7.8 carry out any other act or omission which is contrary to law.
- 4.2.8 **Account termination.** Your account may be terminated if it is involved in any way with Internet abuse
- 4.2.9 **Internet abuse on another ISP.** Your account may be terminated if it is involved in any way with Internet abuse on another ISP. This includes, but is

not limited to: using the ABC account as a mail reply drop-box, as the recipient of a forwarded e-mail address from another service provider, as a Web page or other service advertised or promoted by the Spam, or as an access point to another service provider where the abusive activity is launched.

- 4.2.10 **Password guessing.** You agree not to use any process, program, or tool via ABC services for guessing the passwords of customers on ABC or other systems.
- 4.2.11 **Cracking.** You agree not to use ABC services to make unauthorized attempts to access the systems and networks of others.
- 4.3 **ABC Acceptable use policy of other network(s).** You agree to follow the Acceptable Use Policy of any network you connect to.
- 4.4 **Copyrighted material.** Copyrighted material may not be uploaded without permission of the owner(s) or person(s) they specifically authorize. If you place information, software, or any other content in a public area, by doing so, you agree that you have thereby granted ABC a license to copy, distribute, edit, delete, publish and translate such content to the extent required to provide the ABC service to you; and to modify the content where such content breaches the terms of this Agreement.

5. **Warranties**

5.1 **Definition of Unavailability**

- 5.1.1 **Web hosting.** Web site hosting is considered to be unavailable if your ABC hosted web site can not be accessed (i.e. viewed) from the Internet due to problems on ABC 's network or servers.
- 5.1.2 **Domain e-mail.** Domain e-mail is unavailable if you are not able to send and receive e-mail due to problems on ABC 's network or servers.
- 5.1.3 **Dedicated access.** Dedicated Access service is available as long as the customer site (i.e. workstation or server) can access the Internet. The service is not considered unavailable if the service is simply degraded or slow. ABC pre-configures and maintains the routers that are bundled with high-speed dedicated access services. Problems with these routers are included in the guarantee. If you elect to purchase and maintain your own router, it is not covered under this guarantee.
- 5.1.4 **Dial-up access.** Dial-up Access is considered unavailable if you are not able to connect after 5 successive attempts at 1 minute intervals. In other words, if you cannot connect for 5 minutes (after multiple successive attempts), the service is considered unavailable.
- 5.2 **Measurement Method.** You are required to notify technical support if the service is unavailable. The service outage begins to be measured when this trouble has been reported.
- 5.3 **Support of Internet applications.** ABC cannot guarantee that all current or future Internet applications can or will be supported.
- 5.4 **Help desk.** The ABC help desk will provide telephone assistance via a specified telephone number on a reasonable effort basis during specified hours. Assistance is limited to your problems using the ABC services and excludes problems related to your personal hardware and software. ABC

cannot guarantee the resolution of any particular problem or ABC service disruption.

5.5 **No Warranty.** ABC does not warrant that the service will be without error, nor does it accept any liability for errors which may occur.

6. Legal Specifics

6.1 **Local, provincial and federal law.** You agree to use the services as permitted by local, provincial and federal law. You shall not use the services to carry out any business activity or solicit performance of any activity that is prohibited by law.

6.2 **Legal Investigations.** As a matter of law, ABC may, from time-to-time cooperate with officers of the law of any jurisdiction in monitoring compliance with the laws of that jurisdiction. At the same time, in order to prevent further possible unauthorized activity, ABC may suspend access to services for the account in question.

6.3 **Objectionable content.** Some of the content available through the Internet deal with subjects, and may contain language or images about subjects which may be considered to be objectionable to some, and are intended solely for adult audiences. You affirm that you are aware that ABC provides access to content that is of this nature and you hereby assume all liability and risk of accessing this information.

6.4 **Warranties.** Use of any information obtained through the service is at your own risk. Except as described in section 5, ABC does not warrant that the service or equipment will meet specific requirements or that the operation of the service or equipment will be uninterrupted or error-free.

6.5 **Limitation of Liability.** In no event shall ABC, its directors, officers, employees or affiliates be liable to the customer for any loss, damage, liability, claim or expense arising out of or in relation to the Agreement, however caused, whether grounded in contract, tort (including negligence) or theory of strict liability. IN NO EVENT SHALL ABC, ITS DIRECTORS, OFFICERS, EMPLOYEES, OR AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR OTHER CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN RELATION TO THE AGREEMENT, WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICE PROVIDED BY ABC. ABC'S ENTIRE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY SHALL BE AT ABC'S OPTION, EITHER RETURN OF THE SERVICE FEES PAID FOR THE CURRENT MONTH OF SERVICE, OR REPLACEMENT OF CONNECTION SERVICES OR PRODUCTS.

6.6 **Limitation of remedies.** Notwithstanding the limitations of liability in this Agreement, in the event that ABC is found liable in a court of law for any action or lack of action related to any use of the ABC service from your account, you agree that our liability is limited to CA\$1.00.

6.7 **Indemnity.** You agree to indemnify and hold harmless ABC, its affiliate corporations, all of their officers, directors, agents, employees and shareholders, from all claims and expenses, including legal fees, which will result from the use, by anyone, of your ABC account, without limitation.

- 6.8 **Customer's risk.** YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT ALL USE OF THE ABC SERVICE IS AT YOUR OWN RISK. ABC MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND FOR THE SERVICES THAT ARE BEING PROVIDED. ABC EXPLICITLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE WHATSOEVER.
- 6.9 **Network performance and connectivity is not guaranteed.** ABC will use reasonable efforts to ensure that those portions of the ABC service over which ABC has direct control are functioning properly.
- 6.10 **Assignment.** You shall not sell, transfer, or assign this Agreement without the prior written consent of ABC. Any act in derogation of the foregoing shall be null and void, and you will remain obligated under this Agreement. ABC may assign its rights and obligations under this Agreement without your prior written consent.
- 6.11 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the invalid and unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intention of the parties, and the remainder of this Agreement shall remain in full force and effect.
- 6.12 **Choice of law and waiver of trial by jury.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia. Each party irrevocably consents to the exclusive jurisdiction of and venue in the provincial courts located in and serving Prince George, British Columbia and the federal courts situated in the Province of British Columbia in connection with any matter arising under this Agreement. Any cause of action you may have with respect to this Agreement or the ABC service must be commenced within one year after the claim or cause of action arose, or it shall be barred. Each party waives a jury trial in any matter arising out of or relating to this Agreement.
- 6.13 **UNC-CISG.** The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to this Agreement, as is the parties' right under the *International Sale of Goods Contracts Convention Act of Canada*, section 5(2).
- 6.14 **Changes.** This policy statement is subject to change without notice. An up to date policy statement is always available from ABC. Significant changes will be announced appropriately. At any time, ABC may modify these terms and conditions effective as of publication on-line. The customer agrees that their continued use of ABC's services will be deemed as an undertaking to comply with each of the modifications, which shall be incorporated into this Agreement.
- 6.15 **Failure to enforce.** The failure of ABC to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.