

SEASONAL - Service Order Confirmation and Acknowledgement of Terms and Conditions (Effective April 1, 2013)

PLEASE READ THIS AGREEMENT CAREFULLY.

BY USING THE SERVICES, AS DEFINED HEREIN, YOU ACKNOWLEDGE THAT (i) YOU ARE AN ADULT (18 YEARS OR OLDER) AND (ii) YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS SET FORTH BELOW AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS IN EFFECT AND AS UPDATED BY V V D FUNDING, LLC d/b/a NORTH COUNTRY BROADBAND ("NCB") FROM TIME TO TIME. IN ADDITION, BY PLACING AN ORDER FOR THE SERVICES, YOU ACKNOWLEDGE THAT NCB WILL COMMENCE PROCESSING SUCH ORDER AND WILL INCUR EXPENSES AND OBLIGATIONS IMMEDIATELY. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, YOU MAY NOT USE THE SERVICES AND YOU SHOULD CANCEL YOUR ORDER. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, NCB WILL BE UNDER NO OBLIGATION TO PROVIDE YOU WITH THE SERVICES. THE TERMS AND CONDITIONS ARE SUBJECT TO REVISION FROM TIME TO TIME. THE LATEST VERSION OF THE TERMS AND CONDITIONS MAY BE FOUND AT <http://www.northcountrybroadband.com/contracts> FOR PURPOSES OF THE TERMS AND CONDITIONS, YOU WILL BE REFERRED TO AS THE "CUSTOMER."

Terms and Conditions

1. **Definitions:** This Services Order Confirmation and Acknowledgment of Terms and Conditions (the "Agreement") shall serve as confirmation of your Fiber service order with NCB and your acceptance of such order, including acceptance of all of the terms and conditions ("Terms and Conditions") set forth herein, as well as our Acceptable Use Policy and Terms of Service posted on our web site. You hereby authorize NCB to provide you with the Services (as defined below) for period agreed to by you ("Customer") upon placing an order for the Services. This document may be referred to as the "Order Form."
2. **Service:** You agree to purchase fiber and/or network access services ("Services") from NCB. Services by NCB are for the sole use of you, the customer, and not for resale of any kind without the prior written consent of NCB, which may be given or withheld in its sole discretion. In the event you attempt to resell the Services, NCB may, at its sole discretion, increase the fees associated with the Services, or terminate the Services.
3. **Term of Agreement:** This Agreement has an initial term of twelve (12) months of active service (the "Initial Term") and will continue on a month-to-month basis thereafter. After the Initial Term, either party may terminate this Agreement upon thirty (30) days' written notice prior to the anniversary date of the account. The Initial Term begins the day your Services are successfully installed by NCB, as recorded in its database. If NCB cannot successfully deliver the Service, this contract is implicitly terminated without penalty or cost.
4. **Rates and Payment Terms:** The rates for Fiber service ("Rates") are set forth in the attached Rate Schedule. The Rates may be changed by us after the end of the Initial Term by giving you written or e-mailed notice of the new Rates at least thirty (30) days before their effective date. In addition to the Rates, we will bill you for all required federal, state, county, and local taxes, and all other charges as set forth in the Terms of Service. Charges for the Services will begin when the Services are installed. Payments for Services will be made monthly. You may pay by eCheck or any major credit card or debit card.
5. **Seasonal Accounts & Minimum Annual Usage:** As a Seasonal customer you may contact NCB at any time to activate or temporarily suspend your service. You will not have access to the service and will be charged \$10 while your account is suspended. However, you agree to, and must have, your account active for a minimum of 6 months out of 12 (as determined by your installation/anniversary date) otherwise a service charge of \$149.95 shall automatically be applied to your account.
6. **Default and Remedies:** You will be considered in Default of the Agreement 1) if payment for any Service has not been made within fifteen (15) days after we have sent you a notice via e-mail or postal mail that such payment is overdue and 2) for any other breach of this Agreement that is not remedied within ten (10) days after notice of such breach, or for any breach of our Acceptable Use Policy for our Internet Access Service. If you are in Default of this Agreement, we may terminate all Services under this Agreement without further notice to you and you will be charged an early termination fee of \$250. Late payment will carry a fee of \$24.95; this includes expired credit & debit cards or returned bank drafts (eChecks).
7. **Termination Charges and Equipment Ownership:** You must notify us in writing of your intention to terminate the Services and you will be responsible for all service charges that would have been incurred to meet the full Initial Term at the sign up package rate. The termination charges will be charged with the payment method on file. Notice of termination should be addressed to: North Country Broadband, 12 Stevens Rd., Brewer ME 04412. NCB retains ownership of the Outdoor Network Terminal ("ONT"). You do not purchase this equipment. If service is terminated, and NCB needs to remove our equipment, NCB must be given access to property to retrieve the aforementioned equipment. If access is denied to the location or our equipment is taken from the location, you will be charged with the payment method on file, for the termination fee as well as the equipment at the following rate: ONT \$399.95. Any additional equipment you purchase, you will retain after termination.
8. **Limited Warranty – Fiber Service:** THE ONLY WARRANTIES MADE BY NCB WITH REGARD TO THE SERVICES AND EQUIPMENT ARE THOSE EXPRESS WARRANTIES SET FORTH IN THE TERMS OF SERVICE. In addition, there are certain limitations that may affect your use of the Services. The limitations include:

9. **Quality of Service:** It is possible that there may be other operational impediments that may preclude or delay the actual installation, repair and maintenance of Fiber Services to your premises. We reserve the right to terminate this Agreement without liability to you if we are not able to provide, repair or maintain Fiber Services to your premises. We will use commercially reasonable efforts to provide installation, repair and maintenance services. If you experience a substantial reduction in transmission speed or significant interruption of service, please notify us and we, the Fiber Service provider, will undertake commercially reasonable efforts to restore the Fiber service. We will not be responsible for service issues relating to your computer, network or software. Any problems related to, or caused by, your computer, software or network are your sole responsibility.
10. **Limitations:** The limited warranty shall not apply if: 1) Your equipment has been subjected to unusual physical or electrical stress, misuse, neglect, accident or abuse, or damaged by any other external causes; 2) the Fiber Service or related equipment has been installed, repaired or altered by anyone other than our technical support technicians or our subcontractors or affiliates, without prior written approval; or 3) the Fiber Service or related equipment is used in violation of applicable law or in violation of instruction furnished by us, if any.
11. **Warranties** The foregoing limited warranties shall be in lieu of and shall exclude all other express or implied warranties, including without limitation, warranties of merchantability, and fitness for a particular use or purpose.
12. **Security** You acknowledge that you have read our Acceptable Use Policy and Terms of Service and agree to have virus protection software and personal firewall software installed on your system, with all virus definitions up to date before connecting to our network and at all times connected thereafter. We reserve the right to suspend your service without liability, including refund of service fees, if your computer(s) are found to be virus infected, or in any other condition or configuration, which in our sole judgment jeopardizes the security and/or stability of our network.
13. **Use of Services:** Customer agrees not to use the Services in a manner prohibited by any federal or state law or regulation. Customer further agrees to adhere to NCB's Acceptable Use Policy ("AUP") as set forth on NCB's web site at <http://www.northcountrybroadband.com/Legal.html>. Transmission of any material in violation of federal or state law or regulation, including, but not limited to any copyrighted material, material protected by a trade secret or material or messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable in any manner or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation, is prohibited.
14. **Restrictions:** Fiber Customers agree not to resale or share services of any nature from their Fiber connection to NCB. In the event any Fiber Customer attempts to resale or share services on the network, NCB may, at its sole discretion, increase the fees associated with the Services, or terminate the Services.
15. **Limitation of Liability:**
(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL NCB, PARENTS, SUBSIDIARIES, AFFILIATES, AND THEIR RESPECTIVE MANAGERS, DIRECTORS, AGENTS, EMPLOYEES, SUPPLIERS, RESELLERS, AND DISTRIBUTORS (THE "NCB PARTIES") BE LIABLE OR OBLIGATED IN CONNECTION WITH THIS AGREEMENT, UNDER ANY THEORY, WHETHER IN CONTRACT, TORT, NEGLIGENCE, PRIVACY, SECURITY, STRICT OR PRODUCT LIABILITY, BREACH OF WARRANTY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY OTHER DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, LOSS OF EARNINGS, USE OR DATA, WHETHER ARISING DIRECTLY OR INDIRECTLY FROM OR RELATING TO THIS AGREEMENT OR USE, NON-USE, OR INSTALLATION OF THE SERVICES OR EQUIPMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NCB'S LIABILITY SHALL NOT EXCEED THE AMOUNT THAT YOU WOULD HAVE PAID NCB UNDER THIS AGREEMENT DURING THE PERIOD OF TIME THAT SUCH LIABILITY WAS INCURRED, OR FIVE HUNDRED DOLLARS (\$500.00) WHICHEVER IS LESS.
FURTHERMORE, NCB SHALL NOT BE LIABLE FOR (I) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, SERVICE, PRODUCTS, OR RIGHTS; (II) ANY DELAYED, DEGRADED OR INTERRUPTED USE OF THE SERVICE OR ACCESS TO THE INTERNET; (III) ANY LOSS OR DAMAGE TO YOUR EQUIPMENT, SOFTWARE, OR DATA ARISING DIRECTLY OR INDIRECTLY OUT OF USE OR NON-USE OF THE SERVICE OR ANY EQUIPMENT OR RELATED COMPONENT; (IV) ANY LACK IN OR BREACHES OF SECURITY OF THE SERVICE, OR THE STORAGE OR INTEGRITY OF YOUR DATA OR ANY OTHER USER'S DATA; (V) THE VIEWING, DOWNLOADING, TRANSMITTING, ACCESSING, PURCHASING OR OTHER MEANS OF ACQUIRING INFORMATION, PRODUCT OR MATERIAL ACCESSIBLE THROUGH THE SERVICES; (VI) ANY DELAYS, ERRORS, OMISSIONS, INTERRUPTIONS, VIRUSES, SPYWARE, SPAM, OR TRANSMISSION DEFECTS IN ANY INFORMATION, MATERIAL OR DATA TRANSMITTED THROUGH THE SERVICE; OR (VII) ANY DAMAGES ARISING FROM ANY DELAY OR FAILURE IN PERFORMANCE OF THE SERVICE DUE TO EVENTS OR CAUSES OUTSIDE NCB'S REASONABLE CONTROL.
(B) THE EXCLUSIONS AND LIMITATIONS IN THIS SECTION SHALL APPLY TO THE FULLEST EXTENT OF THE LAW, REGARDLESS OF WHETHER NCB WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES, AND REGARDLESS OF ANY REMEDIAL ACTIONS THAT NCB MAY TAKE. IF YOU ARE DISSATISFIED WITH THE SERVICE OR EQUIPMENT OR IF YOU HAVE ANY OTHER DISPUTE WITH NCB, OR CLAIM AGAINST NCB, THEN YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICE AND ANY LIABILITY WILL BE LIMITED AS SET FORTH HEREIN. THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION WILL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. THIS SECTION SHALL BE ENFORCED TO THE FULLEST EXTENT OF APPLICABLE LAW.
YOU ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING THE PRICES FOR SERVICE UNDER THIS AGREEMENT.
16. **Force Majeure:** We will not be responsible for any failure to perform any obligation or provide any Services hereunder because of any Act of God or nature, strikes, work stoppage, equipment or facilities shortages, governmental acts, directives or abuse, war, riot or civil commotion, or any other force beyond our immediate and reasonable control.

17. **Entire Agreement; Amendments in Writing; Severability:** This Agreement, which includes all Attachments, Schedules, agreements and documents referenced herein, if any, constitutes the entire Agreement between us concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. Any changes to this Agreement, or any amendment or supplement to the Agreement must be in writing and signed by NCB to be enforceable. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the original intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

18. **Arbitration.** Any dispute, controversy or claim arising out of or relating to this Agreement or the rights and obligations of the parties hereunder, other than your failure to make payments in accordance with this Agreement and any action to collect amounts due to NCB under this Agreement, which may be brought in any court of competent jurisdiction, shall be conclusively settled by arbitration in Bangor, Maine in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date demand for arbitration is made except that the arbitrators shall be appointed as follows: (i) within fifteen (15) days after receipt of written notice of any such dispute, the parties shall jointly appoint a single arbitrator whose resolution of the dispute shall be final, binding and conclusive, or (ii) if the parties fail jointly to appoint a single arbitrator within said fifteen (15) day period, either party may appoint one arbitrator by notice to the other such party, and the other party shall name a second arbitrator within fifteen (15) days after receipt of such notice, whereupon the two arbitrators so named shall jointly select a third arbitrator within fifteen (15) days after the date of appointment of the second arbitrator, failing which the third arbitrator shall be appointed by the President of the American Arbitration Association. In the event that any party entitled to name the second arbitrator as set forth in this section fails to do so within the time period provided herein, the arbitrator appointed by the other party shall be the sole arbitrator. Any arbitrator or arbitrators shall conduct an arbitration within sixty (60) days of the date the final arbitrator is appointed and shall render a decision resolving the dispute within thirty (30) days of the arbitration, and the parties agree to abide by the decision of any single arbitrator or by a decision of a majority of any three arbitrators appointed as aforesaid and any such decision (and, if applicable, the allocation of fees and expenses) shall be binding, non-reviewable and non-appealable, and may be entered as a final judgment in any court having jurisdiction. The costs and expenses of any arbitrator shall be borne by the party appointing such arbitrator, except that the costs and expenses of any arbitrator jointly named or appointed as a third arbitrator shall be borne fifty percent (50%) by you and fifty percent (50%) by NCB, provided that such arbitrator, as part of his/her decision, may award costs (including attorneys' fees) to the prevailing party if such arbitrator believes that a party has not brought or prosecuted such a claim in good faith. The parties agree that binding arbitration shall be the sole remedy as to all disputes arising out of this Agreement.

19. **Governing Law.** This Agreement shall be governed by the laws of the State of Maine, without regard to choice of law principles.

20. **Use of a NCB Internet Service account constitutes acceptance of these Terms and Conditions.**

21. **Special Note regarding WiFi (IEEE 802.11 based wireless technology).**

By using WiFi you acknowledge that if you do not take proper security precautions your data may be at risk. You also acknowledge that by having an unsecured access point (WiFi router) you may be sharing your connection, violating section 9 of this Agreement.

The Package you have chosen is:

Residential

Basic

Express

Premium

Special Services

VoIP

Company Name (commercial accounts only): _____

Authorized Signature: _____

Print Name: _____

Title (commercial accounts only): _____

Date: _____

By signing this contract you agree to the Terms and Conditions of this Agreement and the Acceptable Use Policy and Terms of Service set forth by North Country Broadband, LLC. NCB reserves the right to terminate or modify this Agreement at any time.