

Terms of Service

These Terms of Service constitute the agreement ("Agreement") between Decibell.ca. ("we," "us" or " Decibell.ca ") and the user ("you", "user", "customer") of Decibell.ca 's residential and small business communications services and any related products or services ("Service"). This Agreement governs both the Service and any devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service. If you purchased Equipment from a retail store, dealer or other provider other than Decibell.ca, you are a "Retail Customer" for purposes of this Agreement.

Residential Usage.

The Service should not be used for any kind of auto dialer, predictive dialer, fax broadcasting or any other bulk grey market activity. We reserve the right to disconnect any account if we determine, in our sole and absolute discretion, that your use of the Service or the Device is, or at any time was, inconsistent with normal residential usage patterns. Any activity that we determine, in our sole and absolute discretion being other than residential usage will be automatically and retroactively converted to a corporate account and all fees will be due on receipt of invoice.

Corporate Usage.

The Service should not be used for any kind of auto dialer, predictive dialer, fax broadcasting or any other bulk grey market activity. We reserve the right to disconnect any account if we determine, in our sole and absolute discretion, that your use of the Service or the Device is, or at any time was, inconsistent with normal corporate usage patterns.

Use of Service and Device by Customers Outside Canada and the United States.

Although we encourage you to use the Service to place calls to foreign countries from within Canada and the United States, and to use your adapter to make calls while outside of Canada and the United States, we do not presently offer or support the Service in any countries other than the United States and Canada. If you use the Service or the Device outside of the United States or Canada, you will be solely responsible for any violations of local laws and regulations resulting from such use.

Number Transfer on Service Disconnection.

Upon Service disconnection, we may, in our sole and absolute discretion, subject to applicable law, release to your new service provider the telephone number that you ported (transferred or moved over) to us from your previous service provider and used in connection with your Service if: - such new service provider is able to accept such number;

- your account has been properly terminated;
- your account is completely current, including payment for all; and
- you request the transfer upon disconnecting your account.

Incompatibility with Other Services.

(a) Home Security Systems. The Service may not be compatible with home security systems. You may be required to maintain a telephone connection through your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your home or business. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.

(b) Certain Broadband and Cable Modem Services. You acknowledge that the Service presently is not compatible with prior versions of the AOL broadband service and there may be other services with which the Service may be determined to be incompatible. You further acknowledge that some providers of broadband service may provide modems that prevent the transmission of communications using the Service. We do not warrant that the Services will be compatible with all

broadband services and expressly disclaim any express or implied warranties or conditions regarding the compatibility of the Service with any particular broadband service.

(c) Third Party software/hardware solutions. You acknowledge that the Service presently can or cannot be compatible with third party solutions including but not limited: Asterisk@home, Trixbox, FreePBX, Freeswitch, or any application not shown on our website. Any support for these connections will be charged at the going rate shown on our websites.

Taxes.

You are responsible for all applicable federal, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility, goods and services, harmonized or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Device. Such amounts are in addition to payment for the Service or Devices and will be billed to your credit card as set forth in this Agreement. If you are exempt from payment of such taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such certificate.

E911 Emergency Service

We employ third parties to assist us in routing 9-1-1 calls to the local Emergency Response Centre's. We disclaim any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result. Neither Internet Infinity nor its Affiliates, Partners, Officers, Directors, Employees may be held liable for any claim, damage or loss, and you hereby waive any and all such claims or cause of action, arising from or relating to the 9-1-1 dialing service unless such claims or causes of action arose from our gross negligence, recklessness or willful misconduct. You shall defend, indemnify and hold harmless Internet Infinity, its Officers, Directors, Employees, Affiliates, Agent, Partners and any other service provider who furnishes service to you in connection with the service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, legal fees and expenses) by, or on behalf of, you or any third party relating to the absence, failure or outage of the service, including 9-1-1 dialing, incorrectly routed 9-1-1 dialed calls, and or the inability of any user of the service to be able to use 9-1-1 dialing or access emergency service personnel.

Disclaimer of Liability for Damages.

IN NO EVENT WILL DECIBELL.CA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE 9-1-1 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY OR CONDITION, PRODUCT LIABILITY, TORT (INCLUDING NEGLIGENCE), INTELLECTUAL PROPERTY INFRINGEMENT, STRICT LIABILITY, FUNDAMENTAL BREACH, BREACH OF A FUNDAMENTAL TERM AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT WE WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

No Warranties on Service.

To the extent permitted by applicable law, WE MAKE NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, REASONABLY ACCEPTABLE QUALITY, FITNESS OF THE SERVICE OR DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY OR CONDITION ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY OR CONDITION THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, WE PROVIDE NO WARRANTY OR CONDITION THAT THE SERVICE OR DEVICE WILL BE WITHOUT FAILURE,

DELAY, INTERRUPTION, ERROR, AND DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER DECIBELL.CA NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS, OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES DEVICES, OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE, WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OUR OR YOUR TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF DECIBELL.CA'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY DECIBELL.CA OR DECIBELL.CA'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OR CONDITION OF ANY KIND.

Mandatory Arbitration and No Jury Trial.

Except to the extent contrary to applicable law, any dispute or claim between you, any member of your household or any guest or employee of you and us arising out of or relating to the Service or Device will be resolved by arbitration before a single arbitrator administered by a Canadian arbitration organization of our choosing. The arbitration shall take place in Montreal, Quebec and shall be conducted in French or English. The arbitrator's decision will follow the plain meaning of the relevant documents, and will be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED, except to the extent such a limitation is prohibited by applicable law. All claims shall be arbitrated individually. Except to the extent contrary to applicable law, you shall not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL AND AN AGREEMENT TO BE SUBJECT TO JURISDICTION IN, AND CONDUCT ARBITRAL PROCEEDINGS IN, QUEBEC.