

# Service Agreement of Terms & Conditions of FirstHome Service

The terms and conditions of service (“Service Terms”) govern your use of any Services, as defined below. MOPC reserves the right to change the terms without notice. The most current version of the terms and conditions will be published and available on the MOPC rural broadband website.

This service agreement is valid for 12 months from the installation date. Your use of the services is considered your electronic signature as validation of your agreement to this Service Agreement of Terms & Conditions.

The service offerings at this time (January 2023) for FirstHome wireless is one package- \$49.99 a month- with a minimum upload and download speed of 25 Mbps unless otherwise indicated or acknowledged.

## **About FirstHome**

“E9-1-1” means enhanced 9-1-1 service which may provide emergency services personnel with your location information and phone number;

“Equipment” means any device, equipment or hardware used to access the Services or used in conjunction with the Services;

“Fixed Term” means a minimum contract period for a particular Service;

“I”, “me”, “you”, “your” and “yours” refer to you but also to persons that you authorize to use the Service or act as your agent with regard to the Service;

“Identifiers” means e-mail addresses, phone numbers, account numbers, personal identification numbers (“PINs”), Internet Protocol addresses, personal web page addresses, access codes and any other identifier assigned to you by FirstHome;

“FirstHome” means the department, legal entity or service provided by the Municipality of Pictou County (MOPC) who is responsible and accountable for delivering the wireless services.

“MOPC” means the Municipality of Pictou County;

“Service Agreement” means an agreement between you and FirstHome setting out the terms for one or more Services. For additional certainty, Service Agreements include terms established by: (1) online order forms that are accepted by us; (2) telephone orders which are confirmed by email or other means and accepted by us; and (3) executed orders in hard copy paper form which are returned to, and accepted by, us;

“Services” mean any services that you subscribe to or receive through FirstHome, including but not limited to various Internet access services, webhosting and VoIP services. All Equipment and Software (as defined in this section) are considered elements of the Services;

“Software” means any software used to access the Services or used in conjunction with the Services;

“FirstHome Parties” means FirstHome, its partners, licensors, dealers, representatives, suppliers and agents (and their respective employees, officers, directors, shareholders and representatives);

“us”, “we”, “our” or “ourselves” means FirstHome; and

“VoIP” means Voice over Internet Protocol services;

1. What is included as part of my Agreement for Services with FirstHome?

Your Service Agreement(s), any FirstHome document describing features, products or services and any other document incorporated by reference together with these Service Terms constitute our agreement with you (“Agreement”). In the event of an inconsistency between the constituent documents of the Agreement, the inconsistency will be resolved by giving

preference first to a Service Agreement(s), then to the Service Terms, and lastly to any other FirstHome documentation describing features, products or services.

2. How do I accept this Agreement?

By using the Services or allowing Services to be installed at your premises, you acknowledge that you have read, understood and agree to the Service Terms. If you do not agree to the Service Terms, you may not use the Services.

3. How long does the Agreement last?

The “Term” of your Agreement with FirstHome begins when you accept the Agreement and will continue until the Agreement is terminated. FirstHome provides Services to you on an ongoing month-to-month basis unless a Fixed Term is set by a Service Agreement. If a Fixed Term expires, Services will continue to be provided to you on a month-to-month basis, unless otherwise stated in a Service Agreement or you cancel the applicable Service in accordance with Section 33.

4. Can FirstHome change the Agreement?

Unless otherwise specified in the Agreement, FirstHome can change the Agreement and any aspect of the Services. Before we make any changes to the Agreement, we will give you at least thirty (30) days written notice by email, letter, bill insert or by posting the notice on our website, <http://firsthome.munpict.ca>.

If you continue to use the Service after thirty (30) days from the effective date indicated in the notice, the new service term will become effective.

5. What if I do not agree with a change that FirstHome makes to the Agreement?

If you do not agree with a change made by FirstHome, you may cancel the affected Services in accordance with Section 29.

## **Account, Billing and Payment**

6. How does FirstHome bill me for the Services?

FirstHome will bill you monthly, in advance. You must pay all recurring and one-time charges (“Fees”) and all applicable taxes due for FirstHome services within thirty (30) days of FirstHome’s invoice date. FirstHome may bill you monthly in arrears for certain Fees. For example, billing in arrears may be necessary for charges that can only be calculated at the end of a billing month (e.g. usage based charges). Service Agreements may also modify the billing terms for certain Services.

7. How can I pay my bill?

You can pay your bill with select credit card, cheques are not accepted. You confirm that you are an authorized user of the credit card and that it is valid and has not expired. You must promptly advise FirstHome if your credit card information changes.

8. What charges apply to late payments, rejected payments and other account processing actions?

If FirstHome does not receive payment within thirty (30) days of the invoice date, you will be subject to a late payment charge of 2% per month. This late payment charge accrues on a daily basis and is calculated and compounded monthly on the outstanding amount (26.82% per year) ("Late Payment Charges") from the date of the first bill on which it appears until the date we receive that amount in full.

You agree that we can charge any unpaid and outstanding amount, including any Late Payment Charges and taxes, on your account to your credit card, bank account or any other payment method pre-authorized by you for payment of Fees.

Administrative charges in the amount of \$25.00 may be levied for administration or account processing activities in connection with your account, including as a result of a change of any identified collection efforts due to non-payment or having a balance over your credit limit, including unbilled usage and pending charges, fees and adjustments; returned or rejected payments due to non-sufficient funds ("NSF") or any other reason; and/or the restoration of Service. Bank fees related to late, rejected or disputed payments exceeding \$25 will be added to customer's account.

9. What if I dispute Fees on my invoice?

If you have any questions, disputes or discrepancies to report regarding Fees, you must do so within ninety (90) days of the invoice date. Failure to notify us within this time period will constitute your acceptance of such Fees. We will investigate disputes and if, in our sole discretion, we determine that a portion of the Fees was incorrectly charged, then we will reverse the disputed portion of the Fees. You must pay the undisputed portion of the Fees in accordance with Section 7.

10. Seasonal service

Temporary service suspensions, a.k.a. seasonal disconnections, are subject to a \$20 per month charge with a 6-month of full services requirement before eligible for a seasonal disconnect.

## **Your Responsibilities**

11. Does FirstHome have any policies that apply to the Services?

Yes. From time to time, FirstHome may establish policies, rules and limits (collectively “Policies”) concerning the use of the Services, Equipment and any products, content, applications or services used in conjunction with the Services or Equipment. The Policies are incorporated into these Service Terms by reference.

12. Are there any limits to my use of the Services?

Yes. You agree to comply with and use the Services for your own personal use, in accordance with the Agreement and all applicable laws. You also agree not to:

- Resell the Services, receive any charge or benefit for the use of the Services; and
- Transfer your Services without our express consent.

You must also follow any Policies setting out acceptable use guidelines for the Services and Equipment.

13. How can I be sure that FirstHome has accurate contact information for my account?

You are responsible for keeping the contact and payment information you provide to FirstHome (including name, mailing address, email address, address where the Services will be provided to you), phone number, and any authorized users) up to date. If this Agreement is cancelled, you will provide FirstHome with forwarding information for final invoices or correspondence if your new contact information is different from the information we have on file. Failure to provide a forwarding address may result in the forfeiture of any outstanding credits on your account.

14. What am I responsible for if my FirstHome account is compromised?

You must notify FirstHome immediately should you suspect unauthorized use of the Services or if Equipment is lost or stolen. You are responsible for payment of all Fees and taxes charged to your account, whether authorized by you or not, which is why it is so important to protect your account and keep account information (including authorized users) up-to-date.

## **FirstHome Services**

15. Are there any warranties on the Services?

To the maximum extent permitted by law, FirstHome Parties do not guarantee or warrant the performance, availability, coverage, uninterrupted use, security, pricing or operation of the Services or any products, content, applications, services, facilities, connections or networks used or provided by us or third parties.

You bear the entire risk as to the use, access, transmission, availability, reliability, timeliness, quality, security and performance of the Services.

FirstHome Parties do not make any express or implied representations, warranties or conditions, including warranties of title or non-infringement, or implied warranties of merchantable quality or fitness for a particular purpose, with regard to the Services or any products, content, applications, services, facilities, connections or networks used or provided by us or third parties.

All representations, warranties and conditions of any kind, express or implied, are excluded to the maximum extent permitted by applicable law. To the maximum extent permitted by applicable law, no advice or information, whether oral or written, obtained by you from the FirstHome Parties creates any term, condition, representation or warranty not expressly stated in the Agreement.

16. Does this mean that there may be circumstances when the Services are not available?

Unfortunately, yes. Performance and availability of the Service depend on several factors, including access to third-party providers and suppliers that FirstHome does not fully control. Additionally, due to the nature of wireless networks, environmental conditions may have an adverse effect on network performance from time to time that are out of control of the provider.

17. MOPC FirstHome provides the Services on a “reasonable efforts” basis and does not guarantee upload or download speeds or other performance. MOPC does not guarantee a specific speed to customers when navigating particular sites. There are numerous factors that affect Internet speed and performance, including but not limited to your location, weather, Internet traffic, your router capability, the specific technical configuration, capabilities and status of Customer Equipment, software (including firewalls, procedures for optimization, antivirus analysis, backup, Virtual Private Networks, etc.), and other factors beyond MOPC’s control.

## **FirstHome Equipment and Software**

18. Are there any limitations with respect to use of Equipment?

Yes. Except for Equipment that you have fully paid for, all Equipment installed or provided by us remains our property and you agree that:

- You will take reasonable care of the Equipment;
- You may not sell, lease, mortgage, transfer, assign or encumber the Equipment;
- You may not relocate the Equipment without our knowledge and permission; and
- You will return the Equipment to us at your own expense upon termination of the Services to which the Equipment is related.

If Equipment is lost, stolen or damaged or sold, leased, mortgaged, transferred, assigned, encumbered or not returned, you agree to pay us the undiscounted retail value of Equipment, together with any costs incurred by us in seeking possession of such Equipment.

19. Do I need to grant FirstHome access to Equipment?

Yes. You agree to authorize us and our representatives to enter or have access to your premises as necessary at mutually agreed upon times to install, maintain, inspect, repair, remove, replace, investigate, protect, modify, upgrade or improve the operation of our services, the Equipment or our facilities or networks. If any of your Services or accounts have been terminated, then you authorize us and our representatives to enter or have access to your premises to disconnect the Services, as applicable. You must immediately notify us if Equipment is lost, stolen or destroyed.

20. Will the Service ever require changes of Equipment?

Yes. The Equipment, Equipment specifications and the location of Equipment require changes, at our sole discretion, from time to time. Unless otherwise specified by us, you are solely responsible for updating or maintaining your Equipment and software as necessary to meet such requirements, and you may not be entitled to customer support from us if you fail to do so.

21. Are there any limitations to the use of Software?

Yes. Software, including all related documentation accompanying the Software (“Software Documents”), is for your own personal, non-commercial use and may not be distributed, transferred or sold. All Software and Software Documents remain our property or that of our licensors or content providers, as applicable. You agree to take reasonable steps to protect Software and Software Documents from theft, loss or damage. You must review and agree to any applicable end user licence agreement of FirstHome, our licensors or content providers. Unless otherwise provided in the applicable end user licence agreement, all end user licence agreements will terminate upon termination of the applicable Service Agreement.

22. MOPC provides equipment, such as an antenna, access point, receiver, or other customer premise equipment required to receive the Services. MOPC supplied equipment is the only equipment to be used to access the internet. MOPC is the owner of and retains title to the MOPC Equipment. Other trade-marks and proprietary marks on the MOPC Equipment are and will remain the property of the manufacturer. You will not do anything to infringe upon, harm or contest the validity of the trade-marks or other marks on the MOPC Equipment. You will provide us with your landlord’s consent to the attachment of the MOPC Equipment, if necessary. We may replace, upgrade or modify the MOPC Equipment required for the use of Services, or migrate your Services to other technologies or platforms. You must not move, alter or disturb any MOPC Equipment used for Internet Access Services that has been installed at the location

shown on the Invoice or associated wiring or power supply because it might impact provision of the Services. Additional Fees may apply if any repair or restoration is required as a result of changes to any disturbance of MOPC Equipment.

23. Any damage to MOPC Owned Equipment that requires a service call is to the cost of the customer at \$150/hr. Consumables (wires, clips, mounts) are not covered under the equipment warranty and are the responsibility of the customer to keep safe. Warranty work only applies to the outside receiver and the inside access point that is the property of MOPC and due to manufacturer defect. Mistreatment or damage caused to equipment will be held liable to the customer for replacement costs and service costs.

### **Proprietary Rights**

24. Is the content that I access through the Services subject to any intellectual property rights?

Yes. You acknowledge that content including, but not limited to, text, software, music, sound, photographs, video, graphics or other material accessed through the Services or the Internet is protected by applicable copyrights, trade-marks, patents, trade secrets and/or other proprietary rights and laws.

You further acknowledge that, except where expressly stated otherwise, all Equipment, Software, content, documentation, processes, designs, technologies, materials and all other things comprising the Services are owned by FirstHome, its licensors or its suppliers and are protected by applicable copyrights, trade-marks, patents, trade secrets and/or other proprietary rights and laws.

25. Do I have any rights to the content that I provide in connection with the Services?

Yes. FirstHome does not claim ownership of information, materials, software or other content (collectively, the "Content") that you post, upload, input, provide, submit or otherwise transmit to FirstHome or any third party, using the Services. However, you agree that by posting, uploading, inputting, providing, submitting or otherwise transmitting the Content to FirstHome or any third party, using the Services, you have thereby granted FirstHome a royalty-free, non-exclusive license to use, copy, distribute, transmit, display, edit, delete, publish and translate such content to the extent reasonably required by FirstHome to provide the Services to its customers or to ensure adherence to or enforce the terms of this Agreement.

26. Who owns electronic addresses used in connection with the Services?

Except where otherwise specified by FirstHome, Identifiers remain the property of FirstHome at all times.

### **Privacy and Confidentiality of your Information**

27. How does FirstHome protect my personal information?



FirstHome protects your personal information in a manner consistent with FirstHome's Privacy Policies available at [firsthome.munpict.ca/privacy](http://firsthome.munpict.ca/privacy) and applicable laws.

28. Does FirstHome perform credit checks or report credit history?

Yes, by entering into the Agreement you agree that FirstHome may perform credit checks on you and obtain information about your credit history from a credit reporting agency or credit grantor to activate Services you ordered, or to assist in collection efforts. FirstHome may also disclose your FirstHome credit history to credit reporting agencies, credit grantors and/or collections agencies.

29. Will FirstHome send me commercial electronic messages?

Yes. By entering into the Agreement, you are providing your consent to receive commercial electronic messages from FirstHome. However, at any time, you may unsubscribe from commercial electronic messages by using the unsubscribe mechanism contained in such messages.

## **Services**

30. Is 9-1-1 service always available over VoIP?

No. There are some important differences and limitations in how 9-1-1 calling over VoIP technology operates when compared to basic and E9-1-1 services provided over traditional landline telephone service. Please review this section carefully before activating, installing or using FirstHome VoIP services.

With both traditional basic 9-1-1 and E9-1-1 service, your call is sent directly to the nearest emergency response centre. In addition, with E9-1-1 service, your call back number and last address are visible to the emergency response centre call-taker. With FirstHome VoIP service 9-1-1 calling, your call is sent to a national emergency call centre. When you make a 9-1-1 call using FirstHome VoIP services, you will be asked to confirm your location information regardless of whether that information is visible to the call centre operator. The call centre operator will then transfer your 9-1-1 call to the emergency response centre nearest your location. You should be prepared to provide or confirm your name, address and call-back number with the operator. Do not hang up unless you are told to do so. If your call is disconnected, immediately dial 9-1-1 again.

If you are unable to speak during a 9-1-1 call and the call centre operator has access to a call-back number and the last registered address associated with your FirstHome VoIP service, the operator will transfer the call to the emergency response centre closest to that address. In order for emergency services to be dispatched to the correct address in such cases, you must ensure that the registered address that you have provided to FirstHome is always the same as the physical address at which your VoIP device is located. Whenever you move the physical

location of your VoIP device or you add a line or port a number, you must update your registered address accordingly. You may update your location information by filling out and submitting a form that can be accessed at: [www.FirstHome.ca/voip](http://www.FirstHome.ca/voip).

You acknowledge and understand that the FirstHome VoIP service or access to the FirstHome VoIP service, including 9-1-1, public alerts or special needs services, may not function correctly, or at all, in the following circumstances:

If your Equipment fails, is not configured correctly or does not meet FirstHome's requirements; In the event of a high-speed Internet service outage, regardless of the supplier providing the high-speed Internet service to you;

- In the event of a network outage or power failure;
- If you or somebody else tampers with or, in some cases, move the Equipment; or

Following suspension or termination of your FirstHome Services or Account.

There may be a greater possibility of network congestion and/or reduced speed in the routing of a 9-1-1 calls made utilizing FirstHome VoIP service as compared to traditional 9-1-1 calls dialled over traditional public telephone networks.

FirstHome does not currently offer Operator Service and so emergency services cannot be accessed through an operator by dialing "0".

You should inform any business or household residents, guests and other persons who may be present at the physical location where you utilize FirstHome VoIP service, of the important differences and limitations of VoIP 9-1-1 calling as compared with traditional E-9-1-1 service, as set out above.

FirstHome does not have any control over whether, or the manner in which, calls using FirstHome VoIP Service 9-1-1 calling service are answered or addressed by any local emergency response centre. FirstHome disclaims all responsibility for the conduct of local emergency response centres and the national emergency calling centre. FirstHome relies on third parties to assist it in routing 9-1-1 calls to local emergency response centres and to a national emergency calling centre. FirstHome disclaims any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result.

### 31. How do FirstHome Parties limit their liability for VoIP 9-1-1 services?

You acknowledge and agree that, to the maximum extent allowed by law, FirstHome Parties will not be liable for any injury, death or damage to persons or property, arising directly or indirectly out of, or relating in any way to 9-1-1 calling from your FirstHome VoIP Service and you agree to indemnify and hold harmless FirstHome Parties for any liabilities, claims, damages, losses and expenses, (including reasonable legal fees and expenses) which you or anyone accessing or attempting to access 9-1-1 calling from your FirstHome VoIP Service may suffer or incur, arising directly or indirectly out of or relating to your or that person's failure to obtain access to 9-1-1 emergency services.

## Liability and Indemnification

How do FirstHome Parties limit their liability?

You agree that, unless otherwise specifically set out in a Service Agreement, to the maximum extent permitted by applicable law, FirstHome Parties' liability for negligence, breach of contract, tort, or other causes of action, including fundamental breach, is limited to a maximum amount equal to the greater of twenty (\$20) or an amount equal to the Fees payable during any service outage and any such credit will be applied to the customer's account.

Other than the foregoing payment and to the maximum extent permitted by applicable law, FirstHome Parties are not responsible to anyone for:

- (i) any direct, indirect, special, consequential, incidental, economic or punitive damages (including loss of profit or revenue, financial loss, loss of business opportunities, loss, destruction or alteration of data, files or software, breach of privacy or security property damage, personal injury, death or any other foreseeable or unforeseeable loss, however caused) resulting or relating directly or indirectly to the Service or any advertisements, promotions or statements relating to any of the foregoing, even if we were negligent or were advised of the possibility of such damages;
- (ii) The performance, availability, reliability, timeliness, quality, coverage, uninterrupted use, security, pricing or operation of the Service;
- (iii) Any error, inclusion or omission with respect to any telephone listings or directories;
- (iv) The denial, restriction, blocking, disruption or inaccessibility of any Services, including 9-1-1, public alerts or special needs services, Equipment or Identifiers;
- (v) Any lost, stolen, damaged or expired Equipment, Identifiers, passwords, codes, benefits, discounts, rebates or credits;
- (vi) Any error, omission or delay in connection with the transfer of Identifiers to or from another telecommunications service provider or any limitation connected thereto;
- (vii) Any acts or omissions of a telecommunications carrier whose facilities are used to establish connections to points that we do not serve; or
- (viii) Any claims or damages resulting directly or indirectly from any claim that the use, intended use or combination of the service or any material transmitted through the Services infringes the intellectual property, industrial, contractual, privacy or other rights of a third party.

These limits are in addition to any other limits on FirstHome Parties' liability set out elsewhere in the Agreement and apply to any act or omission of the FirstHome Parties, whether or not the act or omission would otherwise be a cause of action in contract, tort or pursuant to any statute or other doctrine of law.

32. Must I indemnify FirstHome Parties with regards to the Agreement?

Yes. You agree to indemnify and hold harmless FirstHome Parties from all demands, claims, proceedings, losses, damages, costs and expenses (including, without limitation, reasonable legal fees and other litigation expenses) incurred by or made against FirstHome Parties, which result from or relate to the Services, your use of the Services or other matters related to this Agreement.

33. Liability release for install on house- and release from any damages to home from the equipment. MOPC is not responsible for and disclaims liability for any claims, damages, losses or expenses arising out of, directly or indirectly, or otherwise relating to: (A) the MOPC Equipment or the use, operation, non-operation, ownership, installation or maintenance of the MOPC Equipment; (B) the unavailability of any Services (including any Service outage or disruption), even where such unavailability occurs after activation of the Services; (C) your reliance on or use of the MOPC Equipment or Services, or the mistakes, omission, interruptions, deletion of files, errors, defects, delays in operation, transmissions, or any failure of performance of the MPOC Equipment or Services; (D) the unlawful use of the MOPC Equipment or Services by you or a third party; (E) distribution of any content by you or any third party; (F) third parties accessing your devices, security breaches, cyber-attacks, malware, or ransomware, eavesdropping, denial of service attacks, interception of traffic sent or received using the Services; or (G) MOPC's failure to meet its obligations due to causes beyond its reasonable control, including (i) war, terrorism, civil insurrection, riots, or imposition of martial law, (ii) pandemics, quarantines or other public health events, (iii) work stoppages, labour disputes or strikes (including those involving us, our affiliates and other telecommunications carriers); (iv) law, order, regulation or direction of any government; (v) failure of the public power grid; (vi) the act or omission of a telecommunications carrier whose network is used in establishing connection to provide the Services; (vii) acts of nature, severe weather conditions, storms, fire, flood, rainstorms, or anomalies in space; (viii) loss of, damage to, or disruption (including changes to capacity or geographical coverage) of any telecommunications facilities, including the facilities of a telecommunications carrier whose network is used in establishing connection to provide the Services; or (ix) other force majeure events.

34.

### **Cancelling and Suspending FirstHome Services**

35. When and how can I cancel Services?

You may cancel any or all of your Services and any corresponding Service Agreement at any time by contacting FirstHome at the points of contact specified in these Service Terms.

Cancellation Charges, as defined in Section 33, may apply.

36. What happens to a Service Agreement if I transfer my Services to another provider?

Upon transfer-out of one or more Services and Identifiers to another provider, the applicable Service Agreements will be automatically cancelled. Cancellation Charges, as defined in Section 37, may apply.

37. When can FirstHome cancel my Services, with notice?

FirstHome may cancel any or all of your Services and corresponding Service Agreements upon no less than thirty (30) days' notice to you at your billing address.

38. When can FirstHome cancel or suspend my Services, without notice?

In addition to our rights to terminate your Services pursuant to Section 35, FirstHome may also restrict, block, suspend, disconnect or terminate any or all of your Services, including 9-1-1 service, for cause, without notice, if:

- you are in breach of a Service Agreement, including non-payment of your charges or non-compliance with any Policies;
- you do not maintain Service usage within the prescribed credit limit;
- you exceed reasonable usage limits, as determined by us;
- you have given us false, misleading or outdated information;
- we reasonably suspect or determine that any of your Services, Equipment and / or Identifiers are the subject of fraudulent, unlawful or improper usage or usage that adversely affects our operations or the use of our services, facilities or networks by others;
- you harass, threaten or abuse us or our employees or agents;
- you fraudulently or improperly seek to avoid payment to us;
- we need to install, maintain, inspect, test, repair, remove, replace, investigate, protect, modify, upgrade or improve the operation of the Services, the Equipment or our facilities or networks; or
- we reasonably believe that there is an emergency or extreme circumstance that would warrant such action.

39. What amounts must I pay if my Service(s) are cancelled?

If you or FirstHome cancels one or more of your Services that are subject to a month-to-month Term, you must pay all outstanding fees (including any installation fees for Services that have been installed but not activated), taxes, and Late Payment Charges on your final invoice for those cancelled Services.

For month-to-month Services, FirstHome will provide a refund for the cancelled portion of monthly service Fees that you have paid in advance for Services. This refund will be pro-rated based on the number of days left in the last monthly billing cycle after cancellation.

If FirstHome cancels a Service that is subject to a Fixed Term in accordance with Section 35, you will receive a refund of pre-paid Fees for the then unexpired portion of the Fixed Term.

To the maximum extent permitted by law, one-time activation and installation fees are non-refundable. A re-stocking fee may apply to Equipment that you return or Equipment that has been ordered but not shipped. If Equipment that you have purchased has been shipped prior to Service cancellation, the fees for the Equipment are non-refundable. One-time activation and installation fees and restocking/Equipment fees are intended to recover costs and constitute a genuine pre-estimate of liquidated damages in the event that a month-to-month Service is cancelled.

You acknowledge that any credits or refunds that are withheld pursuant to this Section 37 are “Cancellation Charges” which constitute a reasonable estimate of FirstHome’s liquidated damages, represent consideration for the Services, and are not a penalty.

If you cancel a Fixed Term Service that is not prepaid prior to its expiry then you must pay FirstHome Cancellation Charges equal to the lesser of either: (a) \$150.00 dollars plus applicable taxes; or (b) fifty (50) per cent of the remaining monthly Fees for the cancelled Service that would have been payable to the end of the Fixed Term, plus applicable taxes.

If you cancel a Fixed Term Service that is prepaid then FirstHome will issue a refund equal to 50% of the then unexpired portion of the Fixed Term.

Notwithstanding the foregoing, FirstHome does not issue any credits or refunds for cancellations for cause by FirstHome, pursuant to Section 36. FirstHome wireless Services are also subject to different cancellation and refund terms, as set out in the applicable Service Agreement(s).

40. How can I restore my Service(s) if they have been restricted, blocked, suspended, disconnected or terminated by FirstHome?

FirstHome may, at its sole discretion, restore your Services, with or without conditions that may include:

- Full repayment of outstanding amounts owing to FirstHome;
- Compensation for costs incurred by FirstHome in connection with your breach of the Service Terms, including costs incurred to enforce your compliance; or
- Changes to your Fees on an ongoing basis

## **Additional Terms**

41. Do I have to meet certain criteria to enter into this Agreement?

Yes. By entering into this Agreement, you represent and warrant that you have reached the age of majority in the province or territory of Canada applicable to the Agreement and that you possess the legal right and ability to enter into this Agreement and use the Services in accordance with this Agreement. Additionally that you are the identified property owner for the purposes of installing wireless equipment or if a tenant has the landlord's express permission to install the required equipment.

42. What is the process that applies to unresolved disputes with FirstHome?

If you have a dispute about Services, Software, Equipment, about this Agreement, or about what we say outside this Agreement, then we want to resolve the dispute quickly and fairly, and will work with you in good faith to do so. If you have tried to work with us but remain unsatisfied, then you have a right to escalate the dispute.

If you are a consumer or small business with a monthly bill under \$2500, you may escalate certain types of complaints externally with the Commissioner for Complaints for Telecommunications Service ("CCTS") ([www.ccts-cprst.ca](http://www.ccts-cprst.ca), 1-888-221-1687). The CCTS is the telecommunications consumer agency designated by the CRTC to resolve consumer and small business disputes about telecommunications services. The CCTS accepts complaints relating to service delivery, contract disputes, billing, credit management and unauthorized transfers of service.

With the exception of billing disputes, which are resolved exclusively through the process described in Section 9 of these Service Terms, any unresolved dispute may be referred to voluntary single arbitrator arbitration. In such event, the fees for the arbitrator shall be shared equally by the parties.

43. Which Court has jurisdiction over claims related to the Agreement?

By entering into the Agreement, except where the Canadian Radio-television and Telecommunications Commission, the CCTS or an arbitrator has jurisdiction, you consent to the exclusive jurisdiction of courts located in the province in which your billing address is located. However, if your billing address is outside of Canada, you submit to the jurisdiction of the province or territory in which the Services are delivered.

44. What laws apply to this Agreement?

The Agreement is governed exclusively by and construed in accordance with the laws of the province or territory in which your billing address is located, but if your billing address is outside of Canada, the Agreement is governed exclusively by the laws of the province or territory in which the Services are delivered.

45. What if parts of this Agreement become unenforceable?

If any part of this Agreement becomes outdated, prohibited or unenforceable, the remaining terms will continue to apply to you and FirstHome. Even if FirstHome decides not to enforce any part of this Agreement for any period of time, the term still remains valid and FirstHome can enforce it in the future.

46. Can this Agreement be transferred?

FirstHome may transfer or assign all or part of this Contract (including any rights in accounts receivable) at any time without prior notice or your consent. You may not transfer or assign this Agreement, your account(s) or the Service without FirstHome's prior written consent.

47. Do any terms or obligations of this Agreement apply after the cancellation or expiry of the Agreement?

Yes. The cancellation, transfer or expiry of a Service Agreement or the Agreement shall not release you or us from any obligation which has accrued prior to that event, including but not limited to the obligation to pay any outstanding amounts owed for Services.

## **How to Contact FirstHome**

48. How do I contact FirstHome?

To contact FirstHome for any reason, including providing notices to FirstHome pursuant to this Agreement, you may reach us:

By Phone, locally: 1-833-727-2256

By email: [support@firsthome.munpict.ca](mailto:support@firsthome.munpict.ca)

49. How do I contact FirstHome for technical support?

Unless otherwise specified in a Service Agreement, FirstHome offers technical support for its Services between 9:00 AM and 5:00 PM from Monday to Friday and not available on Saturdays and Sundays, with the exception of provincial and federal statutory holidays. You may contact FirstHome for technical support via the contact information set out above in Section 42.

## **Service Level Agreement (SLA)**

This SLA is between FirstHome and the client. FirstHome may modify the terms of this SLA and updates will be posted on FirstHome's website – [firsthome.munpict.ca](http://firsthome.munpict.ca). FirstHome guarantees its network will be available with 99% uptime minimum.

### **RESPONSE TIME AND ESCALATION PROCEDURES FOR SERVICE INTERRUPTIONS:**

Corporate:



- Network malfunctions will be reported to FirstHome's Commercial Client Services within 4 hours.
- If the problem is not resolved within 4 hours, one of FirstHome's Network Specialists will be notified.
- If the problem has not been resolved within one (1) hour by a Network Specialist, FirstHome's Support Services Manager will be contacted.

Residential:

- Individual residential service issues must be reported by the client by calling FirstHome's Residential Client Services.
- If your call is not answered, leave a message to log your issue and to time stamp your trouble ticket.
- FirstHome will make every attempt to debug the problem over the phone when talking to the client during regular Residential Client Services hours.
- If the problem is not resolved over the phone, FirstHome has up to 2 business days to debug the issue.
- FirstHome has an additional 2 business days to fix the problem for the client and this will, of course, depend on the client's availability.

All FirstHome equipment relies on a pager system to notify technicians of network outages.

Exceptions:

Scheduled maintenance: clients will be notified by e-mail up to 4 days in advance, minimizing the inconvenience to the client.

Emergency maintenance: FirstHome will inform clients by e-mail as soon as the failure has been identified.

Force majeure: neither party will be liable for any failure that occurs due to factors that are beyond reasonable control.

Performance issues caused by factors that are beyond the control of FirstHome including failures of the Internet.

Service interruptions caused by the actions of a client or caused by the client's equipment.

Non-payment of services by the client.

### **Acceptable Use Policy (AUP)**

The following is FirstHome's AUP. FirstHome may modify the terms of this AUP and updates will be posted on FirstHome's website – [firsthome.munpict.ca](http://firsthome.munpict.ca).

No FirstHome client shall:

- Do anything illegal or anything that adversely affects FirstHome's legal interests. The following list is non-exclusive and should not be considered license to commit other illegal activities not specified below. All illegal activity is prohibited, and FirstHome will cooperate fully with any law enforcement officials and/or agencies investigating and/or prosecuting such activities:
- Cracking (hacking) – attempts to access accounts or systems other than the user's own accounts or systems or an account or system that the user has been explicitly authorized to access is illegal under federal and provincial law.

- Child pornography – as defined by Canadian law. This is strictly prohibited and will be dealt with quickly and harshly.
- Pyramid schemes or fraud – are illegal under a number of Federal, Provincial and local laws.
- Theft of services – attempts to utilize services that are not contracted for is considered theft and will be dealt with as such.
- Harassment – use of FirstHome’s network to harass or threaten (in the legal sense of those terms) any other person is prohibited.
- A guide to legal resources on the Internet is located at <http://www.faqs.org/faqs/law/>. Please consult an attorney if you are unsure of the legal status of your activities.
- Do anything that threatens the integrity of FirstHome’s network or the utilization thereof by other persons:
- Denial of Service (DOS) attacks – no customer will commit a DOS attack against any FirstHome customer’s host, or any other host on the Internet. Similarly, no FirstHome customer will willfully or negligently allow incitement of others to attack any host on FirstHome’s network, or any other host on the Internet.
- RBL – No customer shall do anything that could get any portion of FirstHome’s IP space put on the RBL (Realtime Black List) as maintained by MAPS (<http://www.mail-abuse.com>) or other similar organizations, or perform activities that would cause portions of the Internet to refuse to route traffic to any portion of FirstHome’s IP space.
- Perform actions that cause unusual load on FirstHome servers (for example, mail servers, web servers, usenet servers, name servers, etc.), that cause slowness or denial of service to other FirstHome customers.
- Do anything that threatens the Internet or any other network:
- No client shall take actions that cause any portion of the Internet, or the Internet as a whole, to become unusable to any other portion of the Internet, or the Internet as a whole.
- No client shall take actions that degrade the usefulness of the Internet, or any portion of the Internet, either through network degradation, flooding of usenet or email or so on.
- Spam – no client shall send unsolicited commercial email, unsolicited mass mailings, spam or flood usenet newsgroups, or anything of that sort. If you have questions about what is allowed and what is not, please refer to <http://spam.abuse.net/>, and/or email [support@firsthome.munpict.ca](mailto:support@firsthome.munpict.ca) for clarification:
- No spam may originate from FirstHome IP space.
- No spam may advertise sites or services located on FirstHome IP space (even if the spam originates elsewhere), or IP space which receives IP transit over the FirstHome IP network.
- No FirstHome customer shall use third party mail servers to relay spam. This is considered a DOS attack on the third party and will be treated as such. No customer shall participate in pyramid schemes or email chain letters.

All FirstHome clients must:

- Maintain and enforce on their clients a TOS/AUP similar in scope and intent to this document.
- Maintain a policy requiring proper “From” and/or “Reply-To” headers for email and usenet postings.
- Maintain proper security on their mail server, to prevent the mail server from being used as a “spam amplifier” by third parties. Servers must restrict “email relaying”. (Not applicable to customers who do not maintain a mail server.)

FirstHome reserves the right to terminate or interrupt any account in part or in full without refund for violation of these Terms of Service. In all, but the most extreme or serious cases, good faith attempts will be made to resolve an issue without interruption of service. In cases where service has been terminated or interrupted, a resolution will be handled on an individual case basis, at FirstHome’s sole discretion.

For further explanation of any portion this document, and the terms set herein, or to determine whether your intended activities are permissible under the terms of this document, please contact us.