



**1. PROVISION OF SERVICES.** This Consumer Service Agreement – Terms and Conditions, including any addenda or amendments (together, the “**Terms**”) is made by and between Hotwire (“**we**”) and the Customer (“**you**”). **Hotwire** means Hotwire Communications, Ltd. and all Hotwire subsidiaries and affiliates authorized to provide you with services.

**THIS AGREEMENT INCORPORATES BY REFERENCE THE PRICES, CHARGES, TERMS AND CONDITIONS INCLUDED IN THE “INTEREXCHANGE COMMON CARRIER RATES, TERMS AND CONDITIONS” (“RTC”) AND ANY AND ALL TARIFFS AND/OR PRICE LISTS FILED WITH THE VARIOUS STATE PUBLIC UTILITY REGULATORY AGENCIES AND/OR COMMISSIONS. THE RTC AND CERTAIN STATE TARIFFS MAY BE ACCESSED FROM OUR WEBSITE AT [WWW.GETHOTWIRED.COM](http://WWW.GETHOTWIRED.COM). BY ENROLLING IN, USING, OR PAYING FOR THE SERVICES, YOU AGREE TO THE PRICES, CHARGES, TERMS AND CONDITIONS IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE PRICES, CHARGES, TERMS AND CONDITIONS, DO NOT USE THE SERVICES, AND CANCEL THE SERVICES IMMEDIATELY.**

“**Service**” or “**Services**” includes, but is not limited to, all voice, data, information, and television services (together, “**Services**”), and the equipment or materials licensed or leased to Customer (collectively, “**Products**”), at the Customer’s home (the “**Premises**”). Hotwire retains title to all Products not sold to Customer. The Services covered in this Agreement are subject to availability and may not be available at all locations. Hotwire will use commercially reasonable efforts to deliver Services by a requested date, but Hotwire’s liability is limited (as stated below) for timely installation and cut-over, for proper testing and operation of Services, and for interruption of Services during transfer from another provider.

**2. CUSTOMER’S PAYMENT OBLIGATIONS. a. General.** Customer agrees to pay Hotwire for the Services at the prices and charges listed in the RTC, tariffs and/or price lists for the Services to which you subscribe and/or use. Customer agrees to pay all bills or invoices on time (on or before the due date) and in U.S. currency. Hotwire does not waive our right to collect the full amount due if you pay late or you pay part of the bill, even if you write the words “Paid in Full” (or similar words) on any correspondence to Hotwire. If any portion of the payment is not received by the Hotwire or if any portion of the payment is received by Hotwire in funds which are not immediately available upon presentment, then a late payment charge shall be due to Hotwire. Late payment charges will be applied without discrimination. Without limiting the foregoing, Customer shall pay Hotwire: (a) within 20 days after invoice date all non-recurring charges (“**NRCs**”), including installation or repair or premises visit fees, and all advance monthly recurring charges (“**MRCs**”), including charges for unauthorized or fraudulent use originating on Customer’s side of the network; (b) interest calculated at 1.5% monthly (or the highest rate allowed by law) on amounts not paid within 20 days of invoice date and not timely disputed; (c) all fees, taxes, and other charges that apply to Customer, Services or Products unless you can provide satisfactory documentation that you are exempt; (d) Hotwire’s costs and reasonable administrative and attorneys’ fees to collect unpaid amounts due; (e) all other charges set forth herein. **b. Price Changes and Restrictions.** Prices and restrictions are subject to change. Hotwire may decrease prices without providing notice. Notice of price increases or changes to terms will be provided according to applicable laws and regulation for the jurisdiction in which service is provided. Actual channel selection and configuration for television service is subject to change without notice.

**3. CREDIT CARDS.** Customer gives Hotwire permission to charge the credit card provided to Hotwire by Customer in the event that Customer fails to pay its invoice when due.

**4. CUSTOMER’S OTHER OBLIGATIONS; INDEMNIFICATION.** Customer shall: (a) ensure compatibility of its equipment with that provided by Hotwire; (b) be responsible for the unauthorized use of the Services, including any payment for such unauthorized use; (c) not encumber Hotwire’s equipment, facilities, or Products; (d) not dispute the validity of any liquidated damages, including any assertion that such damages are penalties or are not reasonably related to actual damages; (e) not use the Services, the Products or any facilities or equipment of Hotwire in any unlawful way or for any unlawful purpose; (f) comply with Hotwire’s Internet service policies and agreements posted at [www.gethotwired.com](http://www.gethotwired.com).

**YOU AGREE THAT WE ARE NOT RESPONSIBLE FOR ANY THIRD PARTY CLAIMS AGAINST US THAT ARISE FROM YOUR USE OR YOUR INVITEE’S USE OF THE SERVICES. FURTHER, YOU AGREE TO REIMBURSE US FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS’ FEES, UNLESS SUCH CLAIMS ARE BASED ON OUR WILLFUL MISCONDUCT OR GROSS NEGLIGENCE. THIS PROVISION WILL CONTINUE TO APPLY AFTER THE AGREEMENT ENDS. YOU ALSO AGREE THAT NO THIRD PARTY PROVIDER OR THEIR DIRECTORS, OFFICERS OR EMPLOYEES THAT ARE DIRECTLY OR INDIRECTLY ASSOCIATED WITH US IN THE PERFORMANCE OF OUR SERVICES SHALL BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, PUNITIVE OR OTHER DAMAGES, ARISING OUT OF A SERVICE FAILURE.**

**5. SERVICE PERIODS.** The minimum period for which Services are provided and for which rates and charges are applicable is one (1) month unless otherwise mutually agreed under contract. When a Service is discontinued prior to the expiration of the minimum period, non-usage related charges for the entire minimum period are applicable, whether the service is used or not.

**6. SERVICE SUSPENSION/ TERMINATION.** Hotwire may terminate or suspend the Services at its sole discretion, at any time, for any material noncompliance with this Agreement, including but not limited to, failure to pay all amounts due, rejection of any form of payment, violation of any legal requirement, suspected or actual fraud or misrepresentation or commercially reasonable suspicion thereof, or Customer’s bankruptcy, insolvency, assignment for benefit of creditors, or any similar action. Hotwire may also terminate Services without liability to Customer, upon written notice to Customer, if underlying facilities or services required by Hotwire to provide Services become unavailable or if the price of the underlying services or facilities increase to the extent that continued

provisioning of Services becomes commercially unreasonable, as determined in Hotwire's sole discretion. Subject to the terms of this Agreement, you must reimburse Hotwire for any reasonable costs we incur, including attorneys' fees, to collect charges owed to us. If you want Hotwire to renew the Services, we may require that you pay a deposit.

**7. LIMITATION OF LIABILITY. NOTHING IN THIS AGREEMENT LIMITS OUR LIABILITY, IF ANY, FOR OUR WILLFUL OR INTENTIONAL MISCONDUCT. IF OUR NEGLIGENCE CAUSES DAMAGE TO PERSON OR PROPERTY, WE WILL BE LIABLE FOR NO MORE THAN THE AMOUNT OF DIRECT DAMAGES TO THE PERSON OR PROPERTY. IF OUR NEGLIGENCE CAUSES DAMAGE OF ANY OTHER SORT, WE WILL BE LIABLE FOR NO MORE THAN THE AMOUNT OF OUR CHARGES FOR THE SERVICES OR PRODUCTS DURING THE AFFECTED PERIOD. FOR ALL CLAIMS THAT ARE NOT THE RESULT OF HOTWIRE'S WILLFUL OR INTENTIONAL MISCONDUCT, WE WILL NOT BE LIABLE FOR PUNITIVE, RELIANCE, OR SPECIAL DAMAGES (UNLESS AN APPLICABLE STATUTE EXPRESSLY AUTHORIZES SUCH DAMAGES), AND WE WILL NOT BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR REVENUE OR INCREASED COSTS OF OPERATION. THESE LIMITATIONS APPLY EVEN IF THE DAMAGES WERE FORESEEABLE OR WE WERE TOLD THEY WERE POSSIBLE, AND THEY APPLY TO ANY NEGLIGENCE CLAIM THAT DOES NOT INVOLVE WILLFUL MISCONDUCT OR INTENTIONAL MISCONDUCT, NO MATTER HOW THAT CLAIM IS STYLED OR ON WHAT LEGAL GROUNDS (SUCH AS CONTRACT, TORT, STATUTE, MISREPRESENTATION) IT IS BASED.**

**WE WILL NOT BE LIABLE FOR ANY DAMAGES — AND WILL BE LIABLE ONLY FOR THE AMOUNT OF OUR CHARGES FOR THE SERVICES DURING THE AFFECTED PERIOD — IF SERVICES ARE INTERRUPTED, OR THERE IS A PROBLEM WITH OUR SERVICES CAUSED BY AN ACT OR OMISSION OF ANOTHER PERSON OR PROVIDER FURNISHING A PORTION OF THE SERVICES (IE DIRECTORY LISTINGS, 911, E911). THIS SECTION WILL CONTINUE TO APPLY AFTER THE AGREEMENT ENDS.**

**8. DISCLAIMERS. HOTWIRE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**9. CREDITS.** Hotwire's sole responsibility for any Product failure shall be that Product's repair or replacement, at Hotwire's option. Hotwire's sole responsibility for any unscheduled interruption of Services, defined as failure to provide a service for more than 24 consecutive hours (a "Service Disruption") shall be the issuance of outage credits. Outage duration is measured from the time that Hotwire opens or issues a trouble ticket number for a Service Disruption. Credits only apply to Service Disruptions caused by problems with Hotwire's network, may not exceed the total MRC for an affected Service during any single month, and will appear on the Customer's next monthly invoice after a Service Disruption. The following credits apply to each type of Service, unless otherwise required by applicable law or Tariffs: for the Service affected by a Service Disruption, the pro-rated daily MRC for the period during which the Service is affected after the initial 24 hour period. In order to receive any credit, Customer must inform Hotwire of any disruption at the time the disruption occurs. Customer shall file a written dispute for any charges for Services or Products listed on the Customer's invoice within ninety (90) days from the date of the invoice containing disputed charges for any Services or Products. If Customer timely files a written dispute for Services or Products identified on a monthly invoice, then Hotwire will consider the Customer's dispute and issue credits in connection with this Agreement.

**9. TARIFF APPLICATION.** For Services that are subject to any of Hotwire's tariffs (collectively, the "Tariff") filed with, or regulations of, the FCC, any state commission, or any other government body, board, or commission of competent jurisdiction, the provisions of the Tariff or regulations shall take precedence over conflicting provisions of this Agreement, unless otherwise specifically set forth herein.

**10. AMENDMENTS.** Hotwire may change this Agreement, including the incorporated RTC, from time to time. If we make any changes to the prices or charges, we will comply with our notice commitments described in Section 2 of this Agreement. With respect to all other changes to this Agreement, we will notify you of the changes, and they will be effective no sooner than ten days after we post them at [www.gethotwired.com](http://www.gethotwired.com). You may also request a copy of the revised Agreement for the services you are enrolled in, by calling Hotwire. No written or oral statement, advertisement, or service description not expressly contained in the Agreement will be allowed to contradict, explain, or supplement it. Neither you nor Hotwire is relying on any representations or statements by the other party or any other person that are not included in this Agreement.

**11. GOVERNING LAW.** This Agreement, and all matters arising out of or related to it, shall be governed by the laws of the Commonwealth of Pennsylvania, without regard to Pennsylvania's conflicts of law rules.

**12. DISPUTE RESOLUTION. IT IS IMPORTANT THAT YOU READ THIS ENTIRE SECTION CAREFULLY. THIS SECTION PROVIDES FOR RESOLUTION OF DISPUTES THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY OR THROUGH A CLASS ACTION. YOU CONTINUE TO HAVE CERTAIN RIGHTS TO OBTAIN RELIEF FROM A FEDERAL OR STATE REGULATORY AGENCY.**

**a. Binding Arbitration.** The arbitration process established by this section is governed by the Federal Arbitration Act ("FM"), 9 U.S.C. §§ 1-16. You have the right to take any dispute that qualifies to small claims court rather than arbitration. All other disputes arising out of or related to this Agreement (whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory) must be resolved by final and binding arbitration. This includes any dispute based on any product, service or advertising having a connection with this Agreement and any dispute not finally resolved by a small claims court. The arbitration will be conducted by one arbitrator using the procedures described by this Section. If any portion of this Dispute Resolution Section is

determined to be unenforceable, then the remainder shall be given full force and effect. The arbitration of any dispute involving \$10,000 or less shall be conducted in accordance with the Consumer Arbitration Rules of the American Arbitration Association ("AAA"), as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. The AAA's Commercial Arbitration Rules and fee schedules will apply to any disputes in excess of \$10,000. You have the right to be represented by counsel in an arbitration. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms.

**NO DISPUTE MAY BE JOINED WITH ANOTHER LAWSUIT, OR IN AN ARBITRATION WITH A DISPUTE OF ANY OTHER PERSON, OR RESOLVED ON A CLASS-WIDE BASIS. THE ARBITRATOR MAY NOT AWARD DAMAGES THAT ARE NOT EXPRESSLY AUTHORIZED BY THIS AGREEMENT AND MAY NOT AWARD PUNITIVE DAMAGES OR ATTORNEYS' FEES UNLESS SUCH DAMAGES ARE EXPRESSLY AUTHORIZED BY A STATUTE. YOU AND HOTWIRE BOTH WAIVE ANY CLAIMS FOR AN AWARD OF DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.**

**b. Arbitration Information and Filing Procedures.** Before you take a dispute to arbitration or to small claims court, you must first contact our customer account representatives at the customer service number on your Hotwire bill for the Services, or write to us at Hotwire Communications, Attn: Legal Department, PO Box 298, Wynnewood, PA 19096, and give us an opportunity to resolve the dispute. Similarly, before Hotwire takes a dispute to arbitration, we must first attempt to resolve it by contacting you. If the dispute cannot be satisfactorily resolved within sixty days from the date you or Hotwire is notified by the other of a dispute, then either party may then contact the AAA in writing at AAA Service Center, 134555 Noel Road, Suite 1750, Dallas, Texas 75240-6620 and request arbitration of the dispute. Information about the arbitration process and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at [www.adr.org](http://www.adr.org). The arbitration will be based only on the written submissions of the parties and the documents submitted to the AAA relating to the dispute, unless either party requests that the arbitration be conducted using the AAA's telephonic, on-line, or in-person procedures. Additional charges may apply for these procedures. Any in-person arbitration will be conducted at a location that the AAA selects in the state of your primary residence. Any arbitration shall remain confidential. Neither you nor Hotwire may disclose the existence, content or results of any arbitration or award, except as may be required by law, or to confirm and enforce an award.

**ANY CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN TWO YEARS AFTER THE DATE THE BASIS FOR THE CLAIM OR DISPUTE FIRST ARISES.**

**c. Fees and Expenses of Arbitration.** You must pay the applicable AAA filing fee when you submit your written request for arbitration to the AAA. The AAA's filing fee and administrative expenses for a document arbitration will be allocated according to the AAA's Rules, except that for claims of less than \$1,000, you will only be obligated to pay a filing fee of \$20 and we will pay all of the AAA's other costs and fees. If you elect an arbitration process other than a document (or "desk") arbitration, you must pay your allocated share of any higher administrative fees and costs for the process you select. Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees and expenses for witnesses, document production and presentation of evidence. The prevailing party may, however, seek to recover the AAA's fees and the expenses of the arbitrator from the other party.

**13. SOFTWARE.** Licensed Software means computer software required to use the Products or the Services. To the extent needed, Customer has a nonexclusive, nontransferable license to use Licensed Software, but only if required for delivery of the Services or Products. Customer has no claim to any ownership in any Licensed Software (or any derivations/improvements thereto). Customer agrees not to (i) copy Licensed Software; (ii) reverse engineer, decompile or disassemble Licensed Software; (iii) sell, lease, license or sublicense Licensed Software; or (iv) create, write or develop derivative software or other software based on Licensed Software or Confidential Information.

**14. NOTICE.** Notice to Customer may be directed to a contact listed in Hotwire's account for Customer, whether delivered in person, sent by facsimile, sent by courier, sent by electronic mail, or sent by U.S. Postal Service. Notice to Hotwire must be directed to Hotwire Communications, Attn: Legal Department, P.O. Box 298, Wynnewood, PA 19096. Notice is effective when sent. Customer will immediately notify Hotwire of any changes to Customer's contact information.

**15. ENTIRE AGREEMENT.** This Agreement is the entire agreement between the parties and supersedes all prior written or oral agreements. These Terms supersede and replace any prior Terms between the parties. These Terms apply to all existing and future Products and Services, but shall not operate as accord nor satisfaction of any outstanding rights and obligations, unless specifically waived in writing and signed by the Parties.

**16. GENERAL PROVISIONS.** No specific waiver(s) or failure(s) to enforce any provision of this Agreement shall be deemed to constitute any permanent or general waiver. This Agreement creates no partnership, joint venture or agency relationship between the parties and results in no joint communications service offerings. Customer shall not assign or transfer any of its rights or obligations under this Agreement without Hotwire's prior written consent. This Agreement shall inure to the benefit of and be binding against each party's heirs, successors or assigns. If any term in this Agreement is held invalid or unenforceable in any respect, then the remainder of the Agreement shall not be affected and each term or condition of the Agreement shall be valid and enforceable to the fullest extent permissible by law. Descriptive headings used herein shall not affect the construction or interpretation of the Agreement. Customer certifies that any information provided to Hotwire is true and accurate to the best of Customer's knowledge and to the best knowledge of the specific individuals who provide any information to Hotwire.