

# STATE TEL ON-LINE / FASTTRAK DSL Service Provider Agreement

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## **I. Introduction**

1. Thank you for choosing STATE TEL ON-LINE / FASTTRAK DSL as your Internet service provider. Before you can begin using our service, you must read and indicate your consent to the terms and conditions of this service agreement ("Agreement"). The Agreement defines all terms and conditions relating to use of the State Tel On-line / Fasttrak DSL service. Specifically, the Agreement details what users can expect from us, and what we expect from our users. It is very important that users know and understand what is considered to be acceptable and unacceptable use. If you have any questions concerning this Agreement, please feel free to e-mail us at [businessoffice@statetel.com](mailto:businessoffice@statetel.com) or call us at 731-6128. A customer representative will be happy to assist you.
2. Your use of State Tel On-line / Fasttrak DSL service (other than to read this Agreement) signifies that you agree to be legally bound by and will abide by the terms and conditions of this Agreement, just as if you had signed this Agreement. If you do not agree with the terms of this Agreement, you cannot use our service.

Please note that this Agreement allows STATE TEL ON-LINE / FASTTRAK DSL to modify its terms at any time by posting the revised copy of this Agreement on the State Tel On-line / Fasttrak DSL home page at [www.statetel.com](http://www.statetel.com) or a notification by standard postal mail. You should review this page periodically. Your continued use of State Tel On-line / Fasttrak DSL service will confirm your consent to these terms and conditions as well as your acceptance of the changes we may make to the Agreement in the future. You, as a user, have the right to terminate your account after a modification by notifying STATE TEL ON-LINE / FASTTRAK DSL of your intention to do so, as provided in Section VIII of this Agreement, entitled "Cancellation and Termination," below.

## **II. User Rights, Responsibilities and Obligations**

1. State Tel On-line / Fasttrak DSL Service. Unless otherwise agreed, you will pay the basic subscription fee listed on our home page at [www.statetel.com](http://www.statetel.com) which entitles you to 1 dial-up access license (to connect to our service). We also offer broadband service and other premium services for business customers or subscribers with high-bandwidth needs based on a price list that may be obtained from us, and which is subject to periodic revision. For a copy of the current premium service price list, please contact our sales representative at <mailto:businessoffice@statetel.com>
2. Payment. Like many other service providers, STATE TEL ON-LINE / FASTTRAK DSL bills for its service on a full month prepaid billing cycle. On your first bill you will see prorated charges, which are charges for

service used from the date of account activation until the current billing cycle bill month, plus the current month's charges including any set-up fees. Depending on the date you sign up, you could actually receive a bill for two months worth of service. Our Internet billing cycle runs from the 1st to the end of each month with prorated charges based on a full month's billing cycle. For example, if you subscribe for Internet access on October 8th, you would receive a bill dated 11/1 for all services from 10/8 through 10/31, and 11/1 through 11/30. The reason you are charged for November is that your November 1st bill is actually for your Internet access in November. If you have any billing questions or concerns, please do not hesitate to contact our business office at 731-6128 or by e-mail at: [businessoffice@statetel.com](mailto:businessoffice@statetel.com)

Besides monthly access charges and package rates, telephone connection charges also apply. STATE TEL ON-LINE / FASTTRAK DSL does not warrant or promise that any of our internet dial-up access numbers ("access numbers") are local to you. In particular, we urge you to note that even an access number that shares your area code or appears to be located in your general geographic region may not necessarily be a local number to you. Substantial toll telephone charges may apply to numbers that you do not verify as local to your individual area or calling plan. Your local telephone company can tell you whether any of our access numbers are in fact local to you. We urge you to check with your local telephone company before choosing an access number.

You agree that any taxes or surcharges are additional to your monthly recurring fees. You agree and shall be liable for all attorney and collection fees arising from State Tel On-line / Fasttrak DSL attempt to collect any unpaid balance of your account.

You are obligated to make timely periodic payments in advance as a condition of obtaining access to the service. If you fail to pay your bill in a timely fashion, you agree that we may terminate your account and reassign your User ID. If you notify us in advance of your intention to cancel your service, we will refund to you the pro-rated amount of any fees previously paid for future service. If we change our pricing plans, we'll notify you of the new rate at least thirty (30) days prior to the date on which the change will take effect.

- 3 Dial-Up Access License/Use. STATE TEL ON-LINE / FASTTRAK DSL grants you a limited license for the duration of this Agreement to use State Tel On-line / Fasttrak DSL service to connect to the Internet for the purposes of sending and retrieving information, and to send and receive email from your STATE TEL ON-LINE / FASTTRAK DSL email account(s). Your use of State Tel On-line / Fasttrak DSL service is subject to the terms and conditions of this Agreement, including Section III of this Agreement, entitled "Restrictions on Use" below. The term of this

Agreement is for a period of thirty (30) days and shall automatically renew for successive thirty (30) day periods at State Tel On-line / Fasttrak DSL then-current month-to-month rates, unless either party provides the other with thirty (30) days written notice that it does not wish to renew or terminates the Agreement in a manner described in Section VIII of this Agreement, entitled "Cancellation and Termination" below.

4. Responsibility for Internet Access. While STATE TEL ON-LINE / FASTTRAK DSL will provide you an account on its computers for the purposes of connecting to the Internet and sending and receiving email, it is your responsibility to provide and install the proper equipment and software to connect to INOC.
5. Protection of Intellectual Property. STATE TEL ON-LINE / FASTTRAK DSL enables you to contribute to and gain from a wealth of materials—some owned by INOC, others owned by third-parties. In order to preserve everyone's rights, you must:
  - a. only print and/or download material obtained using STATE TEL ON-LINE / FASTTRAK DSL for your own, non-commercial purposes, which do not include sale, rent, lease, loan, or advertising of such material (unless otherwise licensed);
  - b. not alter any aspect of the State Tel On-line / Fasttrak DSL service;
  - c. comply with the terms and conditions of third-parties who provide you with materials, including software, such as Web browsers; and
  - d. not deliberately or accidentally export software to countries to which the U.S. prohibits such export.
6. Copyrights and Copyright Agents. It is State Tel On-line / Fasttrak DSL policy to terminate, in appropriate circumstances, the rights of subscribers who are repeat infringers to access or use of this service. By entering into this contract, you agree not to post, host, transmit, or store on our servers any software, audio or video files, photographs, images, documents, text or other material ("Content") that infringes any third-party's copyrights. You further expressly agree that we may disable access to or remove any Content from our servers (including, but not limited to, Content that you have posted, hosted, transmitted or stored) that we believe to be infringing (whether or not we are in fact correct in our assessment) or that is subject of a notification duly sent to us pursuant to the Digital Millennium Copyright Act ("Notification"). If you believe that we have mistakenly disabled access to or removed Content that is noninfringing, you may contact us at [businessoffice@statetel.com](mailto:businessoffice@statetel.com), in which case we will provide you with a copy of the Notification or the basis for our action so that you may resolve the matter directly with the copyright owner. Under no

circumstances may we be held liable for removing or disabling access to Content.

STATE TEL ON-LINE / FASTTRAK DSL designated an agent for notice of claims of copyright or other intellectual property infringement (“Copyright Agent”). If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, and you would like us to take action with respect to this infringement or violation, you must provide State Tel On-line / Fasttrak DSL Copyright Agent the following information:

- a. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- b. a description of the copyrighted work or other intellectual property that you claim has been infringed;
- c. a description of where the material that you claim is infringing is located on the site;
- d. your address, telephone number, and email address;
- e. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law;
- f. a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner’s behalf.

State Tel On-line / Fasttrak DSL Copyright Agent can be reached as follows:

By email at [mevans@statetel.com](mailto:mevans@statetel.com)

By mail: Mark R. Evans

State Telephone Co.

46 Reed St.

Coxsackie, NY 12051

By phone: 731-6128

7. Session Length. STATE TEL ON-LINE / FASTTRAK DSL strives to maintain quality service for all of our subscribers through careful and efficient management of our network, especially during periods of peak demand. To assist us in balancing user loads, we reserve the right to manage maximum length and terminate sessions that exceed the maximum length even if you are actively using your connection. STATE

TEL ON-LINE / FASTTRAK DSL also reserves the right to terminate sessions that are inactive or idle in order to perform maintenance service. If your session has been terminated, you may immediately dial back in to reconnect.

8. Delivery of Email. STATE TEL ON-LINE / FASTTRAK DSL will attempt to deliver all of the email that is addressed to your email address on State Tel On-line / Fasttrak DSL service. Sometimes, however, someone who may or may not be a subscriber to State Tel On-line / Fasttrak DSL service, will attempt to relay large numbers of email messages, in bulk, off of or through one of our servers. We reserve the right to discard that bulk relay email because it is an unauthorized use of our equipment. Any email addressed to you in care of State Tel On-line / Fasttrak DSL service that is included in such bulk relay email may not be delivered to you.

### **III. Restrictions on Use**

1. **Basic Restrictions.** While it is not our intent to monitor your online communications, STATE TEL ON-LINE / FASTTRAK DSL reserves the right to edit or remove content that we become aware of and determine to be harmful, offensive or otherwise in violation of this Agreement. Violation of these restrictions (“Restrictions”) may also result in the termination or suspension of your account. These Restrictions apply to all content provided to, or through, the service, including, email messages, newsgroup postings, internet messaging, chat, and personal or business Web pages. STATE TEL ON-LINE / FASTTRAK DSL reserves the right to monitor and restrict bandwidth utilization. STATE TEL ON-LINE / FASTTRAK DSL also reserves the right to impose monthly bandwidth utilization caps for standard packages, with additional bandwidth transfer at an additional price.
  
2. **Illegal and Destructive Activities.** STATE TEL ON-LINE / FASTTRAK DSL strongly supports freedom of speech and information. Nevertheless, in order to comply with certain laws, rules, regulations and protocols, you may not engage in any of the following acts, which are illegal and/or destructive to STATE TEL ON-LINE / FASTTRAK DSL and other Internet users and providers:
  - a. send messages, data, images and programs that are libelous, defamatory, obscene, pornographic, threatening, abusive, or hateful;
  - b. stalk or harass another;
  - c. collect or store personal data about other users;
  - d. send materials that contain viruses, worms, Trojan horses, time bombs/logic bombs, or any other malicious code or destructive elements;
  - e. interfere with or infringe the copyrights, trademarks, logos, service marks, or confidential information of others;
  - f. use or attempt to use State Tel On-line / Fasttrak DSL service to violate its security or the security of systems accessible through it;
  - g. cause harm to STATE TEL ON-LINE / FASTTRAK DSL or third-party equipment, software, or processes used in connection with furnishing State Tel On-line / Fasttrak DSL service;
  - h. use or attempt to use State Tel On-line / Fasttrak DSL service in a manner that is otherwise in violation of any applicable local, state, national or foreign law;



- i. impersonate any person or entity, including, but not limited to, an STATE TEL ON-LINE / FASTTRAK DSL official, forum leader, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity; or
  - j. forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through State Tel On-line / Fasttrak DSL service.
- 3. Communication Rules. In your use of State Tel On-line / Fasttrak DSL service, you agree to the following rules of communication.
  - a. Unsolicited Email. Unless STATE TEL ON-LINE / FASTTRAK DSL otherwise agrees with you, you may not send (i) a piece of unsolicited commercial email to any person; or (ii) any other email to more than 10 people if such email could reasonably be expected to provoke complaints from its recipients (collectively "Unsolicited Email"). Also, you shall not send Unsolicited Email by using the email servers of another Internet provider and channeling such activities through State Tel On-line / Fasttrak DSL account or email, using State Tel On-line / Fasttrak DSL account as a maildrop for responses, or in any way indicating to recipients that STATE TEL ON-LINE / FASTTRAK DSL was involved in the transmission of Unsolicited Email. STATE TEL ON-LINE / FASTTRAK DSL reserves the right not to deliver any outbound email that you address and send to more than 10 recipients in one mailing, or that STATE TEL ON-LINE / FASTTRAK DSL believes in any other way violates these Restrictions. STATE TEL ON-LINE / FASTTRAK DSL also reserves the right to block, filter, or delete any Unsolicited Email.
  - b. Spam Newsgroups. You may not post any single message online to or for more than five newsgroups. You must also make sure that any message you post is consistent with the newsgroup's stated topic and does not violate the rules of any forum or newsgroup where it is posted. You agree to submit promotional materials only in chat, newsgroup and Web message board areas designated for that purpose. You may not transmit the same message to more than 10 newsgroups in a single day. STATE TEL ON-LINE / FASTTRAK DSL reserves the right to determine what is considered "spam" and not to deliver any newsgroup or forum posting which STATE TEL ON-LINE / FASTTRAK DSL believes violates these Restrictions.
- 4. Use of Your Account. In addition, please keep in mind the following restrictions and tips about your account with us.
  - a. Single Use. Unless you have purchased additional dial-up access licenses by special arrangement with INOC, you may

only log-in to State Tel On-line / Fasttrak DSL service from a single location at a given time. You must contact STATE TEL ON-LINE / FASTTRAK DSL at [businessoffice@statetel.com](mailto:businessoffice@statetel.com) if you would like to obtain simultaneous access to STATE TEL ON-LINE / FASTTRAK DSL for multiple users.

- b. Access to Your Account. Anyone who has unprotected access to your computer will be able to use your STATE TEL ON-LINE / FASTTRAK DSL account freely. Therefore, you should secure your computer equipment so that only authorized users can gain access to your account. If you have an individual account, do not allow others outside of your household to use the service. If you have a business account, do not let others outside of your bona fide employees or independent contractors use the service. Your STATE TEL ON-LINE / FASTTRAK DSL account gives you unrestricted usual and customary use of the Internet. It does not provide you with the right to log onto the STATE TEL ON-LINE / FASTTRAK DSL system with unlimited or unreasonable idle connection time. STATE TEL ON-LINE / FASTTRAK DSL expressly reserves the right to determine what constitutes “unreasonable idle connection time” and to abort your connection at its discretion.
- c. Resale, Transfer, or Sublease Prohibited. You may not resell, transfer or sublease any service you purchase from STATE TEL ON-LINE / FASTTRAK DSL without State Tel On-line / Fasttrak DSL express written consent. Your STATE TEL ON-LINE / FASTTRAK DSL account is not transferable. STATE TEL ON-LINE / FASTTRAK DSL reserves the right to terminate your account if you violate or attempt to violate this provision.
- d. Content and Responsibility for Information. There is a wide variety and quantity of information available through the Internet using INOC. INOC, along with any parties from whom STATE TEL ON-LINE / FASTTRAK DSL obtains network services, exercises no control over most of the content of the information passing through its servers. Therefore, **YOU ARE RESPONSIBLE FOR PROTECTING YOURSELF FROM HARMFUL OR INACCURATE INFORMATION.**
- e. Offensive and/or Harmful Information. Some of the information available on the Internet is deemed under applicable laws to be unfit for viewing and reading by minors under the age of 18. Some Web sites, use net postings, and email messages contain information (in both text and graphical formats) that you and/or members of your household may consider obscene and/or harmful. STATE TEL ON-LINE / FASTTRAK DSL cannot effectively and does not control, block, filter or screen Internet

postings or Web sites for obscene and/or harmful materials. While STATE TEL ON-LINE / FASTTRAK DSL will use good faith efforts to restrict harassing or objectionable content and provide, upon request, suggestions for obtaining third party software that can be used to control access to these materials, you are responsible for your own monitoring and viewing habits and those of your household, including minors. You agree not to hold STATE TEL ON-LINE / FASTTRAK DSL responsible for Web sites and/or postings that could be considered obscene, lewd, offensive and/or harmful to minors.

- f. Removal of Content Stored on State Tel On-line / Fasttrak DSL Servers. STATE TEL ON-LINE / FASTTRAK DSL reserves the right to remove any content from its servers (including material maintained on personal Web sites), or restrict access to or the availability of, material that, in the sole opinion of INOC, is obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable or inconsistent with family or community values. STATE TEL ON-LINE / FASTTRAK DSL further reserves the right to terminate the account of any subscriber who posts inappropriate material on State Tel On-line / Fasttrak DSL servers or who otherwise fails to abide by the terms of this Agreement.

#### **IV. Disclaimer of Warranty & Indemnification**

1. Disclaimer of Warranty. YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE — STATE TEL ON-LINE / FASTTRAK DSL AND THIRD PARTIES WHO CONTRIBUTE TO THE SERVICE ARE NOT RESPONSIBLE FOR ANY LOSS, DAMAGE OR COST (INCLUDING CONSEQUENTIAL DAMAGES) YOU OR ANYONE ELSE USING YOUR ACCOUNT MIGHT INCUR DUE TO YOUR USE OR INABILITY TO USE THE SERVICE. IF YOU LIVE IN A STATE WHOSE LAWS PREVENT YOU FROM TAKING FULL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE, OUR LIABILITY IS LIMITED TO THE GREATEST EXTENT ALLOWED BY LAW. IN NO EVENT SHALL STATE TEL ON-LINE / FASTTRAK DSL LIABILITY OR THE LIABILITY OF THIRD-PARTIES WHO CONTRIBUTE TO THE SERVICE EXCEED LIABILITY (1) FOR INJURY TO PROPERTY OR PERSON CAUSED BY OUR NEGLIGENCE, THE AMOUNT OF DIRECT DAMAGES TO THE PROPERTY OR PERSON, OR (2) FOR ALL OTHER CLAIMS, ACTIONS OR DAMAGES PERMITTED UNDER THIS AGREEMENT, THE AMOUNT YOU PAID US FOR OUR SERVICE CHARGES DURING THE AFFECTED PERIOD. STATE TEL ON-LINE / FASTTRAK DSL AND THIRD-PARTIES WHO CONTRIBUTE TO STATE TEL ON-LINE / FASTTRAK DSL SERVICE MAKE NO EXPRESS OR IMPLIED WARRANTIES (INCLUDING WARRANTIES OF TITLE, NONINFRINGEMENT, AND IMPLIED WARRANTIES OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), REPRESENTATIONS, OR ENDORSEMENTS REGARDING STATE TEL ON-LINE / FASTTRAK DSL SERVICE OR ANY THIRD-PARTY MATERIAL AVAILABLE THROUGH THE SERVICE. FURTHERMORE, THE SERVICE IS PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS — WE DO NOT WARRANT THAT IT WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN SERVICE WILL BE CORRECTED.

- 2, Indemnification. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS INOC, ITS EMPLOYEES AND THIRD-PARTIES WHO CONTRIBUTE TO THE SERVICE FROM ANY LOSS, DAMAGE, OR COST (INCLUDING ATTORNEYS' FEES) RESULTING FROM YOUR VIOLATION OF LAW OR THE TERMS OF THIS AGREEMENT, OR ANY ACTIVITY RELATED TO YOUR ACCOUNT.

## **V. Eligibility**

1. Eligibility to Use State Tel On-line / Fasttrak DSL Service. To subscribe to State Tel On-line / Fasttrak DSL service, you have to be at least 18 years old. You must register using your own name. If you have a credit card for payment, you must provide a credit card account number that is issued in your name or that you are authorized to use. To become a subscriber under a business account, you must be a bona fide employee or authorized independent contractor of that business.
2. User ID. During registration, we'll ask you to enter the name or number you want as your User ID. This ID is used for, among other things, your email address. If the email ID you choose is already in use, or if we cannot accept it for any other reason, we will ask you to enter another, change it, or give one to you. If accepted during the registration process, your user ID shall be licensed to you so long as you are an STATE TEL ON-LINE / FASTTRAK DSL subscriber and do not otherwise violate this Agreement. You agree that you do not acquire any ownership rights in your User ID and that your User ID may be revoked for any reason, at any time, in State Tel On-line / Fasttrak DSL sole discretion. STATE TEL ON-LINE / FASTTRAK DSL explicitly reserves the right to revoke any User ID that violates the intellectual property or other rights of third-parties or that is obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable or inconsistent with family or community values.

## **VI. Privacy**

1. General Policy. As State Tel On-line / Fasttrak DSL subscriber, you give us information about yourself that we use to conduct our daily business with you. In the course and for the sole purpose of maintaining and administering State Tel On-line / Fasttrak DSL system, STATE TEL ON-LINE / FASTTRAK DSL may electronically monitor, read, examine and/or inspect information contained in your files, electronic mail messages, on-

line postings and any other source of information maintained on-line. STATE TEL ON-LINE / FASTTRAK DSL automatically collects essential technical information, including, but not limited to identification of the page or service you are requesting, type of browser and operating system you are using, and date and time of access.. We do not collect personally identifiable information, such as name, address, phone number or electronic mail address, (etc.) which might identify you as a particular person. STATE TEL ON-LINE / FASTTRAK DSL is dedicated to protecting your privacy and data stored on or transmitted via our system. We want to assure our subscribers that to the extent you provide us with any customer-identifiable information, we keep such information as confidential as possible, and provide you with a mechanism to control our use of this information.

2. User Responsibility. Despite our dedication to protecting your privacy, STATE TEL ON-LINE / FASTTRAK DSL CANNOT AND DOES NOT GUARANTY ABSOLUTE PRIVACY OR ACCOUNT SECURITY. You are responsible for maintaining and protecting the confidentiality of your password. You are liable for any harm resulting from disclosing or allowing disclosure of any password. In the event of a breach of security, your password may be compromised. You will remain responsible and liable for any unauthorized use of State Tel On-line / Fasttrak DSL service until you notify STATE TEL ON-LINE / FASTTRAK DSL by emailing [businessoffice@statetel.com](mailto:businessoffice@statetel.com) or by contacting STATE TEL ON-LINE / FASTTRAK DSL via telephone. In addition, you are responsible for the retention of all files, information, data and other materials necessary for reconstruction of any files, information, material or messages lost or incorrectly processed by INOC.
3. Use of User Information. STATE TEL ON-LINE / FASTTRAK DSL does not sell, trade, or give away user information to other individuals or companies without your consent. STATE TEL ON-LINE / FASTTRAK DSL does use this information for billing purposes, to anticipate and resolve problems with your service, to create and inform you of products and services that better meet your needs, to investigate and help prevent potentially unlawful activity and activity that violates your Agreement, and to respond to your concerns regarding your dealings with INOC. STATE TEL ON-LINE / FASTTRAK DSL will only disclose your information to a third-party without your consent when doing so in order to investigate or prevent a security violation or suspected criminal activity on State Tel On-line / Fasttrak DSL service or other computer system, to respond to a court order, or as otherwise required by law.
4. Cookie Disclaimer. A "cookie" is a small piece of information (token) sent by a Web server and stored on your system (hard drive) so it can later be read back from that system. Use of cookies is a standard practice among Internet Web sites and a convenient technique for having the browser remember some specific information. Cookies may be categorized as

“session” or “persistent” cookies. “Session” cookies are temporary cookies that are used to maintain context or “state” between otherwise stateless Web transactions (e.g., to maintain a “shopping basket” of goods selected during a single logical session at a site) and that must be deleted at the end of the Web session in which they are created. “Persistent” cookies remain over time and can be used for a variety of purposes, including to track a user’s access over time and across Web sites, or to establish user preferences. State Tel On-line / Fasttrak DSL sites do not use persistent cookies, i.e., tokens that pass information back and forth from your machine to the server and remain after you close your browser. We do use session cookies, however, i.e., tokens that remain active only until you close your browser, to make the site easier for you to use. No database of information obtained from these cookies is kept and when you close your browser, the cookie is deleted from your computer.

Your browser may be customized to reject cookies, to only accept or reject cookies by your intervention, or to delete cookies. Rejecting and/or removing cookies, however, may lead to loss of functionality on our pages requiring cookies to function fully.

## **VII. Dispute Resolution.**

1. Mandatory Arbitration. All disputes, controversies or claims, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, arising out of, or relating to, this Agreement and/or your use of State Tel On-line / Fasttrak DSL service (“Disputes”) shall be settled by final and binding arbitration conducted in Albany, New York by a neutral arbitrator, in accordance with this Agreement and the then-current commercial arbitration rules of the American Arbitration Association. The arbitrability of disputes shall also be determined by the arbitrator. Each party shall bear its own expenses, except that the prevailing party may recover the filing costs and the expenses of the arbitrator from the other party. Any award of the arbitrator shall be in writing and shall state the reasons for the award. Judgment upon an award may be entered in any court having competent jurisdiction. The arbitrator shall not have the power to order pre-hearing discovery of documents or the taking of depositions, but may compel attendance of witnesses and the production of documents at the hearing. The parties, their representatives and participants and the arbitrator shall hold the existence, content and result of the arbitration in confidence, except to the limited extent necessary to enforce a final settlement agreement or to obtain or enforce a judgment on an arbitration decision and award.
2. Exceptions to Mandatory Arbitration. Disputes relating to your failure to pay billed charges for use of the State Tel On-line / Fasttrak DSL service are exempt from the requirement of binding arbitration. Such disputes shall be governed by and construed exclusively in accordance with the laws of the State of New York, as provided in the “Governing Law” clause

of Section IX of this Agreement, entitled, "Miscellaneous" below. If such dispute arises, each party irrevocably consents to the exclusive jurisdiction of the courts of the State of New York, sitting in Albany, New York, and the United States District Court for the Northern District of New York. This Agreement likewise shall not prevent STATE TEL ON-LINE / FASTTRAK DSL or a subscriber from seeking and obtaining preliminary equitable remedies, including temporary restraining orders or preliminary injunctions, from a court with jurisdiction over the parties and the subject matter. A request to a court for interim equitable relief shall not be deemed a waiver of the obligation to arbitrate.

### **VIII. Cancellation and Termination**

1. We reserve the right to cancel this Agreement without notice for any reason at any time.
2. You are entitled to cancel when you notify us beforehand.
3. If we cancel your account or terminate our Agreement with you for any reason, you agree not to reregister for State Tel On-line / Fasttrak DSL service without our written permission.

### **IX. Miscellaneous**

1. Entire Agreement. This Agreement contains the entire agreement and understanding between you and STATE TEL ON-LINE / FASTTRAK DSL and supersedes any prior or contemporaneous written or oral agreements, representations and warranties respecting State Tel On-line / Fasttrak DSL service.
2. Severability. If any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties and the remainder of the Agreement shall remain in force and effect. State Tel On-line / Fasttrak DSL failure to insist upon or enforce strict performance of any term or provision of this Agreement shall not be construed as a waiver of any provision, term or right. Neither the course of conduct between the parties nor trade practice shall act to modify any term or provision of this Agreement.
3. Governing Law. This Agreement shall be governed by and construed exclusively in accordance with the laws of the State of New York without giving effect to conflict of law or choice of law rules or principles.
4. Headings. The headings or titles of sections are for convenience of reference only and do not constitute a part of this Agreement.

### **X. Contacting Us**

1. If you are a subscriber and you have any questions, need to resolve problems, believe someone is using your account improperly, or wish to

update the information you gave during registration, you may contact us by:

- a. Calling (518)-731-6128
  - b. Sending us an email at [businessoffice@statetel.com](mailto:businessoffice@statetel.com)
2. While we encourage you to use one of the methods described above to reach us, you may also communicate with us by sending a first class, postage paid letter via courier or U.S. mail to:

**State Telephone Co.**

**46 Reed St.**

**Coxsackie, NY 12051**