

Terms and Conditions for the Brighttel global SIM Service

1. Definitions

These words have the following meanings:

“**Agreement**” is the agreement between you and us for the global SIM card services to which these conditions will apply;

“**Service Provider**” means Brighttel.

“**Account**” is the account in which we record all your credit and charges;

“**Network Guide**” is the booklet that explains the global SIM service. It also explains how credit operates and provides other relevant information;

“**Top-Up Voucher**” is one method by which you can credit your account;

“**Global SIM card service,**” “**GSM services**” or “**GPRS service**” means the ability to make calls, or send, or receive, data over the network using Prepaid, or post pay, credit and includes any other GSM services which we provide as part of the global SIM card service;

“**Brighttel’s office**” means Brighttel, 1417 Cyrville Road, Ottawa, Ontario, Canada, K1B 3L7

“**Calls**” means calls made whilst roaming on networks with which we have a roaming agreement for mobile service to all destinations;

“**Certificate**” means a card on which is printed the service information relating to your subscription; “**Charges**” are the charges for the global SIM card services you use and these are shown in the Price List, as updated from time to time. Copies of relevant charges are also available from the Brighttel’s main office;

“**Credits**” means the monetary amount we credit to your account either by you buying a “Top-up Voucher” and registering it with us as described on the voucher or in the Network Guide, or by contacting us and crediting your account with a debit card/credit card as described in the Network Guide. Alternatively, it also applies to the credit you create from your purchase of a “Prepaid” card from an authorized agent;

“**Equipment**” or “**Handset**” or “**Mobile Phone**” means either any mobile phone, or other equipment, and a SIM card (where the context requires), which is approved for connection to the network, which is used by us to give you access to the global GSM services;

“GPRS” is the General Packet Radio Service for the transmission and receipt of data;

“Holder” means the plastic case in which the SIM card and associated documents were delivered to you;

“MRC” means “Monthly Recurring Charge” – which is a fee imposed for Post pay Subscribers;

“Network” is the Digital GSM Network;

“PIN” means the Personal Identity Number. This number is used to provide extra security for your mobile phone and SIM Card;

“Renewal Fee” means the annual charge that your account is subject to, following the twelve month anniversary of the activation of your account;

“SIM Card” means the Subscriber Identity Module issued to you for use with our network;

“Voicemail Service” means voice message service and includes, where the context requires or admits, any service or facility comprised in such service;

“We” “us” and **“our”** means Brighttel;

2. Our Agreement

a) This agreement between you and us, Brighttel, begins at the time that we accept your request for GSM services by accepting payment for the global SIM card.

b) The use of your global SIM card and associated mobile number and account whilst away from the UK is possible on networks of operators with which we have a roaming agreement for GSM and/or GPRS services.

c) Calls you cannot make from your Global SIM card:

- 1. Operator assisted calls – 100;
- 2. All Charge card calls, (144 numbers); and
- 3. Reverse charge calls.

d) The global SIM card service is a radio based GSM service and there are natural limitations to quality and coverage. Whilst every effort is made to minimize these limitations and to ensure that the GSM services are available to you at all times, we are not liable for any failure, delay, interruption, suspension,

or restriction of the GSM services or for a call being cut off for any reason, in particular for reasons beyond our control. You will only be able to make and receive calls when you are in an area covered by the relevant network.

3. Voicemail Service

We shall provide to those customers who request the Voice Messaging Service access to any service or facility comprised in such a service. For reasons of system capacity, the Voicemail Messaging Service is limited to a maximum amount of call storage time. We reserve the right (i) to make increased charges should such Voicemail storage reach the authorized limit; (ii) to suspend; or (iii) to terminate this service to any customer.

4. Your Account and Charges for Service

a) Our Prepaid service means that you purchase Top-up Vouchers enabling you to make calls, send SMS text messages and send and receive data. Some Top-up Vouchers have an expiry date. The expiry date is shown on such Vouchers and they must be used before their stated expiry dates. Failure to do so will result in an invalid Voucher and the credit will be lost. Brighttel and/or its authorized Agents will not refund monies for expired Vouchers.

b) Our Post pay service means that you have elected to have us automatically either debit your credit card, or issue a payment request in the form of an invoice, when your usage balance reaches a certain threshold or on the basis of a calendar month charging period. In addition, should we offer you a Post pay service; this service will be subject to a monthly recurring charge (the "MRC").

c) Charges for our Services shall be calculated by reference to our current, relevant Price List that is available to all customers on request, or through on-line access, and it should be noted that we reserve the right to up-date such Price List from time to time. Call charges shall be calculated by reference to the details of your calls recorded by, or recorded on behalf of Brighttel. The duration of the call shall commence by reference to the details of all data transmitted or received by the Customer and will include any present data, recorded by, or recorded on behalf of Britel. The amount of data will include such data that is added to control the flow of data across the relevant Mobile Carrier's Cellular Service network.

d) If you, as a Prepaid subscriber, make calls, charges are incurred and they will be deducted from the amounts that you have credited to you account. When all your credit has been used up, you will no longer be able to use the global SIM card service to make outgoing calls until you Top-up your account either using another Voucher or your debit/credit card. Incoming calls may not allowed when you have no credit as certain inbound calls made by your caller, while he/she is roaming, are chargeable.

e) For Prepaid accounts, you hereby irrevocably authorize us to debit your debit or credit card for all relevant charges from your account as you incur them. You may make calls until your credit is used up. If you Top-up before your credit expires, any unused credit from your previous Top-up will be carried forward. When you complete a call, the system will notify you of the call cost and your remaining credit balance. This service can be switched off and on as you elect, by simply going to our Website and accessing your "Profile" page. Additionally, at any stage, you can Dial **187** to find out your account balance.

f) For Post pay accounts, you hereby irrevocably authorize us to debit your debit or credit card for all the relevant charges to your account as they are incurred.

g) Once your account has been activated, you may receive, and make, calls on the global SIM card service for a period of twelve months from the date of activation. Upon your twelve-month anniversary, your account will be subject to a renewal fee. You will receive a 15-day grace period within which to make such fee. Failure to pay such fee will result in your account being terminated and any credit balance in your account at such time will be forfeited.

h) If you do not renew your subscription by its anniversary date, then your global SIM card service will move to an inactive state and you will receive a fifteen (15 "grace period" within which to activate your account. The following actions will automatically occur:

- Your service will become inactive but your online access to your account will remain active;
- You will not be able use the GSM service to make or receive calls (except to make calls to the emergency services and the Customer Service number **154**). This period of inactive state will continue for a maximum of fifteen (15) days. You can reactivate your account at any time during this fifteen (15) day period and any unused credit unused from your previous Top-up will be carried forward; and
- If you do not reactivate your account during this fifteen (15) day period, your account will become retired from the network and any remaining credit will be forfeited. In such circumstances, Britel has no liability or obligation to pay or refund you the cost of either any mobile handset and/or any SIM pack provided by Britel.

i) Calls (except calls to certain fixed fee services and to Directory Enquiries and International Directory Enquiries numbers), are charged at 6-second intervals. There is a minimum charge of 30 seconds. There will be no automatic compensation for disrupted calls.

j) The cost of the calls is as set out in the Price List is available online at www.Brighttel.com or on request. When we make a change to the charges payable, we will publish such change details (including the operative date) in the

Price List as soon as possible and, in any event, not less than 14 days before the change is due to take effect.

k) All published charges for the global SIM card service are exclusive of all applicable Taxes, unless it is explicitly stated that they are “inclusive” prices. GST and PST, or any other applicable sales tax, will be charged at the prevailing rate of the country in which the subscriber resides at the time of the chargeable event.

l) For Prepaid subscribers, if you make a call and your credit is used up while you are making the call, the call may be terminated. If a call is attempted for which there is insufficient credit in your account for a minimum duration call (30 seconds), then such a call will not be allowed. For Post pay subscribers, if your charge card is either not chargeable, the transaction is declined by the charge card supplier or the payment of an invoice falls outside its stated terms, in such cases, we reserve the right to terminate our service to you.

m) Your Top-up Vouchers issued to you are your property and you are responsible for any loss or damage to them. You are responsible both for the use of your Mobile Phone and any PIN/PUK codes issued with it and for the costs of any of the GSM services obtained through its use. You are liable for all charges, which are, or become, payable in respect of your account, whether the account is used by you or by any third party.

n) If your mobile phone is lost or stolen, it is your responsibility to report it both to the Police, and to Brighttel, by using either the Customer Service number **154**, by email using support@Brighttel.com or directly by calling our Help Desk on 447624156700. Once reported, we will remove such the global SIM card from use. However, in any of such cases, you are responsible for any charges incurred up to that point. We will be happy to replace your global SIM card at a replacement cost of \$50.00 USD. plus Sales Tax or VAT(if applicable) and postage, so you can continue using the service with your original telephone number. We strongly advise that you take our insurance to cover any loss, damage or theft.

o) Itemized statements of account are available with the global SIM card service, by logging onto your account online www.Brighttel.com Logging-on requires a User Name and Password – which have been included with your SIM card package.

p) Your credit is not transferable to third party accounts.

q) The “CLI” (the Caller Line Identity) of your phone (your mobile number) will always be released when you make an outgoing call, but we cannot be held responsible for the ultimate delivery of this number through networks outside our direct control.

5. Global SIM Card

a. A global SIM Card is provided. It may have been inserted into the phone you are using. You must not interfere with this card for any reason. If the SIM card is damaged (through no fault of Brighttel), you will be required to pay for any replacement, exchange or repair of such SIM Card. If you require a replacement SIM Card you must notify us using the 154 customer service number, by email using support@Brighttel.com, directly on 447624156800 or write to Brighttel - quoting your name, address, contact telephone number, mobile number, (as printed on your SIM Card Holder & Certificate), day of activation of global SIM card service and/or proof of purchase, and any other relevant information that may be required by Brighttel. A SIM card replacement will cost \$50.00 USD plus Sales Tax or VAT(if applicable) and postage and must be paid for in advance to Brighttel.

b. To prevent unauthorized use of your mobile phone, your SIM card will become blocked if an incorrect PIN code is entered 3 times. If the SIM card is blocked, you will be unable to use your phone in any way. In order to unblock the SIM card in the phone, you must enter your PUK code (Personal Unblocking Key). This PUK code is printed on your Brighttel SIM Card Holder & Certificate.

c. In the event you have blocked your phone and you have lost your SIM Card Certificate, you must notify us using the Customer Service number 154, by email using support@Brighttel.com, calling directly on 447624156800 or in writing and quote your name, address, contact telephone number, global SIM card mobile telephone number, place and date of purchase of the SIM pack, date of activation of GSM service and date of last Top-up voucher (and any other relevant information that may be required).

d. If you, or any third party, have incorrectly entered your pin code more than 13 times in total, the SIM card will be permanently blocked. You will be required to purchase a new SIM card. You must notify Brighttel in writing and quote your name, address, contact telephone number, place, and date of purchase of the SIM card pack along with proof of purchase. There is a charge for replacing of \$50.00 USD plus Sales Tax or VAT (if applicable) and postage payable in advance to Brighttel.

6. Variation of Terms and Conditions, Entire, Agreement, Assignment

a. Brighttel can, from time to time, change the Terms and Conditions of this Service, other than the charges payable under it, by a document referring expressly to this Clause and signed by a duly authorized employee of Brighttel. Brighttel will publish details of any changes (including the operative date) on its Website as soon as possible, but, in any event, not less than two (2) weeks before any changes are to take effect. Subject thereto, these Terms and Conditions and any document referred to herein constitute the entire agreement between us and shall not be varied save by agreement in writing.

b. You are not allowed to transfer, or assign, all or any of your rights and obligations under this Agreement to anyone else without our written permission. We may assign or sub-contract our rights and/or duties either in whole, or in part, without your consent.

7. General

a) Any difficulties you may have in relation to our services should be addressed to the Customer Service Centre. Outside North America Please Dial 154 – or call +447624156800 from North America Please Dial 1888 206-0462.

b) Emergency Service: **The use of a mobile phone to telephone 911, 999 or 112 service is not guaranteed** and must not be relied upon as an alternative to emergency calls via the fixed telephone network or the established marine emergency procedures.

c) The GSM services are made available to you on the basis that you and any other party using the global SIM card service with your express, or implied consent, or for whose use of the GSM services you are responsible (see Clause 3. j. above). You will:

- Not use the services for any improper or unlawful purpose or allow others to do so;
- Only use mobile phones approved for use with the GSM network;
- Comply with all relevant legislation or regulations relating to the use of such equipment and the use of the GSM network services;
- Comply with any reasonable instructions issued by us from time to time, which concern use of the equipment or the global SIM card service and Top-up Vouchers;
- Comply with any reasonable request, in particular, in relation to the investigation of fraud or other offences; and
- Not act or omit to act in any way likely to injure or damage any person, property or the network, or cause the quality of the GSM services to be impaired or interrupted in any manner whatsoever.

d) Actions considered abusive or fraudulent by a subscriber of the mobile number of any of the services provided to the service may result in the withdrawal of all or any of the services. We are not required to provide any notice of such a withdrawal, but we will attempt to provide warnings by any suitable means.

e) We may interrupt or suspend the GSM services at any time, on reasonable notice where possible, to facilitate any modification, maintenance or remedial work in respect of the network or the GSM services. We will use all reasonable endeavors to keep such events to a minimum.

f) We may interrupt or suspend the GSM services either with, or without, prior notice to you and/or we may terminate this agreement if:

- You are in breach of any of these conditions or fail to comply with them; or
- You act or omit to act in such a way that the operation of the network or the quality of the GSM services may in our reasonable opinion be jeopardized or impaired; or
- You use, or attach to, the network, equipment which is not approved for use with the network and which does not comply with all relevant legislation or regulations in relation to their use; and/or
- We reasonably suspect that a fraud is being perpetrated against us or any other third party.

g) We reserve the right to levy a connection fee for any reconnection to the network where your access to the GSM services has been interrupted or suspended in circumstances envisaged above. In such event, we reserve the right to refuse to reconnect you to the network unless you furnish security or agree to adhere to the terms and conditions of the service.

h) Nothing contained in the terms and conditions of sale of the global SIM card service (including the SIM card packs and/or GSM Top-up Vouchers) will be constituted as vesting in or transferring to you any right, title or interest in the software, the mobile phone number or the number contained on any GSM Top-up Vouchers.

i) We reserve the right to refuse any request for information where we are unable to verify that the caller is the subscriber of the account.

j) Any person to whom your mobile number and account are transferred should be made aware of these terms and conditions. Copies of the terms and conditions are available at our main office, or via the website at www.Brighttel.com.

8. Law and Arbitration

a. This contract shall be governed by the Ontario, Canada law and you hereby submit to the jurisdiction of Ontario, Canada Court.

b. Any dispute arising under this Contract, which does not involve a complicated issue of law or a sum exceeding \$5,000 USD (or such sum as may be set from time to time by the relevant governing trade or government authority) may be referred to arbitration by either party under the procedures previously agreed between Brighttel and the Chartered Institute of Arbitrators.

9. Limit of Liability

- a. For the avoidance of doubt, Brighttel has no obligation, duty or liability in contract, tort (including negligence or breach of statutory duty) or otherwise beyond that of a duty to exercise reasonable skill and care.
- b. Subject to Clause 8.b, in any event Brighttel has no liability whatever whether in contract, tort (including negligence or breach of statutory duty) or otherwise for the acts or omissions of other providers of telecommunications services or for faults in or failures of the Service or SIM card.
- c. Brighttel does not exclude or restrict liability for death or personal injury resulting from its own negligence or from the breach of its obligation to exercise reasonable skill and care or liability arising by virtue of Part 1 of the Consumer Protection Act 1991.
- d. Subject to Clause 8.b, in any event Brighttel's liability in contract, tort (including negligence and breach of statutory duty) or otherwise arising by reason of or in connection with this Contract or howsoever otherwise shall be limited to \$500,000 CND for any one incident or series of related incidents and \$1,000,000 CND for any series of incidents related or unrelated in any period of 12 months.
- e. In any event in no circumstances shall Brighttel be liable in contract tort (including negligence and breach of statutory duty) or otherwise for loss (whether direct or indirect) of profits, business, revenue or anticipated savings or for any indirect or consequential loss, wasted expenses financial loss data being lost or harmed or damage whatever.
- f. Where the Customer does not take the Service in the course of a business (or hold himself out as doing so), this Clause 9 does not affect the Customer's statutory rights.
- g. Each provision of this Clause 9 is to be construed as a separate limitation applying and surviving even if for any reason one or other of the said provisions is inapplicable or held unreasonable in any circumstances and shall remain in force notwithstanding termination of this Contract.
- h. The Customer shall forthwith on demand indemnify Brighttel against all claims losses, liabilities, costs and damages that Brighttel may incur that anyone other than the Customer threatens or makes against Brighttel because of the way the Service is used or because the Service is faulty or cannot be used arising otherwise than by reason of default on the part of Brighttel.

10. Force Majeure

Brighttel is not liable for any breach of this Contract where the breach was caused by part of Brighttel, insurrection or civil disorder, war or military operations national or local emergency, acts or omissions of government,

highway authority, regulatory authority or other competent authority. Brighttel's compliance with any statutory obligation or an obligation under a statute, international treaties and other international agreements, industrial disputes of any kind (whether or not involving Brighttel's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional telecommunication service providers and foreign GSM or GPRS operations) or any other cause whether similar or dissimilar outside our reasonable control.

11. General Powers of Brighttel

Brighttel reserves the right to:

- a. Alter the name or number of the customer's Cell phone, or other name, code or number whatsoever allocated by Brighttel from time to time for use in connecting with Service;
- b. In an emergency, temporarily to suspend Service to the Customer wholly or in part for the purpose of the provision of temporary emergency telecommunication services; and
- c. To give such instructions concerning the use of Service as Brighttel decides from time to time in the interests of safety, quality of service, to the Customers of the Service as a whole and the Customer agrees to comply with such instructions.

Copyright 2006 Brighttel

