

**TERMS**

The following are the terms and conditions set forth by Direct Communications (DC) under which you agree when subscribed to DC services. Unless otherwise provided, the terms and conditions for the equipment used in association with this Service are those terms and conditions provided by the equipment manufacturer.

After notification of a modification, your continued use of the Service and equipment constitutes an affirmative agreement to be bound by such new terms, conditions, and charges.

**1. SERVICE**

By accepting services, you agree to abide by the terms set forth herein and are bound by such terms and conditions.

All Internet Services are “up to” speed packages. There is no minimum guaranteed speed for the Service.

You agree to abide by the Acceptable Use Policy as outlined on the DC website: <https://directcom.com/>.

Commencing on the date Service is installed, you will pay the current charges for such Service and equipment, including installation charges and shipping and handling charges (if applicable) upon commencement of billing. Billing will begin when we have activated your Service on our network whether or not you have completed self-installation or actually use said Service.

The Service shall continue until such time as you provide DC with notice that you wish to discontinue Service, or Service is terminated and/or canceled by DC, as set forth herein.

DC reserves the right to modify or discontinue Services upon notice to you.

**2. BILLING, PAYMENTS & FEES**

You agree to pay all fees and charges specified when you ordered your Service, including but not limited to recurring and nonrecurring charges for Internet Access and the associated equipment.

DC encourages customers to receive monthly billing statements electronically free of charge. Paper statements are available upon request for a fee. Following installation, the online portal instructions will be emailed. It is your responsibility to set up your online account to view your monthly statements, make one-time payments and/or set up recurring payments for the date of your choice. If you choose to set up recurring payments through your online account, the recurring payment date must be after the 7<sup>th</sup> of the month to ensure billing has been fully processed.

DC bills in advance on the 1<sup>st</sup> of the month for that month’s service. Because your service is likely being installed after billing for that month has been completed, your first bill will include charges for services from the time of installation through the end of the following month. This means your first statement will have charges for more than one month.

You are responsible to review your monthly billing statement for any errors. Unless notified, DC assumes the billing statement is corrected upon payment following the statement issuance date. In the unlikely event of an error, you must report the error to DC immediately. Billing errors will be corrected upon notification for the month in which they are reported and may not be prorated.

If any portion of payment is received after the payment due date (25<sup>th</sup> of each month), a monthly late charge may be charged to you. The monthly late charge will be the lower of: i) 1.5%; or ii) the highest amount allowed by law, applied to the entire outstanding balance for each month or portion thereof for which the balance remains.

**AUTOPAY:** Upon your request, DC will bill the credit card you provide or automatically debit the checking/savings account you provide to us for all

Service charges, including installation charges, if applicable, on the 25<sup>th</sup> of the month, or the following business if the 25<sup>th</sup> falls on a holiday or weekend.

DC may suspend or discontinue the DC Service if charges are not paid.

In the event you fail to pay the monthly charges billed to your credit card or debited to the checking/savings account you provided us, DC reserves the right to bill all outstanding sums to your credit card or to bill you directly.

DC may assign unpaid late balances to a collection agency for appropriate action. In the event legal action and/or collections is necessary to collect on balances due, you agree to reimburse DC for all expenses incurred to recover sums due, including attorneys’ fees, collection fees and other legal expenses.

DC reserves the right to charge a minimum \$50.00 if you are not present at the location for a scheduled dispatch appointment.

DC reserves the right to charge \$99.00 to transfer the service to a new location due to move or other reasons.

For instances where a technician is dispatched to address a service issue and it is found that DC’s services are working properly but the service concern is within the customer’s home network, you will be charged for the appointment.

**3. CANCELLATIONS, TERMINATIONS AND ASSIGNMENTS**

**You may terminate Services upon notification to DC. You agree to pay the entire amount due for the month in which Service is terminated.**

If you disconnect service within a signed 12-month or 24-month service agreement (optional), additional terms apply per the agreement including but not limited to payment of the remaining months left in the agreement plus an additional \$99 cancellation fee plus all applicable equipment and promotional charges.

Service equipment such as modems and routers provided by DC must be returned within 15 days of termination of service or will result in equipment charges being added to your final billing statement.

If you fail to pay any charge when due, including, but not limited to, installation charges or taxes, or if you fail to perform or observe any other material term or condition of Service, or if you provide false or inaccurate information which is required for the provision of the Service or is necessary to allow DC to bill you for the Service, and such condition continues unremedied for 15 days, DC may suspend or terminate the Service to you. You may not assign your account on the Service to anyone without the express written consent of DC. Upon reasonable notice, DC may assign its rights and obligation.

In the event a ruling, regulation or order issued by a judicial, legislative or regulatory body causes DC to believe that these terms, conditions and/or the Services provided hereunder, may be in conflict with such rules, regulations and orders, DC may suspend or terminate the Service, or modify these terms without liability.

In the event a DC subcontractor for a Service stops providing the Service to DC for any reason, DC shall have forty-five calendar days to arrange for a reasonably comparable service. If DC cannot arrange for reasonably comparable Service either you or DC may thereafter terminate the affected service without liability.

**4. CUSTOMER SUPPORT**

If you are having trouble with your service, DC’s Technical Support team is available 7 days a week. If Technical Support is unable to resolve the issue after troubleshooting, a technician will be dispatched. If you refuse to actively troubleshoot with Technical Support, no technician will be dispatched.

You will be responsible for payment of service charges for visits by DC or its subcontractors to your premises when a service request results from causes not attributable to DC or its subcontractors. For instances where a technician is dispatched after troubleshooting an issue with you and it is found that DC’s services are working properly and/or the service concern is within your home network, you will be charged for the appointment.

DC is not responsible to support customer-provided equipment.

Upon request, service credits will be considered against actual billed charges for the affected service from the time the issue is reported to DC Technical Support until the issue is resolved if caused by DC. Credits will not be granted for service interruptions prior to the issues being reported to DC or issues not attributable to DC.

DC reserves the right to charge a minimum \$50.00 if you are not present at the location for a scheduled dispatch appointment.

#### **5. COMPATIBILITY**

You are solely responsible for provisioning, configuration and maintenance of all equipment on your premises, including, without limitation, computers, modems and other communications equipment. DC shall not be responsible for delays in the provision of Service resulting from incompatibility of such equipment, or resulting from improper provisioning, configuration or maintenance of such equipment.

#### **6. EASEMENT**

You agree to provide DC with an easement across the property, and at all termination point for the existing fiber, copper or cable, allowing them access for installation, maintenance, repair and upgrade as may be necessary, on the terms set forth.

You will provide DC and its subcontractors reasonable access to your premises in order to install, maintain and repair the Service.

#### **7. PROVISION OF SERVICE**

You understand and agree that temporary interruptions of the Service may occur as normal events in the provision of the Service. You further understand and agree that DC has no control over third party networks you may access in the course of your use of the Service, and therefore, delays and disruption of other network transmissions are completely beyond the control of DC.

#### **8. LIMITATION OF LIABILITY**

DC will make reasonable efforts to provide continuous, uninterrupted, expedient and error-free Service to you. Under no circumstances shall DC be liable to you or any other person for any special, incidental, consequential or punitive damages of any kind, including without limitation, loss of profits, loss of income or cost of replacement Services.

DC's liability for damages, including but not limited to damages in regards to interruptions of Service, for mistakes, omissions, delays, errors and defects in the provision of the Service, shall in no event exceed an amount equal to the pro-rata charges to you for the period during which the Service is affected.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, DC HEREBY DISCLAIMS ANY AND ALL WARRANTIES INCLUDING IMPLIED WARRANTIES OF FITNESS, MERCHANTABILITY AND PERFORMANCE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

DC MAKES NO WARRANTY THAT THE SERVICE WILL MEET YOUR REQUIREMENTS, OR THAT THE SERVICE WILL BE

UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES DC MAKE ANY WARRANTY AS TO THE ACCURACY OR

RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICE. FURTHERMORE, DC PROVIDES NO GUARANTEE WITH REGARD TO THROUGH PUT SPEEDS WITH THE SERVICE. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED, OR OTHERWISE OBTAINED, THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN RISK, AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA.

#### **9. INDEMNITY**

By accepting service, you agree to indemnify and save DC harmless from all claims, losses, liens, expenses, suits and attorneys' fees ("Liabilities") for

injuries to or death of any person and for damages to or loss of any property which may in any way arise out of or result from or in connection with your use of the Service, except to the extent that such Liabilities arise from the intentional misconduct of DC.

You also agree to indemnify DC, its parent, affiliates and subsidiaries, in the event that your use of the Service and/or Software; (i) constitutes a violation of any law, regulation or tariff (including, without limitation, copyright and intellectual property laws); (ii) is defamatory, fraudulent or deceptive, (iii) is intended to threaten, harass or intimidate, or (iv) interferes with other customers' use or enjoyment of the Services provided by DC.

#### **10. USE LIMITATIONS**

You agree to comply with all Federal and State regulations, the rules, regulations and policies adopted by DC, including but not limited to, DC's Acceptable-Use-Policy [located at <https://directcom.com>], as modified from time to time; and the rules regulations and policies applicable to any network that you access through the Service. Any violation of such rules, regulation and policies, or any network policy document issued by DC, shall be cause for DC to suspend or terminate the Service.

Nothing contained herein may be construed to convey to you any interest, title, or license in the user ID, electronic mail address, Universal Resource Locator, IP Address or domain name used by you in connection with the Service.

DC reserves the right to suspend or terminate the Service to you, or to suspend or terminate any user ID, electronic mail address, Universal Resource Locator or domain name used by you, in the event it is used in a manner which (i) constitutes violation of any law, regulation or tariff (including, without limitation, copyright and intellectual property laws); (ii) is defamatory, fraudulent, obscene or deceptive; (iii) is intended to threaten, harass or intimidate; (iv) tends to damage the name or reputation of DC, its parent, affiliates and subsidiaries; or (v) interferes with other customers' use and enjoyment of the Services provided by DC.

By accepting services, you understand and agree that any attempt to break security, or to access an account which does not belong to you, shall be considered a material breach of these terms, and such breach may result in suspension or termination of the Service. You further agree to immediately notify DC of (i) any unauthorized use of your account and/or (ii) any breach, or attempted breach, of security known to you.

The Service has been designed to be used at the residence or business at which it was installed. You may not allow other residences or businesses to connect to your Service or re-sell your Service in any manner. Such action may be subject to immediate termination of your Service and you will be charged termination fees, if applicable.

#### **11. FORCE MAJEURE**

Neither DC nor you shall be responsible for damages or for delays or failures in performance resulting from acts or occurrences beyond their reasonable control, including, without limitation: fire, lighting, explosion, power surge or failure, water, acts of God, war, revolution, civil commotion or acts of civil or military authorities or public enemies: any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including without limitation, strikes, slowdowns, picketing, or boycotts; inability to secure raw materials, transportation facilities, fuel or energy shortages, or acts or omissions of other common carriers. No delay or failure to perform shall be excused under this Section by the acts or omissions of DC's subcontractors, vendors or suppliers unless such acts or omissions are themselves the product of a force majeure condition described in this Section.

#### **12. GENERAL**

These terms and conditions shall be construed in accordance with the Laws of the State in which the Service was provided. In the event that any terms and conditions conflict with any regulation, the regulation will supersede these terms and conditions.