

**DIGITALBRIDGE COMMUNICATIONS CORP.**

**TERMS AND CONDITIONS OF SERVICE**

**Last Modified: January 27, 2009**

Welcome to DigitalBridge Communications Corp. and thank You for allowing us to provide you with wireless communications services.

**Before you begin using our Service, we urge you to carefully read this Agreement. The Services shall be provided subject to the terms of this Agreement. By activating, accessing or using the Service, you agree to be bound by the terms and conditions set forth below. If you do not agree to be bound by the terms and conditions of this Agreement, you may not use the Service or any DBC Equipment.**

**We may modify this Agreement at any time without notifying you. All modifications will be posted on our website at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com). We urge you to review the Agreement periodically as posted on [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) to ensure you are aware of any updates and amendments to these terms and conditions. Your continued access or use of the Service shall be deemed to be your conclusive acceptance of the modified Agreement.**

**I. Definitions.**

Through this agreement, the following definitions shall apply:

**“Agreement”** means this agreement as may be amended from time to time.

**“CPE Modem Fee”** means a fee of \$250 which shall be assessed to any Member who leases a CPE modem from DBC and fails to return it to DBC in good working order when their Service is canceled or terminated.

**“Customer Equipment”** shall have the meaning set forth in section 4.1 below.

**“DBC”, “Operator”, “we”, “our”, and “us”** means DigitalBridge Communications Corp., and any DBC affiliates authorized to provide you with the Services.

**“DBC Equipment”** shall have the meaning set forth in section 4.1 below.

**“DBC Marks”** shall have the meaning set forth in section 10 below.

**“Early Termination Fee”** shall have the meaning set forth in section 3.4 below.

**“Event of Default”** shall have the meaning set forth in section 7.1 below.

**“Indemnified Parties”** shall have the meaning set forth in section 11 below.

**“Initial Term”** shall have the meaning set forth in section 3.1 below.

**“Member”** means a registered user of the Service identified in the account registration process.

**“Premises”** means the primary location where you receive the Services.

**“Service” or “Services”** means wireless broadband internet access, phone and related services provided by DBC.

**“Service Plan”** means the specific Service and payment options a Member has selected during his or her registration.

**“Software”** means the computer software, if any, licensed by Operator to Subscriber to access the wireless broadband internet access or phone Service, or licensed by Operator to Subscriber to facilitate installation or distribution of the wireless broadband internet access or phone Service.

**“Subscriber”** means the account holder authorized by Operator to access and use the wireless broadband internet access or phone Service.

**“Subscriber Materials”** means the handbooks, manuals and other guide materials provided by Operator to Subscriber regarding use of the wireless broadband internet access or phone Service.

**“Subscriber Privacy Notice”** means the Subscriber Privacy Notice described in section 13.1, as it may be amended from time to time by Operator.

**“Terms and Conditions of Use”** shall mean all rules, terms and conditions set forth in this Agreement or otherwise established now or hereafter by Operator regarding permissible or impermissible uses of, or activities related to, the DBC wireless broadband internet access or phone Service.

**“You/Your”** means any Member or other person or entity using the Service or any part of the Service.

## **II. Provisions Applicable to All DBC Services.**

### **1. General.**

1.1. Subscriber represents and warrants that he/she is at least 18 years of age.

1.2. Operator shall have the right at any time to add to, modify, or delete any aspect, feature or requirement of the Service, including but not limited to equipment and system requirements. Operator shall have the right to add to, modify, or delete any provision of this Agreement, any Terms and Conditions of Use established by Operator, the Subscriber Privacy Notice, and/or any price list(s) and/or any applicable tariffs filed by Operator at the applicable state public utility commission at any time, if required. An online version of this Agreement, the Subscriber Privacy

Notice, and any price list(s) and/or applicable tariffs filed by Operator at the applicable state public utility commission, as so changed from time to time, will be accessible at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) or another online location as designated by Operator. In accordance with any applicable law, Operator will notify Subscriber of any significant change in this Agreement, the Subscriber Privacy Notice, or any price list(s) and/or any applicable tariffs filed by Operator at the applicable state public utility commission. Upon any such change and notice, Subscriber's continued use of the wireless broadband internet access and phone Service will constitute Subscriber's consent to such change. If Subscriber does not agree to any such change, Subscriber immediately shall stop using the Service and notify Operator that he/she is terminating the subscription to the Service.

1.3. Subscriber is responsible in all respects (including payment obligations) for all use of Subscriber's account and all use by others of Subscriber's account is subject to the terms hereof and any applicable tariff(s) filed by Operator at the applicable state public utility commission, if required. For the purposes of this Agreement, all use of Subscriber's account, whether or not authorized by Subscriber, shall be deemed Subscriber's use. Subscriber shall be responsible for ensuring that all use of Subscriber's account complies fully with the provisions of this Agreement and any applicable tariff(s) filed by Operator at the applicable state public utility commission.

## **2. Payment & Charges.**

**2.1. Services.** You agree to purchase and pay for the Service Plan You selected during Your registration including applicable charges for installation, if any, and all local, state and federal fees, taxes, and/or assessments imposed on the Service. Charges for the Service are set forth on a separate price list of which Subscriber hereby acknowledges receipt. Both the amounts and the types (e.g., periodic, time-based, usage-based) of charges for the Service are subject to change. By (i) initiating, activating or using the Service, (ii) providing or authorizing a written or electronic signature or (iii) otherwise so indicating Your acceptance of this Agreement either electronically or verbally over the phone to a DBC sales representative, You will have been deemed to have accepted the current version of the provisions of this Agreement (or ratified any previous consent to the same). If You do not agree to the provisions of the Agreement, You may not use the Service.

**2.2. Payment.** Upon accepting Your registration, DBC will bill You for the applicable Service Plan, DBC Equipment, installation fees and activation fees, if any, and will bill You up to thirty (30) days in advance of the first day of the month for which the charges relate, and thereafter for all recurring monthly charges during the Initial Term and any renewal term(s). All payments for the Service must be received by Operator on or before the due date stated on the monthly bill. An administrative late charge may be charged on accounts that are past due, which charge shall not exceed that allowed by the rules adopted by the applicable state public utility commission, if applicable.

**2.3. Commencement of Billing.** If You are self-installing the DBC Equipment, DBC will begin monthly billing for the Services upon the earlier of either: (i) 4 days after the DBC Equipment has been shipped to You; or (ii) Your first use of the Service. You are encouraged to complete installation promptly because You will be responsible for full payment for the charges

on Your bill even if You have not yet installed the DBC Equipment at the time the bill is rendered. If You request or require DBC to install the DBC Equipment, billing shall commence upon the successful completion of the professional installation.

**2.4. Payment Methods.** If authorized by You, DBC shall charge/debit all amounts payable by You to DBC pursuant to this Agreement to Your credit card, debit card or bank account that You have designated for recurring payments to DBC. By enrolling for recurring payments You authorize DBC to continue charging/debiting the designated credit card, debit card or bank account for all monthly fees (including without limitation monthly Service fees, DBC Equipment charges, as well as applicable taxes and fees) payable to DBC, and any other charges incurred by You and payable to DBC pursuant to this Agreement (including Early Termination Fees and CPE Modem Fees) until the earlier of Your withdrawal of Your recurring payment authorization or this Agreement is terminated. Monthly Service fees and DBC Equipment fees may be charged up to thirty (30) days in advance. You agree to inform us immediately of any change in the information provided in Your recurring payment authorization. Please note that Your card issuer and banking institution each have agreements which govern Your use of their institutions in connection with payment of the Service, and You must refer to the applicable agreement with respect to Your rights and liabilities under each agreement. If DBC does not receive payment from Your credit card issuer, Your bank or their agents, You agree to pay all amounts due upon demand by us.

If You instead choose to receive a bill for service via the US MAIL, DBC will assess a service fee as detailed on the price list during registration or can be made available upon request. Payments should be made to DBC and arrive by the due date listed on the bill.

#### **2.5. Delinquent Accounts.**

a. Delinquent accounts are subject to immediate suspension or termination of the Service at the sole discretion of DBC. In the event of such suspension or termination, all fees and charges (including Early Termination Fees and CPE Modem Fees) will become immediately due and owing together with any collection costs and/or fees incurred by DBC, including attorneys' fees, and DBC will be at liberty to pursue all rights and remedies it may have at law or in equity. In addition, You agree to pay a late fee equal to 1.5% or \$5 per month (or portion of a month), whichever is greater, on any past due balances until paid, subject to the highest amount permitted by law.

b. If Subscriber's account is delinquent and Operator sends a collector to the Subscriber's Premises, a field collection fee may be charged. The current field collection fee is listed in the list of charges on the price list and/or any applicable tariffs or can be provided on request. If Subscriber discontinues the phone Service or Operator's high speed Internet Service, or if any such Service to Subscriber is discontinued for any reason including non-payment, Subscriber may be required, in addition to payment of all outstanding balances on all accounts with Operator, to pay a reconnect charge or trip charge (where applicable) before reconnection.

**2.6. Credit Check.** You hereby authorize DBC to obtain Your credit information from consumer credit agencies and to make other similar inquiries and to receive information about

Your credit experience, enter this information in Your file, and disclose this information concerning You to appropriate third parties for reasonable business purposes in compliance with applicable law. Upon receipt of adverse credit information about You at any time, DBC reserves the right to suspend or terminate Your Service or require a deposit for Service, at our sole discretion.

**2.7. Billing Errors.** Subject to applicable law, You must notify us of any billing errors or other requests for refunds within sixty (60) days of the date on which the error occurred.

**2.8. Price Changes.** We may change the prices and charges for the Services from time to time. Unless otherwise stated, if we increase the price of Your Service Plan, we will notify You by e-mail and allow You to stay with Your old plan for at least two more billing cycles.

**2.9. Activation Fee.** A Service Activation Fee may be applied to Your first billing statement as indicated during Your registration.

**2.10. DBC Installation Fee.** If You request or require DBC to install the DBC Equipment, You must pay an Installation Charge in the amount specified by DBC at the time of Your request for installation.

**2.11. Service Fee.** Operator may charge a service fee for all returned checks and account debit, bank card or charge card charge-back. The current service fee is listed in the list of charges on the price list or can be provided on request.

### **3. Term & Termination.**

**3.1. Term.** The term of this Agreement shall commence upon the activation of Your Service, and shall continue for the length of time specified in Your Service Plan which is referred to herein as the Initial Term. After the Initial Term, this Agreement shall continue on a month-to-month basis until terminated pursuant to the terms of this Agreement. This Agreement will remain in effect until terminated by either Party or superseded by a revised Terms and Conditions of Use.

**3.2. Your Termination Rights.** You may terminate Your Service for any reason at any time by providing DBC with verbal or written notice of termination, in accordance with the terms of this Agreement. In the event You terminate Your Services any time after you have received your equipment or had your equipment professionally installed, any applicable fees and charges will accrue through the date of termination but all prepaid monthly fees for Services which were to occur after the date of termination will be refunded less any outstanding amounts due DBC including, if applicable, an Early Termination Fee and CPE Modem Fee.

**3.3. DBC'S Termination Rights.** We may terminate Your Service (i) at any time without prior notice if You fail to comply in full with any term of this Agreement, including but not limited to the payment terms set forth in this Agreement or (ii) for any other reason upon thirty (30) days notice to You. In the event we terminate Your Service for any reason other than Your violation of this Agreement, any fees and charges will accrue through the date of termination but

any prepaid monthly fees for Services not received will be refunded less any outstanding amounts due DBC including, if applicable, a CPE Modem Fee.

**3.4. Early Termination Fee.** If within the first 12 months after Your initial activation of the Service You terminate Your Service for any reason (or we terminate Your Service due to Your failure to comply with the terms of this Agreement, You agree to pay DBC an early termination fee of up to \$100 (the “**Early Termination Fee**”).

**3.5. Your Obligations Upon Termination.** Upon termination of Your Service You hereby agree that:

- a. You will immediately cease using the Services and the DBC Equipment;
- b. You will pay in full for Your use of the Service and the DBC Equipment up to the later of the effective date of termination of this Agreement or the date on which the Service is disconnected and the DBC Equipment has been returned to DBC. Partial months shall be paid on a pro-rated basis; and
- c. You shall return all DBC Equipment to DBC within 45 days after termination of Your Service. If Your DBC Equipment was installed by us, and our assistance is required for removal and uninstallation, then You will permit us, and our employees, agents, and representatives, to access Your Premises during normal business hours to remove the DBC Equipment. If any DBC Equipment is not returned in good working condition, You agree that DBC may bill You for such DBC Equipment (including the CPE Modem Fee) in the manner specified in section 2.4 above, including without limitation charging the credit card, debit card or bank account which You specified as a means of recurring payments, if applicable.

**3.6. Data, Names and Addresses.** Upon termination of this Agreement for any reason, DBC reserves the right to delete all Your data, files, electronic messages or other information that is stored on DBC's or our suppliers' servers or systems. In addition, You may forfeit Your account user name and all e-mail, IP and web space addresses. We shall have no liability whatsoever as the result of the loss of any such data, names or addresses.

**3.7. Retention of Rights.** Nothing contained in this Agreement shall be construed to limit our rights and remedies available at law or in equity.

#### **4. Equipment & Installation.**

**4.1. Required Equipment.** You understand that in order to utilize the Service You must provide certain equipment, including but not limited to, a personal computer, an Ethernet or other networking devices, if required, and an appropriate operating system (the "**Customer Equipment**"). In addition, certain other equipment will be installed and/or provided by DBC or our designee, including but not limited to, Software, hardware (including CPE modem), and external wiring owned by DBC ("**DBC Equipment**"). If You are leasing a CPE modem or any other equipment from us, all such leased equipment, including the CPE modem is also considered DBC Equipment. If You purchase Your own CPE modem, or other related equipment

it must meet the compatibility requirements established by DBC, and our underlying providers. DBC reserves the right to provide the Service only to the extent that You use equipment that meets DBC's specifications and requirements.

**4.2. Self Installation.** The installation services and related equipment that will be available from Operator for a standard installation are as described in Operator's price list and any applicable tariff(s). Other services that may be available from Operator at additional charges for a non-standard installation are also described in Operator's price list and any applicable tariff(s). If self-installation is available from Operator and elected by Subscriber, Operator will provide kits and instructions and any related installation services as described in the price list and any applicable tariff(s). Subscriber authorizes Operator to make any preparations to the Premises necessary for the installation, maintenance, or removal of equipment.

**4.3. Professional Installation.** If You have requested DBC to install, remove or service any DBC Equipment at Your Premises, You hereby authorize DBC and its employees, agents, and representatives to enter Your Premises in order to install, remove or service the DBC Equipment. All such access will occur during normal business hours. You represent and warrant that You are the owner of, or a tenant in, the Premises, and that You have the authority to enter into this Agreement. You agree to indemnify, defend and hold harmless DBC and its employees, agents, and representatives against all claims and expenses (including reasonable attorney fees) arising out of any breach of this section 4.3. Operator and its authorized agents may enter Subscriber's Premises and have access to the Operator Equipment and Subscriber's computer(s) periodically during the term of this Agreement and after its termination to install, connect, inspect, maintain, repair, replace or alter the Operator Equipment, to install or deliver the Software, or to disconnect and remove the Operator Equipment. If Subscriber is not the owner of the Premises upon which Equipment and Software are to be installed, Subscriber warrants that he/she has obtained the consent of the owner of the Premises for Operator personnel and/or its agents to enter the Premises for the purposes described in this section. Subscriber shall indemnify and hold Operator harmless from and against any claims of the owner of the Premises arising out of the performance of this Agreement.

**4.4. DBC Equipment.** DBC Equipment will at all times remain the property of DBC, its designee or supplier. DBC may periodically replace, upgrade or otherwise modify any DBC Equipment. DBC will repair or replace any properly maintained DBC Equipment that fails to operate as required for the delivery of Service. DBC will have the sole discretion to determine whether to repair or replace any DBC Equipment. Repair or replacement of the DBC Equipment is DBC's only responsibility, and Your exclusive remedy, regarding the DBC Equipment. You may not modify any DBC Equipment in any way. In the event of any damage to the DBC Equipment not resulting from ordinary wear and tear or the direct and sole result of DBC's act or omission, DBC reserves the right, as determined by DBC, to charge You for the actual cost of repair of the DBC Equipment or charge You for the replacement DBC Equipment at full retail price. You agree not to use the DBC Equipment for any purpose other than to use the Service pursuant to this Agreement. During the term of this Agreement, DBC Equipment shall only be repaired and maintained by DBC or a DBC authorized repair technician. You shall not sell, transfer, lease, encumber or assign all or part of the DBC Equipment to any third party. You are prohibited from relocating any DBC Equipment, other than the CPE Modem, to a Premises other

than the Premises on file with DBC. If You change residences or disconnect Your Service, You must contact DBC for additional information concerning disconnecting the Service, and the procedures for transferring the DBC Equipment and Service to Your new residence. You shall be solely responsible for the cost incurred by DBC to replace any lost, stolen, unreturned, damaged, sold or otherwise encumbered DBC Equipment or part thereof, together with any incidental costs incurred by us relating to the replacement of the DBC Equipment.

#### **4.5. DBC Devices**

a. Limited Warranty. Except as set forth in these Terms and Conditions of Use, if You received a device from us and the device included a limited warranty from another person (such as the manufacturer) at the time You received it, You should read the separate limited warranty document You got with the device for information on the limitation and disclaimer of certain warranties. We will provide a limited warranty on the device only for manufacturing defects for a period of 1 year from Your subscription date.

b. Repair or replacement. Your only remedy for any breach of any limited warranty or other breach of any duty regarding a device is to get a repaired or replacement device by following our return procedures. This limited warranty applies in place of the limited warranty included with the device if the included limited warranty is less favorable to You than this warranty.

c. Receipt of damaged devices. If You receive cartons or devices that are visibly damaged, You must note the damage on the carrier's freight bill or receipt and keep a copy. You must also keep the original carton, all packing materials, and parts in the same condition in which You received them from the carrier. You must then contact our customer care department immediately at 1-800-979-3781.

d. Risk of Loss. You will bear all the risk of loss, theft, or damage to any DBC Equipment provided to You in connection with the Services. This risk is from the time we ship and or install Your DBC Equipment to You until the time You return it to us according to this Agreement.

e. Tampering. You may not change the electronic serial number or equipment identifier of Your device or perform a factory reset of Your device without first getting our written consent.

f. You are prohibited from using DBC's Services with any devices other than DBC-approved devices.

**4.6. Technical Requirements.** The current minimum technical and other requirements for Customer Equipment (including without limitation required computer hardware) in connection with the Service are posted on our web site at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) and may be revised by us from time to time without notice. DBC shall have no obligation to provide, maintain or service the Customer Equipment. Installation or use of the Service in conjunction with Customer Equipment that fails to meet our minimum requirements is not recommended. If

You proceed with such a non-recommended configuration, our support will be limited to issues relating to signal strength delivered to Your Premises, and we do not warrant that Your configuration will enable You to successfully install or use the Service. YOU ACKNOWLEDGE THAT USING EQUIPMENT THAT DOES NOT MEET OUR MINIMUM REQUIRED SPECIFICATIONS MAY DAMAGE YOUR CUSTOMER EQUIPMENT, INCLUDING WITHOUT LIMITATION YOUR COMPUTER, PERIPHERALS, SOFTWARE OR DATA AND YOU EXPRESSLY ASSUME ALL RESPONSIBILITY AND LIABILITY WHATSOEVER FOR ANY SUCH DAMAGE. This limitation of liability is in addition to and shall not limit any other limitation of liability set forth in this Agreement.

## **5. Disclaimer of Warranties and Damages.**

### **5.1. Limited Warranty.**

a. THE DBC EQUIPMENT AND THE SERVICE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER DBC NOR OUR SUPPLIERS, OR AGENTS WARRANT THAT ANY USE OR PERFORMANCE OF THE DBC EQUIPMENT OR THE SERVICE WILL MEET YOUR REQUIREMENTS OR WILL PROVIDE UNINTERRUPTED USE OR WILL OPERATE ERROR FREE OR AT ANY MINIMUM SPEED. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY EXPRESSLY EXCLUDED. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THE SERVICE AND THE DBC EQUIPMENT.

b. WE DO NOT AUTHORIZE ANYONE TO MAKE A REPRESENTATION OR WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. ANY STATEMENTS MADE IN ANY PACKAGING, MANUALS OR OTHER DOCUMENTS, WRITTEN OR ELECTRONIC, OR BY ANY DBC EMPLOYEES OR REPRESENTATIVES, ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT AS REPRESENTATIONS OR WARRANTIES OF ANY KIND BY DBC.

c. NEITHER DBC NOR OUR AGENTS WARRANT THAT THE DBC EQUIPMENT OR SERVICE WILL BE FREE FROM SERVICE DEGRADATION, OR THAT ANY INFORMATION, SOFTWARE, OR OTHER MATERIAL ACCESSIBLE ON OR THROUGH THE SERVICE ARE FREE FROM VIRUSES, WORMS, TROJAN HORSES, OR OTHER DESTRUCTIVE CODE. DBC WILL NOT BE RESPONSIBLE FOR ANY DELAY OR FAILURE IN PERFORMANCE DUE TO EVENTS OUTSIDE DBC'S REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION ANY THIRD PARTY NETWORK PROBLEMS, ACTS OR OMISSIONS OF UNDERLYING CARRIERS OR OTHER THIRD PARTIES, ACTS OF GOD, FLOOD, FIRE, ACCIDENT, GOVERNMENTAL ACT, ABSENCE OF GOVERNMENTAL APPROVAL OR CONSENT, MATERIAL CHANGES IN APPLICABLE LAW OR REGULATION, OR DECREE OF ANY COURT, DELAY OR DEFECT IN DELIVERY BY SUPPLIERS, TRANSPORTATION DELAY, RIOT, WAR, ACT

OF TERRORISM OR OF THE PUBLIC ENEMY, POWER OUTAGE, LABOR DISPUTE OR SUPPLY SHORTAGE.

d. DBC CANNOT AND DOES NOT GUARANTEE THE SECURITY OR INTEGRITY OF DATA TRANSMISSION, DATA STORAGE, OR DATA PRIVACY, OR THAT VIRUSES, WORMS, TROJAN HORSES OR OTHER TYPES OF DESTRUCTIVE CODE WILL BE DETECTED OR REMEDIATED BY THE SERVICE AND/OR THE DBC EQUIPMENT.

e. YOU ACKNOWLEDGE THAT FROM TIME TO TIME THE SERVICE MAY BE INTERRUPTED OR UNAVAILABLE AND COULD RESULT IN THE LOSS OF SOME OR ALL OF YOUR DATA. YOU ARE SOLELY RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND SAFE GUARDS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR THE SECURITY AND ACCURACY OF YOUR DATA, AND FOR MAINTAINING A MEANS INDEPENDENT OF THE SERVICE FOR THE RECOVERY OF ANY LOST DATA OR FILES.

**5.2. Credits.** Your sole remedy for service interruption shall be limited to a prorated credit of Your monthly fees upon written request if the service interruption (i) was a complete failure of the Service; (ii) was due to a technical malfunction which is within DBC's or our agent's sole control; and (iii) lasts for at least twenty-four (24) consecutive hours. To qualify for this credit, You must request the credit from DBC within thirty (30) days of the failure. Credits shall be applied only against current and future fees payable by You for the Service.

**5.3. State Specific Limitations.** Some states do not allow the disclaimer of implied warranties, so some of the exclusions in section 5 may not apply to You in whole or in part. The warranty gives You specific legal rights, and You may also have other rights which vary from State to State.

## **6. Limitation of Liability.**

### **6.1. General Limitations.**

a. IN NO EVENT WILL DBC BE LIABLE TO YOU OR TO ANY THIRD PARTIES FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OR CORRUPTION OF DATA OR OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF (a) THE DELIVERY, INSTALLATION OR PERFORMANCE OF THE DBC EQUIPMENT, THE SERVICE OR THE CUSTOMER EQUIPMENT OR (b) YOUR USE OF (OR INABILITY TO USE), OR THE PERFORMANCE OF, THE DBC EQUIPMENT, THE SERVICE OR THE CUSTOMER EQUIPMENT. THE FOREGOING LIMITATION SHALL APPLY WHETHER ANY SUCH DAMAGES ARE ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, AND EVEN IF DBC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE, THE DBC EQUIPMENT AND THE CUSTOMER EQUIPMENT. IF YOU LIVE IN A STATE WHOSE

LAWS PREVENT YOU FROM TAKING FULL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE, THE DBC EQUIPMENT AND THE CUSTOMER EQUIPMENT, OUR LIABILITY IS LIMITED TO THE GREATEST EXTENT ALLOWED BY LAW.

b. WITH THE EXCEPTION OF SECTION 6.3 BELOW, DBC'S MAXIMUM LIABILITY TO YOU WILL NOT, IN ANY EVENT, EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES PAID OR PAYABLE BY YOU TO DBC UNDER THIS AGREEMENT DURING THE PERIOD WHICH THE SERVICES ARE AFFECTED.

**6.2. Viruses.** NEITHER DBC NOR OUR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO CUSTOMER EQUIPMENT OR LOSS OR DESTRUCTION OF ANY SOFTWARE, FILES OR DATA RESULTING FROM A VIRUS, WORM, TROJAN HORSE, OR OTHER TYPE OF DESTRUCTIVE CODE.

### **6.3. Liability During Installation.**

a. In the event that any Customer Equipment, including computers, Software or peripherals are damaged by the gross negligence or willful misconduct of DBC, our employees or agents, while physically at Your Premises for installation, service or removal of DBC Equipment, and You notify us in writing of such damage within 48 hours of the occurrence, we shall pay for the repair or replacement (in our sole discretion) of the damaged Customer Equipment up to a maximum amount of \$1,000. You agree that this shall be Your sole remedy for such damages. This payment is the sole exception to the liability cap set forth in section 6.1 above.

b. As part of the installation process of any of the components of the Service or DBC Equipment, system files on Your computer may be modified. DBC does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any Customer Equipment, or cause the loss of files or data. IT IS RECOMMENDED THAT YOU BACK-UP ALL FILES TO ANOTHER STORAGE MECHANISM PRIOR TO SUCH ACTIVITIES, AND YOU ACKNOWLEDGE THAT NEITHER DBC NOR OUR SUPPLIERS OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, FILES OR DATA.

**6.4. Third Party Components.** Portions of the Service may be provided through the use of services, equipment, infrastructure and content of others. We are not responsible for the performance (or non-performance) of such third party services, equipment, infrastructure or content whether or not they constitute components of the Service and we shall have no liability with respect to such services, equipment, infrastructure and content.

### **6.5. Content.**

a. We do not control, nor are we responsible or liable for, data, content, services or products (including software) that You access, download, receive or buy via the internet or that is otherwise accessible through the Service. You are responsible for paying all fees and charges of third party vendors whose sites, products or services You access, buy or use via the Service.

You acknowledge that some content and material on the internet or otherwise available through the Service may be offensive, unsuitable for children, or in violation of federal, state or local laws, rules or regulations. We assume no responsibility for this content or material. All content and material accessed by You or others through the Service is accessed and used by You or such others at their own risk. NEITHER DBC NOR OUR AGENTS SHALL HAVE ANY LIABILITY FOR ANY CLAIMS, LOSSES, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR RELATING TO ACCESS TO OR USE OF SUCH CONTENT OR MATERIAL BY YOU OR OTHERS.

b. DBC shall have no obligation to monitor any postings or transmissions made in connection with the Service. However, You acknowledge and agree that DBC and its agents shall have the right to monitor any such postings and transmissions, including without limitation e-mail, newsgroups, chat rooms, IP audio and video, and web space content, and to use and disclose such information to third parties, including law enforcement, in accordance with this Agreement, and as otherwise required by law or government request. We reserve the right to refuse to transmit, store, upload, or post any content, in whole or in part, that, in our sole discretion, is unacceptable, undesirable or in violation of this Agreement.

#### **6.6. Security.**

a. The Service utilizes the public internet and third party networks. You acknowledge and understand that DBC cannot and does not guarantee that the Service is secure, and we are not liable to You or any other party for any lack of privacy or security You experience while using the Service. If You choose to use the Service to access any web sites, services or content, or purchase products from third parties, Your personal information may be available to the third-party provider. How third parties use Your personal information related to their sites and services is governed by their own security and privacy policies (if any) and not ours. We have no responsibility for third party provider policies, or their compliance with them. Please refer to our Privacy Policy at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) for additional information.

b. You acknowledge that You are solely responsible for the security of Your Customer Equipment, DBC Equipment and any other equipment You choose to use in connection with the Service, including without limitation any data stored on such equipment.

c. You acknowledge that the Service is not fail-safe and is not designed or intended for use in situations in which an error or interruption in the Service could lead to severe injury to business, persons or property and You expressly assume all risks of any damages resulting from Your usage of the Service in connection with such situations.

**6.7. Sole Remedy.** Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. Some states do not allow the exclusion or limitation of implied warranties, and some states do not allow the limitations or exclusion of incidental or consequential damages, so certain of the above exclusions may not apply. In such states, the liability of DBC and our agents is limited to the maximum extent permitted by law.

**6.8. Force Majeure.** DBC shall have no liability, including as set forth in this section 6.8, for interruption of the wireless broadband internet access or phone Service due to circumstances beyond its control, including without limitation, acts of God, flood, natural disaster, regulation or governmental acts, fire, civil disturbance, strike or weather.

## **7. Default.**

**7.1. Event of Default.** You will be in default under this Agreement if You commit any of the following actions which are each an “**Event of Default**”;

- a. You do not pay when due any sum owed to DBC under this Agreement;
- b. You breach any representation or warranty contained in this Agreement;
- c. You breach any term or condition of this Agreement;
- d. You become the subject of any proceeding under the Bankruptcy Code; or
- e. You become insolvent.

**7.2. Remedy.** Upon the occurrence of an Event of Default we have the right to discontinue Service and/or terminate this Agreement without prior notice. We may, but are not required to, reactivate Your Service after Service has been suspended or terminated, provided You have paid all past due amounts and late payment fees plus a reactivation charge if applicable. We reserve the right to modify the terms of Your Service Plan before reactivating Your Service and may require You to provide us with a deposit.

## **8. Acceptable Use Policy.**

**8.1. Unlawful or Improper Use of the Service.** You may not use the Service or the DBC Equipment in a manner prohibited by any applicable laws or regulations. Without limiting the foregoing, You may not use the Service or the DBC Equipment for any of the following activities:

- a. Any unlawful or abusive purpose that could damage, disable, or directly or indirectly interfere with or disrupt our network or adversely affect another’s use or enjoyment of the Service;
- b. Use the Service in any manner to avoid incurring charges for or otherwise being required to pay for such usage;
- c. Engage in “Hacking”, which shall include:
  - i. accessing data not intended for You;
  - ii. probing the security of other networks; or

- iii. accessing any machine that You are not authorized to access;
- d. Interfere or attempt to interfere with the internet access of any user, host, or network (“denial of service attacks”);
- e. Deliberately attempt to overload a service, “crash” a host system, or interfere with any server;
- f. Use the Service on a standby or inactive basis in order to maintain a connection;
- g. Engage in any pinging other than as directed by our technical support team;
- h. Use the Service to host a web server site without our prior written consent;
- i. Store, transmit or receive any material that infringes on any patent, trademark, trade secret, copyright, or other proprietary or intellectual right of any party;
- j. Store, post, transmit, or disseminate material or information that is obscene, threatening, abusive, harassing, libelous or defamatory, or which encourages a criminal offense, or otherwise violates any law, order, rule, or regulation;
- k. Engage in Spamming which includes transmitting or facilitating any unsolicited or unauthorized advertising, unsolicited bulk e-mail, unsolicited commercial e-mail, fax broadcasting, or fax blasting;
- l. Impersonate or misrepresent Your affiliation with any person or entity, or create a false identity for the purpose of misleading others;
- m. Knowingly transmit any material that contains viruses, worms, Trojan Horses time bombs, or other code that contains destructive properties; or
- n. Store or collect, personal information about third parties without their prior knowledge and consent.

**8.2. Newsgroups.** Many groups have charters, published guidelines, or “community standards” describing what is and is not considered appropriate. You must abide by such guidelines.

**8.3. Use of Your Account by Others.** You may not, through action or inaction, allow others to use the Service for illegal or improper activities or for any purpose or in any manner prohibited by this Agreement.

**8.4. Reselling.** You may only use the Service and the DBC Equipment for Your own personal use and may not directly or indirectly, resell, rent, pledge, transfer, distribute or exploit any portion of the Service or the DBC Equipment without DBC’s prior written consent.

**8.5. Illegal and Fraudulent Activity.** You acknowledge and agree that DBC may cooperate fully with investigations of possible illegal activity or violations of system or network security at other sites. Such cooperation may include blocking certain internet traffic, or disclosing information regarding You or Your use of the Service in order to satisfy applicable laws, regulations, orders, or governmental requests, or to otherwise protect DBC's property or legal interests and those of its Members. If You violate system or network security measures You may incur criminal and/or civil liability. We may notify the appropriate authorities if we reasonably believe that Your abuse or fraudulent use of the Service or DBC Equipment is in violation of applicable law.

**8.6. Reporting Violations.** All violations should be reported immediately to DBC's Customer Support Center at 1-800-979-3781.

**9. Representations and Warranties.** You hereby represent and warrant that:

9.1. You are at least 18 years of age and authorized to enter into this Agreement;

9.2. You own the Customer Equipment or otherwise have the right to use such equipment in connection with the Service and that all Customer Equipment used in connection with the Service meets, and will continue to meet, our minimum required standards;

9.3. The personal information that You have provided to us during Your initial registration and will provide to us throughout the term of this Agreement, including without limitation Your name, address, social security number (if required), telephone number(s), and payment data (if required) is accurate, complete and current. You agree to promptly notify us, in accordance with the terms of this Agreement, if there is any change in the information that You have provided to us. Failure to provide DBC with accurate and updated information constitutes a breach of this Agreement;

9.4. You will not decompile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of any firmware or Software which may be provided in connection with the Service and the DBC Equipment;

9.5. You shall not resell, lease or otherwise transfer to any third party Your rights to use the Service or the DBC Equipment;

9.6. You shall have sole responsibility for ensuring that all other users of the Service and the DBC Equipment at Your Premises understand and comply with the terms and conditions of this Agreement;

9.7. You are solely responsible for and liable for any and all breaches of the terms and conditions of this Agreement, whether the breach is the result of use of the Service and/or the DBC Equipment and/or Customer Equipment by You or by any other user;

9.8. You will indemnify, defend and hold DBC and our agents, harmless against all claims and expenses (including reasonable attorney fees) arising out of the use of the Service, the DBC Equipment and/or the Customer Equipment or any breach of this Agreement by You or any other user of Your account;

9.9. You will comply with all applicable export and re-export control laws and their implementing regulations;

9.10. You will not service, alter, modify or tamper with the DBC Equipment or with the Service, or permit any other person (unless authorized by DBC) to do so;

9.11. You will not alter, modify, or tamper with any dynamic IP address(es) or those of any other Member; and

9.12. You agree not to use a dynamic domain name server to associate a host name with the dynamic IP address(es) for any commercial purpose without our prior written consent.

**10. Intellectual Property.** The Service, the DBC Equipment and any related Software or other materials including but not limited to manuals or other information and documentation that is used in connection with the Service are protected by trademark, copyright and other intellectual property laws. All names, service marks, trademarks, trade names, logos and domain names of DBC (collectively the “**DBC Marks**”) are and will remain the exclusive property of DBC and nothing in this Agreement grants You the right or license to use any of the DBC Marks. You acknowledge that use of the Service does not give You any ownership or other rights in any internet/on-line addresses provided to You, including but not limited to Internet Protocol (“IP”) addresses, e-mail addresses and web addresses and that such addresses may be modified or changed by us at any time without notice.

**11. Indemnification.** You will defend, indemnify, and hold DBC, and our directors, officers, employees, suppliers, agents, and shareholders (collectively, the “**Indemnified Parties**”) harmless against any and all claims, losses, damages, and liabilities sustained by any of the Indemnified Parties resulting from or arising out of this Agreement, the Service, the DBC Equipment, or the Customer Equipment including but not limited to claims, losses, damages, and liabilities resulting from any breach or non-fulfillment of any representation, warranty, or covenant by You set forth in this Agreement or from Your use or misuse of the DBC Equipment, the Service or the Customer Equipment. You agree that the Indemnified Parties shall not be responsible for any third-party claims against Indemnified Parties that arise in connection with the Service, the DBC Equipment or any Customer Equipment, or any use of any of the foregoing. You also agree to reimburse the Indemnified Parties and to pay the Indemnified Party’s reasonable attorneys’ fees and costs related to defending such claims and related to enforcing this Agreement. This section will survive termination or expiration of this Agreement for any reason.

## **12. DISPUTE RESOLUTION & BINDING ARBITRATION**

IF APPLICABLE, CLAIMS MAY BE BROUGHT IN SMALL CLAIMS COURT. HOWEVER, FOR ALL CLAIMS THAT ARE NOT WITHIN THE JURISDICTION OF SMALLS CLAIMS COURT, ALL OTHER DISPUTES ARISING UNDER THIS AGREEMENT (OTHER THAN ANY ACTION TO COLLECT AMOUNTS DUE TO DBC UNDER THIS AGREEMENT, WHICH MAY BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION) WILL BE SETTLED EXCLUSIVELY BY BINDING ARBITRATION USING THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) THEN IN EFFECT. THE SOLE PLACE FOR ARBITRATION WILL BE LOUDON COUNTY, VIRGINIA, UNLESS THAT LOCATION IS PROHIBITED BY LAW, IN WHICH CASE THE ARBITRATOR WILL SELECT THE LOCATION OF THE ARBITRATION. ONE (1) ARBITRATOR SELECTED IN ACCORDANCE WITH THE AAA RULES WHO HAS EXPERTISE IN THE SUBJECT MATTER HEREOF WILL CONDUCT THE ARBITRATION. THE DECISIONS OF THE ARBITRATOR WILL BE BINDING AND CONCLUSIVE UPON ALL PARTIES INVOLVED AND JUDGMENT UPON ANY AWARD OF THE ARBITRATOR MAY BE ENTERED BY ANY COURT HAVING COMPETENT JURISDICTION. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW OR EQUITY.

THE FEDERAL ARBITRATION ACT, 9 U.S.C. SECTIONS 1 TO 16, SHALL GOVERN THE INTERPRETATION AND ENFORCEMENT OF THIS PARAGRAPH. EACH PARTY SHALL BEAR ITS OWN EXPENSES AND THE COST OF ARBITRATOR(S) SHALL BE SHARED EXCEPT THAT SUBSCRIBER MAY RECOVER HIS/HER FILING AND ARBITRATOR(S)' FEES IF SUBSCRIBER IS THE PREVAILING PARTY. THE PARTIES EXPRESSLY WAIVE ANY ENTITLEMENT TO ATTORNEYS' FEES OR PUNITIVE DAMAGES TO THE FULLEST EXTENT PERMITTED BY LAW. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. 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 ARBITRATOR WILL NOT HAVE ANY AUTHORITY TO AWARD ANY SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR ANY OTHER DAMAGES EXCEPT AS PERMITTED BY THIS AGREEMENT.

YOU WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIMS OR DISPUTES RELATING TO THIS AGREEMENT OR THE SERVICE. YOU WAIVE ANY RIGHT TO PARTICIPATE AS A PLAINTIFF OR AS A CLASS MEMBER IN ANY CLAIM ON A CLASS OR CONSOLIDATED BASIS OR IN A REPRESENTATIVE CAPACITY.

ANY CLAIM ARISING OUT OF OR RELATED TO THE SERVICE, THE DBC EQUIPMENT OR THIS AGREEMENT MUST BE COMMENCED WITHIN TWO (2) YEARS AFTER THE CLAIM ARISES, OR THE CLAIM WILL BE PERMANENTLY BARRED.

NOTHING IN THIS AGREEMENT WILL PREVENT DBC FROM SEEKING PROTECTIVE OR INJUNCTIVE RELIEF WITH RESPECT TO A VIOLATION OF ITS INTELLECTUAL PROPERTY RIGHTS IN ANY COURT OF COMPETENT JURISDICTION PENDING THE OUTCOME OF THE ARBITRATION, OR ENFORCEMENT OR RECOGNITION OF ANY AWARD OR ORDER IN ANY COURT OF COMPETENT JURISDICTION.

THE PROVISIONS OF THIS SECTION 12 WILL BE SPECIFICALLY ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION AND SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT FOR ANY REASON.

### **13. Privacy.**

13.1. Subscriber's privacy interests, including Subscriber's ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Communications Act and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice delivered to Subscriber by Operator, which is incorporated herein by reference. Subscriber acknowledges receipt of the Subscriber Privacy Notice.

13.2. Operator may collect (whether automatically or otherwise) and share (with other DBC entities) information of the type described in the Subscriber Privacy Notice (some of which may be deemed personally identifiable information as that term is used in the Communications Act) relating to Subscriber that Operator may acquire as a result of the provision of the wireless broadband internet access or phone Service. Subscriber hereby expressly consents to the collection by, and sharing between, Operator and other DBC entities of such information.

13.3. In addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, Operator shall have the right (except where prohibited by law notwithstanding Subscriber's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. Subscriber hereby consents to such actions or disclosures.

13.4. In compliance with its CPNI Policies and Procedures Manual, DBC will take reasonable measures to discover and protect against attempts to gain unauthorized access to its customers' CPNI. DBC has chosen to prohibit the use of CPNI for marketing purposes by itself and between its affiliates.

**14. Network Management.** DBC is committed to providing the best online and phone Services for all of its customers. DBC uses reasonable network management practices that are consistent with industry standards. DBC's network management practices focuses on bandwidth consumption activity of individual customers who are contributing to the congestion of DBC's network.

## **15. Miscellaneous.**

**15.1. Choice of Law.** This Agreement will be governed by and construed under the laws of the state of Delaware.

### **15.2. Notices.**

a. Unless otherwise specified, all notices required or contemplated hereunder will be provided by Operator by such means as Operator shall determine in its discretion. Without limiting the foregoing, Subscriber agrees that Operator may provide any notices required or contemplated hereunder or by applicable law, including without limitation notice of changes to this Agreement, the Terms of Use or the Privacy Notice, by electronic means (e.g., email or online posting), except as prohibited by applicable law.

b. DBC may deliver written notices to You by (i) e-mail transmission; (ii) posting information on our website at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com); or (iii) first class or registered mail, return receipt requested. All such notices shall be deemed to have been received (i) in the case of e-mail transmission when sent (ii) in the case of posting information on our website at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com), at the time of such posting and (iii) in the case of mailing, on the third business day following such mailing. You are responsible for notifying us of any changes in Your address. You shall deliver written notice to DBC by (i) e-mail transmission sent to the address set forth at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) or (ii) first class mail addressed to our Customer Support Center at 44675 Cape Court, Suite 130, Ashburn, Virginia 20147. All such notices shall be effective upon receipt by DBC. Except as provided in this Agreement, notices must be in writing to be effective.

**15.3. Amendments.** Subject to applicable law, DBC may in its sole discretion amend any part of the Service or provision of this Agreement. We will provide notice to You of any amendment. Such notice will be deemed to be effective by posting it on our website at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) or by sending You notice via e-mail to Your e-mail address on file with DBC. You agree that any one of the foregoing will constitute sufficient notice. If You do not agree to an amendment, You must immediately stop using the Service and notify us of Your termination. Such a termination may incur an Early Termination Fee. Your use of the Service or payment for Service after we provide notice as specified above of an amendment to this Agreement shall be deemed to be Your agreement to that change, retroactive to the announced effective date of the amendment. Without limiting the foregoing, DBC may revise any policy at any time, and such revisions will be effective immediately upon posting on DBC's website, or providing written notice, whether electronic or otherwise, to You.

**15.4. Assignment.** This Agreement shall not be assignable by You without the prior written consent of DBC. Notwithstanding the foregoing, DBC may assign or otherwise transfer its rights and obligations under the Agreement without restriction.

**15.5. Delay in Enforcement; Waiver.** No delay in enforcing or failure to enforce any right or obligation under this Agreement shall constitute a waiver of such right or obligation, nor shall it hinder or otherwise prevent the subsequent enforcement of said right or obligation. No waiver

of any Event of Default hereunder shall be effective unless in writing, nor shall any waiver operate as a waiver of any other Event of Default or of the same Event of Default on a future occasion.

**15.6. Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

**15.7. Headings.** The headings used in this Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

**15.8. Entire Agreement.** This Agreement, together with any policies which DBC may post on our website at [www.digitalbridgecommunications.com](http://www.digitalbridgecommunications.com) from time to time, constitutes the entire agreement and understanding concerning the Service and the DBC Equipment and supersedes all prior negotiations, and all other agreements, whether electronic, written, or oral.

**15.9. Acceptance of Agreement.** You acknowledge that You have read and understood, and You agree to, each of the provisions of the Agreement, and You accept and agree to become bound by the terms of the Agreement. The Agreement applies to You and to anyone who uses the Service.

**15.10. Survival.** All representations, warranties, indemnifications and limitations of liability contained in this Agreement shall survive the termination of this Agreement, as well as any other obligations of the parties hereunder which, by their terms, would be expected to survive such termination.

### **III. Provisions Specific to DBC's Phone Service.**

**1.1 Terms.** This Agreement, in addition to the Subscriber Privacy Notice and the applicable price list(s) and/or tariff(s) filed by Operator at the applicable state public utility commission, which are hereby incorporated by reference herein, set forth the terms and conditions governing Operator's provision of the phone Service to Subscriber. No representation, warranty, term or condition, and no statements or agreements by any employee or agent of Operator, other than as specifically set forth in this Agreement, shall be binding on Operator. Each of Operator or Subscriber may terminate the phone Service to Subscriber at any time for any reason, in its sole individual discretion.

**1.2 Offer to DBC Customers.** The phone Service as offered and provided under this Agreement is available only to residential customers of Operator's high speed Internet service. Subscriber agrees and acknowledges that except as otherwise expressly provided herein, all terms and conditions of Subscriber's high speed Internet Subscription Agreement, including without limitation disclaimer of warranty, will also govern the phone Service, to the extent applicable, and the terms of the high speed Internet Subscription Agreement are incorporated herein by reference.

**1.3. Payment.** The availability of the phone Service is dependent upon Subscriber maintaining current accounts with Operator for high speed Internet Service. If Subscriber's phone Service account or any other account of Subscriber with Operator is past due, Operator may terminate the phone Service upon notice to Subscriber as required by applicable law. In order to receive the phone Service offered and provided under this Agreement, any and all of Subscriber's accounts with Operator must be paid to current. Subscriber understands and acknowledges that the nonpayment of charges associated with Operator's cable television service, cable modem service, and/or phone Service may result in disconnection of the phone Service with notice as required by applicable law.

**1.4 E911 Limitations.** Please refer to DBC's **E911 VOIP SERVICE DISCLAIMER AND CUSTOMER ACKNOWLEDGEMENT** for a complete description of the E911 limitations related to DBC's Voice Service. Subscriber expressly acknowledges that the phone Service does not have its own power source and will not be available without an independent power supply and that, under certain circumstances, including if the electrical power and/or Operator's network or facilities are not operating, the phone Service, including the ability to access emergency 911 services, will not be available.

**1.5 Compatibility.** Subscriber expressly acknowledges that the phone Service may not be compatible with home security systems and that, in order to maintain any necessary alarm monitoring functions, Subscriber may be required to maintain a telephone connection through its local exchange carrier.

**1.6 Transfer; E911 Limitations.** Transfer of all or a portion of the account, the phone Service or the Operator's Equipment by Subscriber to any other person or entity, or to a new residence or other location, is prohibited. Subscriber expressly acknowledges that the address associated with an emergency 911 call is the authorized address where the phone Service was originally provided and that movement of the voice-enabled modem from the original service location will result in the identification of emergency 911 calls from the original service location. Access to emergency 911 services will therefore be limited if the voice-enabled modem is moved from the original service location.

**1.7 Non-commercial Use.** The phone Service as offered and provided under this Agreement is a residential service offered for reasonable personal, non-commercial use only. Subscriber will not resell or redistribute (whether for a fee or otherwise) the phone Service, or any portion thereof, or otherwise charge others to use the phone Service, or any portion thereof. Subscriber agrees not to use the phone Service for any enterprise purpose whether or not the enterprise is directed toward making a profit, including but not limited to, telemarketing, call center services, medical transcription, or facsimile broadcasting. Operator reserves the right to disconnect upon notice as required by applicable law any prohibited transmissions or uses and to terminate the phone Service in the event of a violation of the foregoing use restrictions or in the event of an excessive number of calls during a fixed period, heavy usage during business hours, heavy usage concentrated over consecutive dates, or usage that may be deemed to be business use.

**1.8 Repairs.** Operator will repair damage to or, at Operator's option, replace DBC Equipment, and otherwise attempt to correct interruptions of the phone Service, due to

reasonable DBC Equipment wear and tear or technical malfunction of the system or network operated by Operator, at Operator's expense. The Subscriber Materials contain details on contacting DBC for this support. DBC has no other responsibility for support, maintenance or repair of any equipment, software or service, whether provided by a third party or Subscriber. For assistance with other technical problems, Subscriber should refer to the Subscriber Materials or any applicable tariff(s) for the phone Service. If any other support services are available from Operator, such services will be at additional charges as described in Operator's price list and any applicable tariff(s).