

EPB FIBER OPTICS BUSINESS TERMS AND CONDITIONS OF SERVICE

Acceptable Use of Services. EPB's video, voice, and internet services (the "Services") are for Customer's use only, and Customer shall not use or permit the use of Services for any other purpose. Customer shall not make the Service(s) or permit the Service(s) to be made available for resale or to provide video, telecommunications, internet or similar services to third parties. EPB Fiber Optics has published an Acceptable Use Policy (AUP) applicable to the Services. EPB reserves the right to revoke or suspend service to Customers who knowingly violate the Policy. The AUP is available online at www.epbfi.com and at EPB's headquarters. Customers are encouraged to read and follow the AUP, including any updates that may be published on EPB's website. Customer may not use video on demand services for commercial gain or public viewing without EPB's prior express authorization. The Service(s) and Equipment are provided for Customer's use. Customer may not resell or transfer the Service or the Equipment to any other person for any purpose, or charge others to use the Service; use the Service in any manner that is contradictory to the AUP; tamper with, disrupt or "hack" the Equipment, or make use of the Service in any way that is inconsistent with its intended purpose. Customer also agrees to comply with the Terms & Conditions of all end-user license agreements that accompany the Equipment or are otherwise applicable to Customer's use of the Equipment and the Services. All such agreements are incorporated herein by reference. Upon termination of this Agreement, all end-user licenses also terminate, and Customer agrees to cease use, return or destroy all versions and copies of all software received in connection with the Services. EPB reserves the right to terminate Customer's Service should Customer, in EPB's sole discretion, commit any of the actions listed above. Customer is responsible for any liability or charges billed by any program provider for video on demand or other similar services. As provided further in the AUP, EPB reserves the right to enforce bandwidth allotments or email storage limits for SMB Internet Customers if usage exceeds ten times the average use of SMB customers.

Assignment. This Agreement is non-assignable without the express written consent of EPB Fiber Optics.
Billing and Payments. EPB will bill all charges, applicable taxes, and fees monthly in advance (except for usage based charges, which will be billed monthly in arrears). Applicable charges will be set forth in EPB's then-current fee schedule found at www.epbfi.com. Some government imposed fees and taxes may be imposed or become applicable retroactively, and Customer will be responsible for paying any such charge. If Customer is tax-exempt, Customer must provide EPB with an original certificate that satisfies all applicable legal requirements. A tax exemption will only apply from and after the date EPB receives it. If Customer fails to pay the total balance when due, EPB may disconnect service or impose a late fee. EPB may charge a reasonable fee for all returned checks and chargebacks, which shall be paid by cash, cashier's check or money order. Customer will be obligated to pay all of EPB's costs of collection, including attorneys' fees. Customer must notify EPB of any disputes within sixty (60) days of the date of Customer's EPB invoice, or any such dispute will be waived. Customer agrees to pay all amounts within thirty (30) days from date of invoice. A late charge of 1.5% of the outstanding amount shall be payable each month on any past due amounts and shall continue to accrue until all amounts due are paid in full.

Changes to Service Terms and Conditions. Subject to applicable law, EPB has the right to change Services and Equipment at any time. EPB may also change, add or remove programming features or offerings. EPB will provide Customer notice of changes to the Service and to these Terms & Conditions consistent with applicable law and may also post notice of such changes at www.epbfi.com or send notice to Customer's email address on EPB's account records. Customer agrees to regularly check mail, email and all postings on www.epbfi.com. Customer bears the risk of failing to do so. If Customer finds a change in Service or a change in these Terms & Conditions unacceptable, Customer may cancel the Service. If Customer continues to receive the Service after notice, EPB will consider Customer to have accepted any changes.

Copyright. Any firmware or software used to provide the Service and all Services, information, documents and materials provided by EPB in written or electronic form are protected by trademark, copyright or other intellectual property laws. Customer's use of firmware, software and the Services is subject to such laws. All names, service marks, trademarks, trade names, logos, content, photographs, sound or image files and domain names of EPB are and shall remain the exclusive property of EPB, and nothing in these Terms & Conditions shall grant Customer the right or license to use any of such marks.

Credit Policy. EPB reserves the right to review Customer's previous billing history with EPB or access Customer's credit history through a credit reporting agency.

Customer's Responsibilities: Customer shall: (1) Be responsible for and pay any and all local, state or federal taxes or charges in the nature of taxes imposed by any governmental authority or regulatory agency, in addition to the charges required by EPB pursuant to the Agreement; (2) Promptly furnish upon request any technical information or specifications relating to its system as may be reasonably required by EPB; (3) Promptly provide identified employees or contractors of EPB safe access to Customer's premises at all reasonable times for the purpose of installing, maintaining, repairing, removing, exchanging or inspecting any or all equipment and facilities belonging to EPB; (4) Provide adequate right-of-way over, access to and space within Customer's premises, as determined by EPB, for EPB's facilities and equipment; (5) Not permit or use EPB's system or facilities for any use or purpose not permitted by the AUP or by applicable federal, state or local law or regulation, including, without limitation, and any laws or regulations presently in force or hereafter adopted pertaining to broadcast or other "spam" e-mails; and (6) Be responsible for and protect the property, equipment and facilities of EPB on Customer's premises.

E911 Notice. In order for 911 calls to be properly directed, EPB must have Customer's correct service address. EPB's phone service uses the electric power in Customer's business. In the event of a power outage, 911 calling may be interrupted if battery back-up is not installed, fails or is exhausted. Calls may not be completed in the event of problems with network facilities or other technical problems. Prior to changing Customer's address, Customer must call EPB to provide notice of a location change, and EPB may require several business days advance notice to update Customer's service address in the E911 system.

Equipment. All equipment issued to Customer by EPB shall remain the property of EPB at all times. Customer agrees to be responsible for any loss, theft or damage of EPB's equipment. EPB is not responsible for the maintenance, operation, service or repair of any of Customer's equipment connected to the Services, including without limitation television, computer, telephone or any other device. Customer agrees to allow EPB or its agents to send software to Customer's equipment and to configure Customer's equipment when necessary to provide Services, even if doing so changes, adds or removes features or functionality of any such equipment. Absent gross negligence or willful misconduct, EPB will not be responsible for any damage to Customer's equipment arising from such activities. In the event of such damage, EPB's maximum liability to Customer is \$500 for the cost of repairs. If Customer is not the owner of the equipment, Customer is responsible for obtaining any necessary approval from the owner to allow EPB to access this equipment and to perform the activities listed above.

Force Majeure. EPB shall not be liable for any failure, interruption or diminution of service in the event that such failure, interruption or diminution is caused by or due to causes beyond its control, including, but not limited to, acts of God; fire, earthquake, flood, water, the elements or other catastrophes; strikes, lock-outs, work stoppages or other labor difficulties; utility curtailments, power failures, explosions; insurrections, riots, wars or civil disturbances; any law, order, regulation, or requests of any government or of any civil or military authority; national emergencies; shortages or failure of equipment or supplies, including cable, fiber, switching and other network equipment of third parties; unavailability of transportation; acts or omissions of third parties; or any other cause beyond EPB's reasonable control.

Governing Law. These Terms & Conditions and the relationship between Customer and EPB shall be governed by the laws of the State of Tennessee without regard to its conflict of laws principles.

Indemnity. Customer agrees to indemnify and hold harmless EPB from all liabilities, damages, claims and expenses, including without limitation attorneys' fees, that arise from Customer's or a User's use or misuse of the Service; from any violation or infringement of contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret or other intellectual property; from use or failure of the 911/E911 functionality or any other dialing associated with a home security, home detention, medical monitoring or other similar system; and from Customer's breach of any provision of these Terms & Conditions. Where Customer is obligated to indemnify or hold EPB harmless anywhere in these Terms & Conditions, those obligations run not only to EPB but also to its employees, representatives, affiliates, agents, officers and directors.

Installation and Access. Customer agrees to allow EPB Fiber Optics the right to enter Customer's property for the purposes of adjusting, repairing, replacing, maintaining, moving, auditing or removing any equipment if necessary. Customer represents that Customer either owns the property or has the right to allow EPB to install any necessary equipment and wiring to provide Customer service. Customer also agrees to allow access for the purpose of checking signal quality. Customer should always ask for proper identification anytime an EPB employee or contractor requests entry to Customer's property.

Limitation of Liability. IN NO EVENT SHALL EPB BE LIABLE TO CUSTOMER OR TO ANY USER OF CUSTOMER'S SERVICE FOR LOSS OF PROFITS OR FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM THE RELATIONSHIP OR THE CONDUCT OF BUSINESS UNDER THE AGREEMENT, EVEN IF EPB HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. WITHOUT LIMITATION OF THE FOREGOING, EPB SHALL HAVE NO LIABILITY FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS RESULTING FROM OTHERS ACCESSING CUSTOMER'S COMPUTERS AND EQUIPMENT, SECURITY BREACHES, VIRUSES, EASVSDROPPING, INTERCEPTION OF TRAFFIC SENT OR RECEIVED USING THE SERVICES, OR ANY USE OF THE EQUIPMENT OR SERVICES OF EPB THAT INFRINGES UPON ANY PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY OR INTELLECTUAL PROPERTY OR CONTRACTUAL OR OTHER RIGHTS OF ONE OR MORE THIRD PARTIES. If applicable, the outage credits provided for in the Service Level Agreement represent the sole liability of EPB for any interruption or failure of service or any breach or other claim arising from the Agreement. Otherwise, EPB's liability shall not exceed the total amount paid by Customer to EPB for non-usage based charges in the prior month. It is expressly understood that EPB shall have no liability for any damage to Customer or any other person claimed to have resulted from Customer's use of the Service(s). EPB is not liable for any inconvenience, loss, liability or damage resulting from any interruption of or defect with the Service or equipment including, without limitation, interruptions or defects caused directly or indirectly by matters beyond our control.

Miscellaneous. These Terms & Conditions and any other documents incorporated by reference constitute the entire agreement and understanding between Customer and EPB with respect to EPB's provision of the Service(s) and related equipment. They replace any and all prior written or verbal agreements. If any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. If EPB fails to insist upon or enforce strict performance of any provision of these Terms & Conditions, it shall not thereby waive any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of these Terms & Conditions.

No Waiver. A waiver by either party of a breach of any provision of the Agreement and these General Terms must be in writing, and no such written waiver shall operate as, nor be construed as, a waiver of any subsequent breach.

No Warranties. EPB makes no warranties, express or implied, including but not limited to, any implied warranties of merchantability, fitness for a particular purpose, title or non-infringement usage of trade, course of dealing or course of performance or any warranty that the service or the equipment will meet customer's requirements. The Service and the equipment are provided to Customer on an "as is" basis. The Service is not fail-safe and may be disrupted. Without limiting the foregoing, EPB does not warrant that the service will be without failure, delay, interruption, error, degradation of quality, or loss of content, data or information. Neither EPB nor its officers, directors, employees, contractors or any other service provider who furnishes services or products to customer in connection with these Terms & Conditions or the Service will be liable for unauthorized access to facilities, premises or equipment or for unauthorized access to, or alteration, theft or destruction of customer's data or information regardless of whether such damage occurs as a result of negligence by EPB, its contractors or service providers. Statements and descriptions concerning the Service or equipment, if any, by EPB or by EPB's authorized representatives are informational and are not given as a warranty of any kind.

Parental Control. Parental control features are available for Customer's use with EPB Fiber Optics services.

Right to Audit. Customers receiving Bulk Viewing and Public Viewing packages agree that EPB's pricing is calculated based upon the number of units in a premises or building occupancy. Such Customers agree to notify EPB in advance of any addition to the number of units or an increase in occupancy of Customer's building. EPB reserves the right to audit Customer's premise for increases, and Customer agrees to pay an increased rate retroactive to the date of installation or prior audit, whichever is later.

Survival. Certain obligations under these Terms & Conditions continue beyond termination of the Service including, but not limited to, provisions dealing with access to property, disclaimers of warranties, limitations of liability and indemnity. The termination, expiration or cancellation of Service under these Terms & Conditions shall in no way affect the survival of such obligations.

Terms. The Agreement shall commence on the date set forth on the Agreement or such earlier date if Customer begins receiving the services in the ordinary course of business. The initial term of the Agreement shall be for a period specified on the Agreement and beginning on the date of the Agreement. Thereafter, the Agreement shall continue from month to month at unbundled rates until Customer provides EPB with thirty (30) days prior written notice of cancellation.

Termination. If Customer fails to pay fees or charges when due, EPB may terminate the Agreement upon 10 days' notice. Either party may terminate the Agreement for the other party's default of an obligation under the Agreement and failure to cure such default within thirty (30) days' of written notice of such default ("Cause"). If Customer terminates the Agreement at any time prior to the expiration of the Initial Term other than for Cause, or if EPB terminates the Agreement contract for nonpayment of fees or charges or for Cause, Customer shall be immediately responsible for payment of all charges and expenses incurred to date plus a termination charge equal to 50% of the total monthly charges (excluding variable usage charges) that would have become due for the remainder of the term if such termination had not occurred plus any waived installation charges or other fees. Customer acknowledges that such termination is reasonable and forms an integral portion of the rates and charges established in the Agreement. All amounts due EPB will become immediately due and payable.

Video Programming. Customer acknowledges that EPB has the right at any time to preempt without notice specific advertised programming and to substitute programming, which EPB deems to be comparable.

Wiring. In a single dwelling unit, all inside wiring is the customer's property. In a multiple dwelling unit or a commercial premise, wiring shall be the property of EPB unless purchased by the customer. Ownership of wiring shall twelve (12) inches from where the wiring enters the outside of the customer's premise.