

intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

16. **Arbitration.** Any dispute, controversy or claim arising out of or relating to this Agreement or the rights and obligations of the parties hereunder, other than your failure to make payments in accordance with this Agreement and any action to collect amounts due to DOWNEAST under this Agreement, which may be brought in any court of competent jurisdiction, shall be conclusively resolved by arbitration in Portland, Maine in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in effect on the date demand for arbitration is made before a single arbitrator appointed by the AAA. The arbitrator shall conduct an arbitration within sixty (60) days of the date the arbitrator is appointed and shall render a decision resolving the dispute within thirty (30) days of the arbitration, and the parties agree to abide by the decision of the arbitrator and any such decision shall be binding, non-reviewable and non-appealable, and may be entered as a final judgment in any court having jurisdiction. The costs and expenses of any arbitrator shall be borne fifty percent (50%) by you and fifty percent (50%) by DOWNEAST, provided that such arbitrator, as part of his/her decision, may award such cost (but not including attorneys' fees which may not be awarded or apportioned by the arbitrator) to the prevailing party if such arbitrator believes that a party has not brought or prosecuted such a claim in good faith. The parties agree that binding arbitration shall be the sole remedy as to all disputes arising out of or related to this Agreement. The arbitrator shall be bound to apply these Terms and Conditions.
17. **Governing Law.** This Agreement shall be governed by the laws of the State of Maine, without regard to choice of law principles.
18. **Assignment.** We have the right to assign your agreement to purchase the Services from us, including your name, address, billing and payment history, and means of payment, including credit or debit card information, to a purchaser of our customer contracts. We will provide notice to you following the assignment and identifying the purchaser.
19. **Special Note regarding WiFi (IEEE 802.11 based wireless technology).** By using WiFi you acknowledge that if you do not take proper security precautions your data may be at risk of loss, corruption, disclosure or theft. You also acknowledge that by having an unsecured access point (WiFi router) you may be sharing your connection, violating section 10 of this Agreement.

USE OF THE SERVICES PROVIDED BY DOWNEAST WIRELESS CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS, AS THEY MAY BE AMENDED IN THE FUTURE.

## DOWNEAST WIRELESS LLC

### STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL SERVICE PLANS

#### PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY

December 10, 2018

BY USING THE SERVICES, AS DEFINED HEREIN, YOU ACKNOWLEDGE THAT (i) YOU ARE AN ADULT (18 YEARS OR OLDER) AND (ii) YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS SET FORTH BELOW AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS SET FORTH BELOW AND AS AMENDED BY DOWNEAST WIRELESS LLC ("DOWNEAST") FROM TIME TO TIME. BY PLACING AN ORDER FOR THE SERVICES, YOU ACKNOWLEDGE THAT DOWNEAST WILL COMMENCE PROCESSING SUCH ORDER AND WILL INCUR EXPENSES AND OBLIGATIONS IMMEDIATELY. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MAY NOT USE THE SERVICES AND YOU SHOULD CANCEL YOUR ORDER. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS, DOWNEAST WILL BE UNDER NO OBLIGATION TO PROVIDE YOU WITH THE SERVICES. THESE TERMS AND CONDITIONS ARE SUBJECT TO REVISION FROM TIME TO TIME BY DOWNEAST.

The latest version of these terms and conditions will be posted on the DownEast website for your review.

#### Terms and Conditions.

1. **Service:** You agree to purchase 4G LTE wireless network access services ("Services") from DOWNEAST. Services by DOWNEAST are for your use only, and not for resale or sharing with persons outside your premises. In the event you attempt to resell or share the Services, DOWNEAST may, at its sole discretion, increase the fees associated with the Services or terminate the Services.
2. **Rates and Payment Terms:** The rates for 4G LTE Wireless services ("Rates") are set forth on the DOWNEAST website. The Rates will be in effect for the initial term that you have selected and may thereafter be changed by us by giving you written or e-mailed notice of the new Rates at least thirty (30) days before their effective date. In addition to the Rates, we will bill you for all required federal, state, county, and local taxes, fees and related charges. Charges for the Services will begin when the Services are installed. Payments for Services will be made monthly. You may pay by eCheck or any major credit card or debit card. All refunds are handled on a case by case basis. For any questions/disputes/concerns please contact us at: [info@downeastwireless.com](mailto:info@downeastwireless.com)
3. **Default and Remedies:** You will be in Default of this Agreement 1) if payment for any Service has not been made within two (2) days after we have sent you a notice via e-mail that such payment is overdue and 2) for any other breach of this Agreement that is not remedied within ten (10) days after notice of such breach; or 3) for any breach of our Acceptable Use Policy for our Internet Access Service. If you are in Default of this Agreement, we may terminate all Services under this Agreement without further notice to you and you will be charged an early termination fee as set forth in Section 4 below plus the amount of overdue charges due to DOWNEAST, if any. Late payment will result in a fee of \$25.00 which will apply in the case of expired credit & debit cards or returned bank drafts (eChecks).
4. **Termination Charges and Equipment Ownership:** You must notify us in writing of your intention to terminate the Services and you will be responsible for all service charges that would have been incurred for the next regularly occurring monthly billing cycle and an early termination fee of \$199.95 with respect to the Two (2) Year Agreement, which includes the equipment removal. No early termination fee is payable if you terminate during the month to month period following the Initial Term. The early termination fee will be charged with the payment method on file. Notice of termination should be addressed to: Downeast Wireless, LLC, 5 Milk Street, Portland, ME 04101. DOWNEAST retains ownership of the modem, antenna and power adapter installed (collectively, the "Equipment"). You have not purchased the Equipment. DOWNEAST is entitled to remove the Equipment if Services are terminated by you or by DOWNEAST. You agree that DOWNEAST may have access to your property to retrieve the Equipment following termination of Services. If access to the Equipment is denied or the Equipment is not at the specific location, you will be charged with

the payment method on file for the Equipment at the following rate: router \$400.00, access point \$100.00, antenna \$100.00, and power adapter \$25.00. Any additional equipment you purchase, you will retain after termination.

5. **Limited Warranty - Wireless Service:** THE ONLY WARRANTIES MADE BY DOWNEAST WITH REGARD TO THE SERVICES AND EQUIPMENT ARE THOSE EXPRESS WARRANTIES SET FORTH IN THESE TERMS AND CONDITIONS. In addition, there are certain limitations that may affect your use of the Services.
6. **Quality of Services:** You understand and acknowledge that the actual transmission speeds may vary from the transmission speeds that you might otherwise expect, due to factors such as the line-of-sight (LOS), distance to transceiver, and other operational characteristics of the facilities and equipment used in the 4G LTE Wireless Service. It is possible that there may be other operational impediments that may preclude or delay the actual installation, repair and maintenance of 4G LTE Wireless Services to your premises. We reserve the right to terminate this Agreement without liability to you if we are not able to provide, repair or maintain 4G LTE Wireless Services to your premises. We will use commercially reasonable efforts to provide installation, repair and maintenance services. If you experience a substantial reduction in transmission speed or significant interruption of service, please notify us and we will undertake commercially reasonable efforts to restore the 4G LTE Wireless Service. We will not be responsible for service issues relating to your computer, network or software. Any problems related to, or caused by, your computer, software or network are your sole responsibility.
7. **Acceptable Use Policy:** You understand and agree to the terms of the DOWNEAST Acceptable Use Policy which is available for review on our website. The monthly bandwidth limit established is: LTE – 25GB, LTE Essential-100GB, LTE Premium-200GB and LTE Unlimited. We do not guarantee download speeds. Download speeds may vary based upon the overall use of our network, your individual use of the network or due to other factors. If you exceed your allotted monthly bandwidth, your service may be interrupted until the first day of the next month, when the bandwidth limits reset or until you purchase additional usage or upgrade your Service package.
8. **Privacy Policy.** You understand and agree to the terms of the DOWNEAST Privacy Policy which is available for review on our website. By providing information to DOWNEAST you represent and warrant that all such information is accurate.
9. **Warranties – Equipment:** With respect to the Equipment owned by DOWNEAST, DOWNEAST will match the manufacturer's warranty for as long as you subscribe to our Services. For equipment supplied by DOWNEAST that is owned by you, such as a wireless router, DOWNEAST will match the manufacturer's warranty for thirty (30) days from the date of purchase except to the extent that applicable law may require a longer period. Warranty coverage by DOWNEAST shall not apply if: 1) Your equipment has been subjected to unusual physical stress, misuse, neglect, or abuse; 2) the Wireless Service or related equipment has been installed, repaired or altered by anyone other than our technical support technicians or our subcontractors or affiliates; 3) the Wireless Service or related equipment is used in violation of applicable law or in violation of instructions furnished by us, if any. Our sole liability and obligation in the event of a warranty claim is replacement of the defective equipment. The foregoing limited warranties shall be in lieu of and shall exclude all other express or implied warranties, including without limitation, warranties of merchantability, and fitness for a particular use or purpose.
10. **Security:** You acknowledge that you have read our Acceptable Use Policy and agree to have virus protection software and personal firewall software installed on your system, with all virus definitions up to date before connecting to our network and at all times connected thereafter. We reserve the right to suspend your Services without liability, including without refund of Service fees, if your computer(s) are found to be virus infected, or in any other condition or configuration, which is our sole judgment jeopardizes the security and/or stability of our network.
11. **Use of Services:** Customer agrees not to use the Services in a manner prohibited by any federal or state law or regulation. Transmission of any material in violation of federal or state law or regulation, including, but not limited to any copyrighted material, material protected by a trade secret or material or messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable in any manner or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation, is prohibited.

12. **Termination for Convenience:** DOWNEAST reserves the right to terminate the Services upon notice to you for any reason and at any time.

13. **Limitation of Liability:**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL DOWNEAST, ITS PARENT, SUBSIDIARIES, AFFILIATES, AND THEIR RESPECTIVE MANAGERS, DIRECTORS, AGENTS, EMPLOYEES, SUPPLIERS, RESELLERS, AND DISTRIBUTORS, INCLUDING, WITHOUT LIMITATION, ANY PARTY PROVIDING INTERNET ACCESS TO DOWNEAST OR ANY INCUMBENT LOCAL EXCHANGE PROVIDER OR OTHER PERSON PROVIDING ACCESS TO ITS FACILITIES TO DOWNEAST (THE "DOWNEAST PARTIES") BE LIABLE OR OBLIGATED IN CONNECTION WITH THIS AGREEMENT, UNDER ANY THEORY, WHETHER IN CONTRACT, TORT, NEGLIGENCE, PRIVACY, SECURITY, STRICT OR PRODUCT LIABILITY, BREACH OF WARRANTY, OR OTHER LEGAL OBLIGATORY THEORY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY OTHER DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, LOSS OF EARNINGS, USE OR DATA, WHETHER ARISING DIRECTLY OR INDIRECTLY FROM OR RELATING TO THIS AGREEMENT OR USE, NON-USE, OR INSTALLATION OF THE SERVICES OR EQUIPMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DOWNEAST'S LIABILITY SHALL NOT EXCEED THE AMOUNT THAT YOU WOULD HAVE PAID DOWNEAST UNDER THIS AGREEMENT DURING THE PERIOD OF TIME THAT SUCH LIABILITY WAS INCURRED, OR FIVE HUNDRED DOLLARS (\$500.00) WHICHEVER IS LESS. FURTHERMORE, DOWNEAST SHALL NOT BE LIABLE FOR (I) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, SERVICE, PRODUCTS, OR RIGHTS; (II) ANY DELAYED, DEGRADED OR INTERRUPTED USE OF THE SERVICE OR ACCESS TO THE INTERNET; (III) ANY LOSS OR DAMAGE TO YOUR EQUIPMENT, SOFTWARE, OR DATA ARISING DIRECTLY OR INDIRECTLY OUT OF USE OR NON-USE OF THE SERVICE OR ANY EQUIPMENT OR RELATED COMPONENT; (IV) ANY LACK OF OR BREACH OF SECURITY OF THE SERVICE, OR THE STORAGE OR INTEGRITY OF YOUR DATA OR ANY OTHER USER'S DATA; (V) THE VIEWING, DOWNLOADING, TRANSMITTING, ACCESSING, PURCHASING OR OTHER MEANS OF ACQUIRING INFORMATION, PRODUCT OR MATERIAL ACCESSIBLE THROUGH THE SERVICES; (VI) ANY DELAYS, ERRORS, OMISSIONS, INTERRUPTIONS, VIRUSES, SPYWARE, SPAM, OR TRANSMISSION DEFECTS IN ANY INFORMATION, MATERIAL OR DATA TRANSMITTED THROUGH THE SERVICE; OR (VII) ANY DAMAGES ARISING FROM ANY DELAY OR FAILURE IN PERFORMANCE OF THE SERVICE DUE TO EVENTS OR CAUSES OUTSIDE DOWNEAST'S REASONABLE CONTROL.

THE EXCLUSIONS AND LIMITATIONS IN THIS SECTION SHALL APPLY TO THE FULLEST EXTENT OF THE LAW, REGARDLESS OF WHETHER DOWNEAST WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES, AND REGARDLESS OF ANY REMEDIAL ACTIONS THAT DOWNEAST MAY TAKE. IF YOU ARE DISSATISFIED WITH THE SERVICES OR EQUIPMENT OR IF YOU HAVE ANY OTHER DISPUTE WITH DOWNEAST, OR CLAIM AGAINST DOWNEAST, THEN YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES AND ANY LIABILITY WILL BE LIMITED AS SET FORTH HEREIN. THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION WILL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. THIS SECTION SHALL BE ENFORCED TO THE FULLEST EXTENT OF APPLICABLE LAW. YOU ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING THE PRICES FOR SERVICE UNDER THIS AGREEMENT.

14. **Force Majeure:** We will not be responsible for any failure to perform any obligation or provide any Services hereunder because of any Act of God or nature, strikes, work stoppage, equipment or facilities shortages, governmental acts or orders, war, riot, terrorism or civil commotion, or any other event beyond our immediate and reasonable control.

15. **Entire Agreement; Amendments in Writing; Severability:** This Agreement, which includes all attachments, schedules, agreements and documents referenced herein, if any, constitutes the entire agreement between us concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. Any changes to this Agreement, or any amendment or supplement to the Agreement must be in writing and signed by DOWNEAST or uploaded by DOWNEAST to its website to be enforceable. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the original