

FIBER TO THE BUSINESS SERVICE AGREEMENT

The charges identified do not include applicable taxes and surcharges, however, Customer is responsible for payment of all such taxes and surcharges. If Customer has elected a term of one or more years, upon expiration, this Agreement will continue month-to-month until it is cancelled. If Customer does not honor the term designated, then Customer will be liable for an early cancellation fee equal to the total monthly service charges and lease payments identified on the sign up form multiplied by the number of months remaining in the designated term of this Agreement. Upon cancellation, the Equipment shall be returned to MOBIUS. In the event Customer does not voluntarily return the Equipment, Customer grants MOBIUS the right to enter Customer's premises to take possession of the Equipment.

TERMS AND CONDITIONS

Termination By Customer

- a. Fixed Term. If Customer subscribes to the Service for a fixed term and Customer terminates the Service before the end of the term, then Customer will be required to pay MOBIUS an early cancellation fee as specified in the Agreement. In addition, Customer remains liable for all outstanding charges for the Service Customer used and Equipment Customer leased prior to termination.
- b. Month-to-Month Term. Customer may terminate the Service to which Customer subscribes on a month-to-month basis at any time by notifying MOBIUS. Customer remains liable for payment of all outstanding charges for the Service Customer used and Equipment Customer leased prior to termination.
- c. Change in Location. A change in Customer service address or the location to which the Service is provided to Customer may constitute Customer termination of the Service.

Termination By MOBIUS

MOBIUS may interrupt or terminate the Service: (1) if Customer does not honor any provision of these Terms and Conditions (including payment obligations), (2) if Customer uses the Service in a manner that adversely affects Service to other customers or harasses MOBIUS's customers or employees or (3) if Customer or others use the Service to engage in fraud or unlawful conduct or are suspected of doing so. MOBIUS may, in its sole discretion, restore such interrupted or terminated Service following correction of the violation and payment of any amounts due, including any restoration charge MOBIUS assesses for restoring the Service.

Charges for Service and Equipment

Customer is responsible for paying all charges applicable to Customer's account, including but not limited to charges for the Service and rental payments for Equipment. In addition, Customer is responsible for paying any taxes, surcharges, fees, and assessments imposed from time to time in connection with the Service and the Equipment.

Payments

MOBIUS will bill Customer monthly for all charges associated with the Service and for rental of the Equipment. Payment in full is due no later than the due date indicated on Customer's bill. If Customer has authorized payment for the Service or Equipment by credit card or by debiting a bank account, no additional notice or consent is required before MOBIUS invoices the credit card or debits the bank account for all amounts due to MOBIUS for any reason. MOBIUS may accept late payments, partial payments or any payments marked as being "payment in full" or as being settlement of any dispute without losing any of its rights under this Agreement. Customer agrees to pay costs and attorney's fees MOBIUS incurs to collect any unpaid balance from Customer.

Credits And Deposits

Customer authorizes MOBIUS to ask credit-reporting agencies for credit information about Customer. MOBIUS may, in its discretion, require Customer to submit a deposit as security for payment of charges. An additional deposit may be required if either the Service is increased or Customer's credit rating changes. MOBIUS reserves the right to apply the deposit to any amount due and unpaid. MOBIUS may require a guarantee of payment by an individual or entity approved by MOBIUS.

Internet Access Service

Customer agrees that Customer may not use MOBIUS's Internet Access Service to (1) engage in illegal activity, (2) violate the network policies of any network accessed through such Service or (3) engage in any activity that interferes with other Internet users' use and enjoyment of the Internet or the Service.

Telephone Numbers and E-mail Addresses

MOBIUS assigns telephone numbers and e-mail addresses in connection with the Service. Customer has no proprietary right to any such identifiers, and MOBIUS reserves the right to change them upon notice to Customer.

Privacy and Customer Proprietary Network Information

Customer authorizes MOBIUS to monitor and record communications to MOBIUS regarding Customer’s account or the Service for purposes of quality assurance. MOBIUS will not give Customer notice of any subpoenas or court orders related to Customer’s account or use of the Service unless required by law. Information in MOBIUS’ billing and customer care systems concerning Customer’s account and Customer’s use of the Service belongs to MOBIUS, and Customer has no expectation of privacy with respect to such information. MOBIUS may analyze Customer’s account and usage information and share this information with other MOBIUS entities. MOBIUS will not share this information with other companies. If Customer does not want MOBIUS to use Customer information internally, please notify MOBIUS.

Theft and Fraud

If Customer’s Service or Equipment is lost or stolen or fraudulently used, Customer is nevertheless responsible for all usage incurred before MOBIUS receives notice from Customer of such loss or theft or fraudulent use. Customer agrees to cooperate in the investigation of fraud or theft and to provide MOBIUS with such information and documentation as may be requested (including affidavits and police reports).

LIMITATION OF LIABILITY

MOBIUS’ LIABILITY REGARDING CUSTOMER USE OF THE SERVICE OR EQUIPMENT, OR THE FAILURE OF OR INABILITY TO USE THE SERVICE OR EQUIPMENT IS LIMITED TO THE CHARGES BY MOBIUS TO CUSTOMER FOR SERVICE OR EQUIPMENT DURING THE AFFECTED PERIOD. THIS MEANS MOBIUS IS NOT LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (SUCH AS LOST PROFITS OR LOST BUSINESS OPPORTUNITIES), PUNITIVE OR EXEMPLARY DAMAGES, OR ATTORNEYS’ FEES.

DISCLAIMER OF WARRANTIES

MOBIUS MAKES NO WARRANTY REGARDING THE SERVICE OR EQUIPMENT AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. MOBIUS IS NOT RESPONSIBLE FOR CIRCUMSTANCES BEYOND ITS CONTROL, INCLUDING WITHOUT LIMITATION ACTS OR OMISSIONS OF OTHERS, OR ACTS OF GOD. MOBIUS DOES NOT MANUFACTURE EQUIPMENT OR SOFTWARE, AND CUSTOMER’S ONLY WARRANTIES AND REPRESENTATIONS WITH RESPECT TO EQUIPMENT OR SOFTWARE ARE THOSE PROVIDED BY THE MANUFACTURER (WITH RESPECT TO WHICH MOBIUS HAS NO LIABILITY WHATSOEVER).

Assignment

MOBIUS may assign this Agreement to another entity without any advance consent from or notice to Customer. Customer may not assign this Agreement without MOBIUS’ prior consent.

No Waiver; Severability

If MOBIUS does not enforce any right or remedy available under this Agreement, that failure is not a waiver. If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement will remain in force.

Ownership of Equipment

The Equipment is and shall at all times remain personal property, notwithstanding that the Equipment or any part of it may now be, or subsequently become attached to real property. The Equipment is owned by MOBIUS and nothing in the Agreement shall be construed as conveying to Customer any right title or interest in and to the Equipment other than as a lessee. All right to claim any or all tax attributes associated with the Equipment remain exclusively with MOBIUS.

Return of Equipment

Upon termination of Service, Customer agrees that Customer shall return the Equipment to MOBIUS in the same condition in which it was received by Customer, ordinary wear and tear excepted. Customer shall return the Equipment to MOBIUS at such address as MOBIUS shall specify. Customer hereby grants MOBIUS a right to enter Customer’s premises for the purpose of removing the Equipment upon termination of the Service. Customer shall pay when invoiced for any damage to the Equipment, ordinary wear and tear excluded, and for the cost of removing the Equipment.

Inspection; alterations

The Equipment shall not be removed from Customer’s address as set forth in the Agreement without the prior written permission of MOBIUS. Customer shall make no additions or alterations to the Equipment without the prior written consent of MOBIUS. MOBIUS shall have the right to enter the premises where the Equipment is located during normal business hours for the purposes of inspecting the Equipment.

Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.