

## Terms and Conditions

This Agreement describes the terms and conditions between you ("Customer," "You," "Their," "You") and Continental Divide Electric Cooperative, Inc. ("CDEC," "Service Provider," "Us," "We," "Our,"), applicable to CDEC's Red Bolt Broadband service ("Service").

### 1. AGREEMENT TERMS

- a. The customer is bound to these Terms and Conditions, our Acceptable Use Policy, Net Neutrality Disclosure and provisions of our Service Agreement, upon signing said Agreement.
- b. CDEC will provide Service to the Customer at an agreed-upon price and contingent upon obtaining a right-of-entry onto the Customer's premises.
- c. The premises owner must give verifiable written consent authorizing CDEC employees, contractors, or authorized representatives to enter premises and make any modifications needed, inside/outside the home, to install, maintain, inspect, repair and remove the equipment and/or Service.
- d. Equipment will be installed to the nearest power source inside or outside of the house or business.
- e. Upon installation, Customer is responsible for providing 120V to power the optical network terminal (ONT) and will notify CDEC if power is interrupted for maintenance or any other reason.
- f. Your "Service address" is limited to the single address where Service is installed and authorized for your sole use. It does not include any space not physically associated with your address.
- g. Customer agrees not to sell or redeliver CDEC's services without CDEC's express written consent, including, but not limited to, sharing of an access point for multiple locations, or charging other residents or businesses to access Service from outside of the designated Service address.
- h. If Customer terminates Service before the end of the agreement term, if any, the Customer is liable for the monthly charges remaining to fulfill the original agreement. In the event that you move, you are still bound to these Terms and Conditions.
- i. If the Customer is renting equipment provided by CDEC, it must be returned within thirty (30) days of Service termination. If not returned, the Customer will be liable for the full equipment cost.

### 2. SERVICE CHARACTERISTICS

- a. Internet plans are advertised as "up to" speeds. This mean, CDEC provides "best-effort" service. Best-effort Service is defined as the fastest internet speed received at the testing point and is not a guaranteed constant speed.
- b. CDEC reserves the right to interrupt speeds, if necessary, for equipment upgrades and maintenance.
- c. Customer is allowed to change Service plans no more than twice in a twelve-month (12) period.

### 3. CONSTRUCTION OF SERVICE

- a. CDEC provides 150 feet of fiber from the access point on the main line for Service installation. If service location requires additional fiber to service location, customer will receive a quote for the additional material costs. Construction will be scheduled once money and contract have been received.
- b. Standard installation includes 100 feet of CAT6 cable on the outside of building and 10 feet at entry point. CDEC will notify Customer if unforeseen circumstances arise during installation that will affect the cost of receiving Service.
- c. The Service "start date" is defined as the date upon which construction is completed and CDEC makes the Service available to the Customer.

### 4. EQUIPMENT

- a. The ONT is property of CDEC, and the Customer will be billed a recovery cost if damaged or lost.
- b. In the event any CDEC equipment is stolen from Customer's property, CDEC must be notified within thirty (30) days, or the customer will be charged for replacement.

- c. It is the Customer's responsibility to ensure that their computer system is up-to-date with the current software necessary to use the Service. From time to time, the computer equipment and software required to access and use the Service may change.
- d. CDEC's recommended equipment is made available to its customers. Customers have the option to rent recommended in-home routers.
  - i. If Customer chooses a CDEC router, internet speeds are tested at the router, inside the home.
  - ii. If Customer provides their own router, internet speeds are tested at the ONT.
  - iii. Quality of Service or tech support is not guaranteed or provided after the testing point.
- e. Customer agrees to not remove or modify any equipment from the assigned location. Removing equipment will result in a full replacement charge applied to the Customer's account.
- f. Customer agrees not to change an electronic serial number or equipment identifier of any device issued by CDEC. Performing a factory reset of any device without prior written consent from CDEC is also prohibited. CDEC reserves the right to terminate an account at its sole and absolute discretion if a Customer has tampered with any device. In the event this happens, the Customer remains responsible for any unpaid bill amounts and equipment charges as agreed in the Service Agreement and these Terms and Conditions.

## **5. CONTINUITY OF SERVICE**

- a. CDEC shall use reasonable diligence to provide an uninterrupted Service. CDEC shall not be liable for Service interruptions or defective equipment as a result of an act of God, public enemy, accident, strike, labor issues, inability to secure rights-of-way or other permits needed, or for any other cause beyond the reasonable control of CDEC. We shall not be liable therefore.
- b. You expressly agree that use of the Service is at your sole risk. CDEC expressly disclaims any representation or warranty that the Service will be error-free, secure or uninterrupted. To the maximum extent permitted by law, CDEC shall not be liable.
- c. All residential, non-profit and small commercial service plans include best-effort symmetrical speeds, bandwidth and customer service support between 8:00 a.m. and 5:00 p.m. weekdays. All large commercial service plans include 24/7 phone support and priority repair between 8:00 a.m. and 5:00 p.m. Report connection issues or outages by telephone at 505.876.2020 or by email at [redboltsupport@cdec.coop](mailto:redboltsupport@cdec.coop). If an on-site visit is required and the problem exists on the Customer's network, the Customer is responsible for payment of \$160.00 for a tech visit up to 50 miles one way.
- d. CDEC is not responsible for supporting Customer network equipment or peripheral equipment, including, but not limited to PCs, MACs, laptops, software applications, other carrier's equipment and routers not provided by CDEC. CDEC is not responsible for providing Service if the Customer disconnects or interrupts the power source to the ONT.

## **6. SECURITY**

- a. Customer can best control the risks associated with security and are therefore solely responsible for maintaining and upholding the account security of Service. CDEC is not liable for any disruption of Service, corrupted files or viruses which affect the Service. It is the Customers' responsibility to safeguard their network and equipment through appropriate means, from theft, unauthorized use or system corruption.
- b. Customer is entirely responsible for any actions, damages, or costs incurred via his/her account, regardless of who uses that account.
- c. Customer agrees to not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.
- d. CDEC reserves the right to terminate Service, at CDEC's sole discretion, if it is determined the Customer's continued access impedes the safety of CDEC's equipment, services and other customers.

## **7. LIABILITY**

- a. Customers are bound by the provisions of CDEC's Articles of Incorporation, bylaws, policies and tariffs currently in place, including those that pertain to patronage capital. Such documents are amended from time to time, and it is the Customers responsibility to review such documents.
- b. Neither CDEC or its independent contractors shall have any liability whatsoever for any loss resulting from installation, repair or other services including, but not limited to, damage to your premises, loss of software, data or other information on your electronic equipment.
- c. Unless otherwise expressly provided in this Agreement, CDEC is not be liable to Customer for incidental consequential, punitive, exemplary, indirect damages, lost profits or business interruption suffered by Customer or anyone authorized to use the Service. To the extent CDEC is subject to damages of any kind or nature, those damages shall be limited to an amount no greater than the total paid by Customer to CDEC during the twelve (12) months preceding the date that claim for damages arose.
- d. This Agreement shall be governed by the laws of the State of New Mexico and venue for resolution of disputes shall reside with the District Court of Cibola County, New Mexico.
- e. If any term or provision of this Agreement is held to be invalid or unenforceable, the remaining terms and provisions shall remain in full force and effect.
- f. CDEC reserves the right not to enforce a term of this Agreement without having that choice constitute a waiver.
- g. Some terms and conditions may not apply to Service through Service-Level Agreements, bulk arrangements or similar means, depending on the specifics of such agreements.
- h. This agreement shall be binding on the parties, their legal representatives, successors, and assignees.
- i. We may sell, assign, pledge or transfer your account or an interest in your account to a third party without notice to you. In the absence of a notice of such sale or transfer, you must continue to make all required payments in accordance with your billing statement.

## **8. PAYMENT AND BILLING**

- a. CDEC will bill your monthly Service fee in advance, via monthly paper statement by mail or paperless notice via email. Initial billing period shall begin when Service is available for use.
- b. Applicable taxes and/or franchise fees will be charged.
- c. Payment of an outstanding balance is due in full by the 20th day of each month. If payment is not received before the next statement is issued, you will be assessed a \$5.00 late fee, plus tax, and will be disconnected within five (5) business days. To reconnect, you must pay your total bill and a reactivation fee of \$25.00, plus tax, within seven (7) days of disconnection. After seven (7) days of disconnection, the reactivation fee is \$50.00, plus tax.
- d. CDEC reserves the right to suspend Service or terminate this Agreement without notice, if payment is not received before the next statement is issued. If CDEC uses a collection agency or attorney to collect money owed, or to assert any other right that CDEC may have, you agree to pay the reasonable costs of collection or other action, including, but not limited to, collection agency costs, reasonable attorney fees, and any court costs.
- e. You are required to provide us complete and accurate information for your billing account, and promptly update any changes (including to your email and billing addresses, credit/debit card number and expiration date). You agree that CDEC may continue charging you for any Service provided under your account. If we are unable to process your credit or debit card at any time, your account may be immediately suspended or terminated, and you will remain responsible for all amounts payable by you to CDEC.

## **9. POLICY CHANGES**

- a. CDEC reserves the right to revise its Terms and Conditions, Acceptable Use Policy, Net Neutrality Disclosure and other policies as needed. Current versions can be found at <http://www.redboltbroadband.com>

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## Acceptable Use Policy

To ensure the quality, security, and reliability of Red Bolt Broadband service ("Service"), Continental Divide Electric Cooperative, Inc. ("CDEC") has adopted this Acceptable Use Policy ("Use Policy"). This policy applies to all Red Bolt customers ("Customer") and forms a part of the Terms of Service referenced in our Service Agreements ("Agreement"). The policy governs each Customer's access to, and use of the Service.

1. **Binding Nature of this Policy.** By using the Service, Customer agrees to abide by the binding terms of this Use Policy. CDEC reserves the right to modify the Use Policy at any time, and all such modifications are also binding. Any Customer who does not agree to be bound by the terms of the Use Policy must immediately stop using the Service and notify CDEC to terminate the account.
2. **CDEC's Right to Suspend or Terminate Service.** CDEC reserves the right to immediately suspend, terminate, or restrict use of the Service without notice, if such use—at CDEC's sole discretion—violates this Use Policy or interferes with CDEC's Service or network.
3. **Permitted Use.** Reselling or otherwise redistributing the Service—including by wireless means—is strictly prohibited.
4. **Customer's Responsibility for Use of the Service.** Customer is responsible for any transmission sent, received, posted, accessed, or stored via the Service through Customer's account, including the content of any communication. Customer is also responsible for any misuse of the Service, violation of law, violation of this Use Policy, or violation of the other Terms of Service that occurs through Customer's account—whether by Customer, or by an authorized or unauthorized third party.
5. **Illegal or Harmful Use Prohibited.** Customer may use the Service only for lawful purposes. Any use of the Service to transmit, receive, or store material that violates any law or which is harmful is prohibited. By way of example only, the following illegal and/or harmful conduct is prohibited:
  - a. **Offensive Materials:** Disseminating or posting material that is unlawful, libelous, defamatory, obscene, indecent, explicit, lewd, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory or otherwise objectionable.
  - b. **Infringement:** Infringement of intellectual property rights such as copyright, trademark, patent, trade secret or other intellectual property right.
  - c. **Fraudulent Conduct:** Offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., pyramid schemes, chain letters, "pump and dump" stock fraud, make-money-fast schemes).
  - d. **Failure to Abide by Third-Party Policies:** Violating the rules, regulations, or policies that apply to any third-party network, server, or computer database that you access.
  - e. **Harmful Content:** Disseminating or posting harmful content including viruses, Trojan horses, worms, or any other computer or other programming routines that may damage, interfere with, secretly intercept or seize any system, program, data or personal information.
  - f. **Abuse of Newsgroups or Internet Chatrooms:** Customer may not spam newsgroups or chat rooms and must comply with the written charters, rules, or terms of service for those forums. In addition, Customer may not cross-post the same or substantially similar message excessively, post binary files to non-binary groups, or flood or disrupt a group.
6. **Electronic Communications.** Customer may not use the Service to distribute, publish, or send unsolicited advertisements, solicitations, commercial e-mail messages or promotional messages of any kind (commonly known as "spam"). Nor may Customer use the Service to distribute, publish, or send unsolicited informational announcements, empty messages (or messages containing no substantive content), or very large messages that may disrupt a server. Collecting or harvesting email addresses from the Internet for the purpose of sending unsolicited bulk email (or to provide collected addresses to others for that purpose) is also prohibited.



- 7. Other Prohibited Activities.** Any use of the Service that violates this Use Policy or that negatively impacts network security, quality, or integrity is prohibited. Such violations include, without limitation:
  - a. Unauthorized access to or use of data, systems, or networks, including any attempt to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures without express authorization of the owner of the system or network.
  - b. Unauthorized monitoring of data or traffic on any network or system without express authorization of the owner or network.
  - c. Interference with internet service to any user, host, or network, including but not limited to: mail bombing, flooding, or denial of service attacks.
  - d. Failing to abide by the acceptable use policies of any networks, machines, or services that are accessed through the Service.
  - e. Forging the header of any transmitted information packet, email, or Usenet posting.
  - f. Modifying or tampering with any hardware, software, or configuration provided by CDEC, including, but not limited to routers, switches, and cable modem configuration files.
  - g. Using manual or electronic means to avoid any limitations established by CDEC or attempting to gain unauthorized access to, alter, or destroy any information relating to any CDEC customer or end-user.
  - h. Storing any program, utility or file on CDEC servers, the use of which would constitute a violation of this policy. (For example, it is a violation to store hacker scripts, IRC bots, or spamming software on CDEC servers.)
  - i. Disrupting, degrading or otherwise adversely affecting CDEC's network or computer equipment owned by CDEC or other CDEC/Red Bolt Customers.
  - j. Excessive use of bandwidth that, in CDEC's sole opinion, places an unusually large burden on the Service or exceeds normal usage. CDEC has the right to impose limits on excessive bandwidth consumption via any means.
  - k. Assuming or assigning an CDEC IP address that was not allocated to the user by CDEC.
- 8. Security.** User is solely responsible for the security of any device connected to the Service, including any data stored on that device. Users shall take all necessary steps to avoid actions that result in the abuse of a resource on their network. Examples of abuse of resources include open news servers, open SMTP servers, unsecure wireless routers, and unsecure proxy servers. If Customer is using a wireless router, CDEC requires that any wireless network be secure and encrypted. Users must take appropriate action to prevent their systems from becoming infected with and/or distributing computer viruses such as but not limited to worms, "Trojan horses," denial-of-service attacks, and bots.
- 9. Network Management.** CDEC uses a variety of reasonable network management tools and practices consistent with industry standards. In the event that periods of congestion necessitate such management, CDEC has available the following tools and practices (without limitation and as may be adjusted over time):
  - a. Use of an upper limit of bandwidth allocated for uploading of files during congested periods;
  - b. Subscriber Traffic Management (STM) technology to temporarily lower the priority of traffic with the greatest impact on peak congestion;
  - c. Spam filtering and detection techniques; and
  - d. Measures to protect the security and integrity of its network, resources and Customers. In limited instances, if employed, these techniques may affect the throughput rate at which Customers may send and receive data, the ability of users to establish session connections within the network, or result in the delay of certain traffic during times of peak congestion.
- 10. Monitoring.** CDEC reserves the right at any time to monitor bandwidth, usage, transmissions, and/or content on the Service. CDEC need not proactively or routinely monitor a Customer account's use of the Service for violations of this Use Policy, though it reserves the right to do so. If CDEC is alerted to violations or potential violations of this Use Policy, CDEC may take whatever measures it deems necessary and appropriate to investigate, stop, and/or prevent those violations.

- 11. Law Enforcement and Compliance with Applicable Laws.** CDEC may refer potential violations of laws to the proper authorities, may cooperate in the investigation of any suspected criminal or civil wrong, and will cooperate with authorities when required to do so by law, subpoena, or when the public safety is at stake. CDEC assumes no obligation to inform Customer that information has been provided pursuant to law enforcement, court order, or by other legal obligation. In the event that CDEC becomes aware that Customer's use of the Service may violate a law or this Use Policy, CDEC reserves the right to take all such actions appropriate to address that violation. Such action includes, but is not limited to suspension of service, reduction of service resources, and termination of service. CDEC is not liable for any such responsive action and these actions are not exclusive. CDEC may take any other legal or technical action it deems appropriate.
- 12. Limitation of Liability.** No Warranty; Indemnity. Nothing in this Use Policy impairs or modifies those portions of the Agreement addressing limitation of liability, no warranty, or indemnity.
- 13. No Waiver.** The failure by CDEC to enforce any provision of the Use Policy at any point in time shall not be construed as a waiver of any right to do so at any future time thereafter.
- 14. Revisions to Policy.** Customers should regularly visit CDEC's website and review this Use Policy to ensure that their activities conform to the most recent version of the policy. In the event of a conflict between the Agreement and this Use Policy, the terms of this policy will govern.

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## Privacy Policy

### CDEC's broadband Website Privacy Statement

#### Respect for Your Privacy

Continental Divide Electric Cooperative, Inc. ("CDEC"), doing business as Red Bolt Broadband, respects the privacy of its Website (redboltbroadband.com) subscribers and visitors. This Statement explains what information CDEC collects through the Website, and how CDEC uses that collected information. Use of the Website and associated services and functionality (the "Services") are subject to this Privacy Statement.

#### Information We Collect

- **Personal Information:** CDEC obtains personal information concerning you ("Personal Information") when you contact us with inquiries, register for an online account or use the Services, including our online bill payment services. This includes contact information as well as billing and financial account information. In addition, CDEC may obtain Personal Information such as electric/internet usage data in connection with providing services to you. By using the Services, you are consenting to our use of Personal Information in accordance with this Privacy Statement.  
Personal Information also includes any username and/or password selected or assigned to you when you register with the Website. You are solely responsible for maintaining the confidentiality of your username and/or password, and to inform CDEC, immediately, if you believe someone else has learned or compromised your username or password.
- **Non-Identifiable Information:** When you use the Services, CDEC may receive or generate non-identifiable information about your use of the Website or other Services ("Non-Identifiable Information"). Typically, such Non-Identifiable Information is collected passively. Like most other websites, CDEC maintains web logs that automatically record basic, non-personal information about visitors. This information consists, for example, of IP address, type of browser, operating system, date and time of access, pages visited, and referring/exit pages. CDEC normally uses Non-Identifiable Information in aggregate form to enable us to keep the Website current with industry standards, to improve the functionality and Services offered by the Website, and to better tailor the Website to users' needs.

#### How We Use Personal Information

We use Personal Information for billing, collecting payments, contacting members, resolving problems, providing or improving the Services, marketing purposes, enhancing the Website, and meeting legal concerns or obligations. In addition, if you provide Personal Information for a specific reason, we may use the Personal Information in connection with the reason for which it was provided. For instance, if you contact us by e-mail, we will use the Personal Information you provide to answer your question or resolve your problem.

#### Disclosure of Personal Information

We do not sell, trade, or otherwise transfer your Personal Information to third parties. We do however, sometimes use third parties to perform certain business-related functions in connection with processing payments. When we engage another company to perform a function of this nature, we the Website and other Services. Examples include mailing services, maintaining databases, and provide such company with the Personal Information that it needs to perform that function. However, as a general matter, we will not provide e-mail addresses or other Personal Information, without your consent, to third parties for the use in marketing of goods or services by those third parties.

We may disclose Personal Information, if required to do so by law, or if we in good faith believe that such action is necessary to (i) comply with a legal obligation, (ii) protect and defend our rights or property, (iii) act in urgent circumstances to protect the personal safety of users of the Website or the public or (iv) protect against legal liability. In addition, we may provide Personal Information to credit bureaus or collection agencies, if we are permitted or required to do so by law.

**Links to Other Websites**

Our Website may contain links to other websites that are not owned or controlled by us. Also, you may be directed to our Website from another website that is not owned or controlled by us. Please be aware that we are not responsible for the privacy practices of other websites, and this Privacy Statement applies only to information collected through our Website or in connection with the other Services. You should carefully review the privacy practices of any third-party website, before providing such website with any Personal Information.

**Security**

CDEC employs reasonable security measures to protect Personal Information in our possession. However, no electronically-stored information is completely secure. Consequently, while we strive to secure the information we have collected online concerning you, we are not able to guarantee such security.

**Changes to This Privacy Statement**

It may be necessary for us to make changes to this Privacy Statement from time to time, in order to reflect changes to the Website or other Services, technology or legal requirements and guidelines. CDEC reserves the right to update or modify this Privacy Statement (on a prospective basis) without prior notice to you. Please check this Privacy Statement for any updates periodically, especially before you provide any Personal Information.

**How to Contact Us**

Should you have any questions or concerns regarding your information or privacy-related issues, please contact us via any of the methods listed directly below:

**U.S. Mail:** CDEC, PO Box 1087 Grants, NM 87020

**Telephone:** (505) 285-6656