

ERWIN UTILITIES - ERWIN FIBER TERMS AND CONDITIONS OF SERVICE

Acceptable Use of Services. By using Erwin Utilities and Erwin Fiber's service, you consent to be bound by the terms of this agreement. The Service(s) provided herein are for your use only, and you shall not use or permit the use of these services for any other purpose. You 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 one or more third parties. Erwin Utilities (EU) has published acceptable use Terms and Conditions of Service. Customers who knowingly violate these terms may have their use of services revoked or suspended. Copies of these acceptable use Terms and Conditions of Service are available at EU's office and at www.erwinfiber.com. Customers are encouraged to read and follow these Terms and Conditions of Service, including any updates that may be published on EU's website. The Service and Equipment are provided to you for your personal use. You 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 EU's Terms and Conditions of Service that is available at www.erwinfiber.com; tamper with, disrupt or "hack" the Equipment, or make use of the Service in any way that is inconsistent with its intended purpose. You also agree to comply with the Terms and Conditions of all end-user license agreements that accompany the Equipment or are otherwise applicable to your 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; you agree to return to us or destroy at that time all versions and copies of all software received in connection with the Services. EU reserves the right to terminate your Service should you, in EU's sole discretion, commit any of the actions listed above or any other reason. You are responsible for any liability or charges billed by any program provider. EU reserves the right in its sole discretion to enforce bandwidth allotments depending upon your level of usage and the level of Service(s) purchased. If you have exceeded the appropriate level of internet usage in any given month, EU will notify you by phone or in writing. You agree to pay additional charges upon notice from EU.

Assignment. This service agreement is non-assignable without the express written consent of EU - Erwin Fiber.

Billing and Payments. EU will bill all charges, applicable taxes, and fees monthly in advance (except for usage based charges or service charges, which will be billed monthly in arrears). Applicable charges will be set forth in EU's then-current fee schedule found at www.erwinfiber.com. Some government imposed fees and taxes may be imposed or become applicable retroactively, and you will be responsible for paying any such charge. If you are exempt from payment of such taxes, you must provide EU with an original certificate that satisfies all applicable legal requirements. A tax exemption will only apply from and after the date we receive it. Failure to pay the total balance when due may be grounds for disconnecting service and/or imposing a late fee. EU may charge a reasonable fee for all returned check and bankcard chargebacks. The returned amount plus fee must be paid by cash, cashier's check or money order. If EU retains an agency or attorney to collect any amount owed, you will be obligated to pay all of EU's costs of collection, including attorneys' fees. If you dispute any charges, you must notify EU within sixty (60) days of the date of your EU invoice, or any such dispute will be waived. EU does not offer credit for disrupted service. When service is disrupted call EU for support and EU will make every effort to restore your service in a reasonable amount of time.

Changes to Service Terms and Conditions of Service. Subject to applicable law, we have the right to change our Services, Equipment and rates or charges at any time with or without notice. We may also change, add or remove programming features or offerings contained in the Service or other Terms and Conditions related to the Service. We will provide you notice of changes to the Service and to these Terms and Conditions of Service consistent with applicable law. We may also post notice of such changes at www.erwinfiber.com, and we may send notice to you to the email address on EU's account records for you. Because we may from time to time notify you about important information concerning the Terms and Conditions of Service, you agree to regularly check your postal mail, email and all postings on www.erwinfiber.com or on another website about which you have been notified. You bear the risk of failing to do so. If you find a change in Service or a change in these Terms and Conditions of Service unacceptable, you may cancel the Service. If you continue to receive the Service, we will consider you to have accepted these changes and accept these terms of service.

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

Credit Policy. EU reserves the right to review your previous billing history with EU or access your credit history through a credit reporting agency. EU may deny or disconnect service with you in the event your credit does not meet a certain threshold.

Equipment. All equipment issued to you by EU shall remain the property of EU at all times with the exception of equipment sold to you by EU. Any equipment sold to you by EU is your equipment and EU does not offer any warranty on such equipment. You agree to be responsible for any loss, theft or damage of EU Fiber Optics' Equipment. EU will bill you for any unreturned equipment 5 business days after your service has been terminated. If equipment is lost or damaged, please contact your insurance company to file a claim. EU is not responsible for the maintenance, operation, service or repair of any of your equipment connected to the Services, including without limitation television, computer, telephone or any other device. You agree to allow EU or its agents to send software to your equipment and to configure your equipment when necessary to provide Services, even if doing so disrupts service, changes, adds or removes features or functionality of any such equipment. EU will not be responsible for any damage to your equipment arising from such activities. If you are not the owner of the equipment, you are responsible for obtaining any necessary approval from the owner to allow us to access this equipment and to perform the activities listed above.

E911 Notice. In order for 911 calls to be properly directed, EU must have your correct service address. EU Voice uses the electrical power in your home. 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 your address, please call (423)743-1820 to provide EU with notice. EU will require several business days to update your service address in the 911 system.

Force Majeure. EU 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 EU's reasonable control.

Governing Law. These Terms and Conditions of Service and the relationship between you and EU shall be governed by the laws of the State of Tennessee.

Indemnity. You agree to indemnify and hold harmless EU from all liabilities, damages, claims and expenses, including without limitation attorneys' fees, that arise from your or a User's use of 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 your breach of any provision of these Terms and Conditions of Service. Where you are obligated to indemnify or hold EU harmless anywhere in these Terms and Conditions of Service, those obligations run not only to EU but also to its employees, representatives, affiliates, agents, officers and directors.

Installation and Access. As the customer, you agree to allow EU the right to enter your property for the purposes of adjusting, repairing, replacing, maintaining, moving, auditing or removing any equipment if necessary. You represent that you either own the property or have the right to allow EU to install any necessary equipment and wiring to provide you service. You also agree to allow access for the purpose of checking signal quality. You should always ask for proper identification anytime an EU employee or contractor requests entry to your property. If identification is not provided, please do not allow access.

Limitation of Liability. IN NO EVENT SHALL EU 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 EU HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. WITHOUT LIMITATION OF THE FOREGOING, EU 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, EASVEDROPPING, INTERCEPTION OF TRAFFIC SENT OR RECEIVED USING THE SERVICES, OR ANY USE OF THE EQUIPMENT OR SERVICES OF EU THAT INFRINGES UPON ANY PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY OR INTELLECTUAL PROPERTY OR CONTRACTUAL OR OTHER RIGHTS OF ONE OR MORE THIRD PARTIES. It is expressly understood that EU shall have no liability for any damage to you or any other person claimed to have resulted from your use of the Service(s).

Miscellaneous. These Terms and Conditions of Service and any other documents incorporated by reference constitute the entire agreement and understanding between you and EU with respect to EU'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 EU fails to insist upon or enforce strict performance of any provision of these Terms and Conditions of Service, it shall not thereby waive any provision or right, neither the course of conduct between the parties nor trade practice shall modify these Terms and Conditions of Service.

No Warranties. EU 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 you on an "as is" basis. The Service is not fail-safe and may be disrupted. The service is not designed or intended for use in situations in which an error or interruption could lead to injury to business, persons, property or the environment. Without limiting the foregoing, EU does not warrant that the service will be without failure, delay, interruption, error, degradation of quality, or loss of content, data or information. Neither EU nor its officers, directors, employees, contractors or any other service provider who furnishes services or products to customer in connection with these Terms and Conditions of 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 EU, its contractors or service providers. Statements and descriptions concerning the Service or Equipment, if any, by EU or by EU's authorized representatives are informational and are not given as a warranty of any kind.

Service Termination or Changes. As with all our utility services, a call to our office will take care of your needs. Please call (423)743-1820 should you decide to alter your services, move or make any other changes. EU and the customer have the right to terminate the service at any time for any reason. EU will no longer bill for the service once they been terminated.

Survival. Certain obligations under these Terms and Conditions of Service by their terms 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 and Conditions of Service shall in no way affect the survival of such obligations.

Wiring. In a single dwelling unit, all inside wiring is the customer's property. In a multiple dwelling unit or a commercial premises, wiring is not the customer's property unless purchased by the customer. Customer owns all wiring beyond the demarcation point at customer premise. The demarcation point is defined as the network interface device (NID) where EU's drop fiber transitions to indoor fiber/wiring. Any damage to wiring/fiber inside the customers home is the customers responsibility. If the wiring/fiber is damaged and requires EU to come onsite to repair a service charge may be imposed.

On-site Charges. EU may bill the customer any time a technician is sent to the customers premise with or without written consent. EU will notify the customer verbally of the charges before work is complete. These charges may vary depending on the day of the week and time of day. Applicable charges will be set forth in EU's then-current fee schedule found at www.erwinfiber.com. EU will not send a technician onsite between 9:00PM and 7:00AM.

Internet Speed. EU makes no guarantee of speed customer is subscribed to. Speedtest's done over the internet or to EU's speedtest site that do not meet the subscribed speed in no way constitute a credit to the customer's account. All speeds subscribed to are maximum speed achievable, actual speeds may vary.