



Terms and Conditions

This Agreement describes the terms and conditions between you (“Customer”) and Continental Divide Electric Cooperative, Inc. (“CDEC,” “Service Provider,” “Us,” or “We”) applicable to CDEC’s Fiber Optic Service (“Service”).

1. AGREEMENT TERMS

- a. The customer is bound to these Terms and Conditions, Acceptable Use Policy and Broadband Internet Access Service Disclosures upon signing the Service Agreement.
- b. CDEC will provide Service to the Customer at an agreed-upon price and contingent upon obtaining a right of entry onto the premises. As part of the installation process, your home may require modifications to the inside or outside wiring.
- c. The premises owner must give verifiable written consent authorizing CDEC employees, agents, contractors, or authorized representatives to enter premises and make any modifications needed, inside or outside of 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. The member is responsible for providing 120V to power the optical network terminal (ONT) upon installation and will notify CDEC if power is interrupted for maintenance or any other reason.
- f. In the event that you move, you are still bound to the terms and conditions of this agreement.
- g. 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.
- h. If the Customer terminates Service before the end of the agreement term, the Customer is liable for the monthly charges remaining to fulfill the original agreement.
- i. If the Customer is renting a router provided by CDEC, the router must be returned within 30 days of Service termination. If the router is not returned, the Customer will be liable for the full cost of the equipment.
- j. Customer agrees not to sell or redeliver Internet services purchased from CDEC without the express written consent of CDEC including, but not limited to, Customers sharing an access point for multiple locations or charging other residents or businesses to access Service from outside of the designated Service address.

2. SERVICE CHARACTERISTICS:

- a. Internet packages are advertised as “up to” speeds. This mean, CDEC provides “best-effort” Internet Service for residential and small commercial use. Best-effort Service is defined as the fastest speed you will receive at the testing point and is not a guaranteed constant speed.
- b. You are allowed to change your Service package no more than twice in a twelve-month period.
- c. CDEC’s fiber optic system is currently in its initial deployment form and during this period, Internet speeds may vary.
- d. CDEC reserves the right to interrupt speeds, if necessary, for equipment upgrades and network maintenance.

3. CONSTRUCTION OF SERVICE

- a. CDEC contributes 150 feet of fiber from the access point on the main line for Service installation. The Customer may have additional construction costs for a service line extension if more than 150 feet from the access point to the service location exists.
- b. CDEC's standard installation includes 100-feet of CAT6 cable on the outside of the building and 10-feet of cable at the entry point.
- c. CDEC will notify the Customer if unforeseen circumstances arise during the installation process that will affect the cost of receiving Service.
- d. If the installation process requires a service line extension, the Customer will be given a quote and construction will be scheduled once money and contract have been received.
- e. 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 the 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 the Customer's property, CDEC must be notified within 30 days or the customer will be charged for replacement.
- c. It is Customer's responsibility to ensure that his/her 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 purchase or rent recommended in-home routers.
 - i. If a Customer chooses to rent or purchase a CDEC router, Internet speeds are tested at the router, inside of the home.
 - ii. If the Customer provides his/her router, Internet speeds are tested at the optical network terminal located inside or outside of the home.
 - iii. Quality of Service or tech support is not guaranteed or provided after the testing point.
- e. The 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. The 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. Report connection issues or outages 8 a.m. to 5 p.m. weekdays by telephone at (505)285-6656. A Support Specialist will assist you with diagnosing the problem and taking steps to restore connectivity of your Service. If needed, CDEC Support will assess a need for a tech visit.
 - i. Please note that no service work or tech visit will occur unless you have contacted the CDEC Support number listed above. When you contact CDEC Support, CDEC will generate a ticket number and begin the process to schedule a home visit.
 - ii. 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, peripheral equipment including, but not limited to PCs, MACs, laptops, routers, or software applications or another carrier's equipment.
- e. CDEC is also not responsible for providing Service if the member disconnects or interrupts the power source to the ONT.

6. SECURITY

- a. The 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. The Customer is entirely responsible for any actions, damages, or costs incurred via his/her account, regardless of who uses that account.
- c. The 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. The Customers will be 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. CDEC nor 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 shall not be liable to Customer for consequential, incidental, 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 12 months preceding the date the 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 of this agreement shall remain in full force and effect.
- f. We may choose to not enforce a term of this agreement without having that choice constituting a waiver.
- g. For customers receiving Service through Service-Level Agreements, bulk arrangements or similar means, some policies may not apply to you, depending upon your specific agreement.
- 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 statement.

8. PAYMENT AND BILLING:

- a. You agree that 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 the outstanding balance is due in full by the 20th day of each month. If your payment is not received before the next statement is issued, you will be assessed a \$5.00 late fee and will be disconnected within five (5) business days.
- d. If you wish to reconnect, you will have to pay your total bill and a re-activation fee of \$25.00 within seven (7) days of disconnection, and \$50.00 after seven (7) days of disconnection.
- e. We reserve the right to suspend Service or terminate this Agreement without notice, if payment is not received before the next statement is issued. An activation fee may be required before reactivating Service. If CDEC chooses to use a collection agency or attorney to collect money owed to CDEC or to assert any other right that CDEC may have against you, you agree to pay the reasonable costs of collection or other action, including, but not limited to, the costs of a collection agency, reasonable attorney's fees, and court costs.
- f. You must provide current, complete, and accurate information for your billing account, and promptly update any changes (including changes to email and billing addresses, credit/debit card number, credit/debit card 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 may revise its Terms and Conditions or policies as needed and will post the new version on its website at <http://www.CDEC.coop> and any other designated sites. Revised policies are effective immediately upon posting.
- b. Customers should regularly visit our website and review its policies and Terms and Conditions.



Acceptable Use Policy

BACKGROUND

To ensure the quality, security, and reliability of its fiber optic broadband service (the “Service”), CDEC has adopted this Acceptable Use Policy (the “Use Policy”). The Use Policy applies to each customer’s (“Customer”) use of the Service, and forms a part of the Terms of Service referenced in the Fiber Optic Broadband Service Application and Agreement (“Agreement”). This Use Policy supersedes previous use policies, and governs each Customer’s access to and use of the Service.

USE POLICY

- 1. Binding Nature of this Policy.** By using the Service, Customer agrees to abide by the binding terms of this Use Policy. CDEC may modify this Use Policy at any point in the future, 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—in 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 Customers.
 - j. Excessive use of bandwidth that, in CDEC's sole opinion, places an unusually large burden on the CDEC 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.



Privacy Policy

CDEC's broadband Website Privacy Statement

Respect for Your Privacy

Continental Divide Electric Cooperative, Inc. ("CDEC") respects the privacy of its members and of visitors to its Website (the "Website"). This Privacy 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