

CUSTOMER SERVICE AGREEMENT – RESIDENTIAL (DTH) CUSTOMER

This Customer Service Agreement (“Agreement”) describes the terms and conditions of your receipt and payment of Internet Service (“Service”), provided by Data Stream Inc. (“Data Stream” or the “Company,” also referred to as “We” or “Us”), including use of or access to Company-owned networks used to provide Internet Service (the “Network”). This is a binding agreement between you (the Account holder for a single residential unit, located at _____) and Data Stream.

By using, accessing, or paying for the Service, you agree to be bound by the charges, terms and conditions set forth in this Agreement. If you do not wish to be bound by this Agreement, you should not access, subscribe to, or otherwise use the Service and must immediately stop all use of the Service. By using, accessing, or paying for the Service, you also agree to be bound by Data Stream’s Acceptable Use Policy and Privacy Policy and the Terms of Service provided to you by Data Stream prior to activation of the Service (the “Terms of Service”), each of which is incorporated herein by reference.

I. CHANGES TO THIS AGREEMENT

From time to time, We may change this Agreement. Modifications will be deemed effective immediately upon posting of the modified terms at www.dtestream.com/terms. We will provide you with notice of material changes via either your Account e-mail address or any other email address you provide, posting online at www.dtestream.com/terms, or other means. It is your responsibility to check for any such notices. If you find the changes unacceptable, you have the right to cancel the Service. Your continued subscription to the Service after the effective date of the change constitutes your acceptance of such changes.

II. INTERNET SERVICE

A. Service Description

Internet Service is composed of narrowband or broadband access to the Internet, and offers you a capability for acquiring or retrieving information from; generating, storing, transforming, processing, or utilizing information on; or making available information to other Internet end points connected directly or indirectly to the Company’s network. Because the Internet consists of multiple interconnected networks and most Internet end points (e.g., websites and other content providers) are not directly connected to Data Stream’s network, Data Stream must connect to and exchange traffic with other networks to provide its subscribers the capability of uploading data to or downloading data from Internet end points that are connected to those networks. To that end, the Company has entered into commercially negotiated agreements to exchange traffic with such networks on mutually agreeable terms. The Company does not warrant that it will establish or expand the connections between its network and other networks except on such mutually agreeable terms. To the extent the Company is unable to reach agreement on terms of interconnection or network expansion with these other networks, the Service could be affected. The Company therefore makes no promise, express or implied, that you will be able to upload data to or download data from Internet end points connected to other networks at any particular speed.

Like the other networks that make up the Internet, Data Stream's Network is a shared network, which means that the transmission links and other network resources used to provide the Service are shared among the Company's subscribers. The Company manages its Network for the benefit of all users based on a variety of factors, and our technical expertise.

The Company's Service is provided on an as-available basis only. The Company makes no guarantees on any Service provided.

B. Speed, Service Capability Speed Ranges, and Conditions that May Impact Service Performance

Data Stream offers various broadband service options, each of which has a different service capability speed range. The term "speed" is commonly used as a shorthand way to describe the capacity at which a particular broadband internet access service can transmit data. This capacity is typically measured in the number of kilobits (Kbps), megabits (Mbps), or gigabits (Gbps) that can be transmitted in one second. Some applications, such as a short email without attachments or basic web browsing, do not require high service capability speeds to function optimally, while other activities like transferring large data files can be performed faster with higher-speed services. Your service capability speed may not be suitable for some applications, particularly those involving real-time or near real-time high-bandwidth uses such as streaming video or video conferencing.

The current speed ranges offered by the Company may be found at www.dtestrem.com/internetpackages, which identifies the downstream and upstream rates at which your line transfers internet access data between the network interface device at your location and the measuring point on the Company's Network. Because service performance varies on an end-to-end basis, the Company's service capability speeds are limited to, and measured between, the point at your location where the Company's Network connects to any inside wiring or other facilities, and the measuring point on the Network. For this segment, you can expect to see service capability speeds within the speed tier of the service plan to which you have subscribed.

Service to the measuring point on the Company's Network constitutes only one segment of the end-to-end transmission path connecting the subscriber to Internet websites or content providers. End-to-end performance of the Service depends on a variety of factors, including (but not limited to): the number of subscribers simultaneously using the network; customer location; destination and traffic on the Internet; Wi-Fi connectivity; interference; wiring at your location; the capacity or performance of your devices or modem; the server with which you are communicating; internal network management factors (including "Overhead," which refers to the various control and signaling data required to achieve the reliable transmission of Internet access data); and the networks you and others are using when communicating. In addition, your use of other services (such as DIRECTV, or DIRECTV web apps and other services) that share the capacity of your broadband connection with the Service may impact the amount of capacity available for your use of the Service at that particular time and thus affect the performance of the Service. Consequently, the Company does not guarantee the performance of the Service on an end-to-end basis.

C. IP Addresses

Data Stream’s Internet Service is provided with a dynamic Internet Protocol (“IP”) address, a static IP address, or a multiple static IP address service (as applicable), at the Company’s sole discretion. Static IP addresses are not available with all speeds. The dynamic IP address is a single Internet address intended and reserved for use with your single Account. The static IP address or multiple static IP address is intended for use with a single network of computer/servers. You may not use the Service in a manner that is inconsistent with these intended uses. The Company’s Internet Service will support both IPV6 and IPV4 Internet addresses; however, to reach IPV6-exclusive Internet content, some of your equipment may require upgrades or replacement.

D. Availability

The Service is not available in all areas, and may not be available at certain speeds (or at all) at your location, even if our initial testing indicated that your line qualified for a particular speed or Service.

E. Service Changes

The Company reserves the right to modify or discontinue the Service (including rates and charges), temporarily or permanently. If the Company makes a change that would have a material impact on the Service, We will give you notice. The terms and conditions for temporary changes, if any, will be included in the notice and incorporated by reference into this Agreement at www.dtestream.com/terms . Your continued subscription to the Service after the effective date of the change constitutes your acceptance of the changes and the associated terms and conditions. In lieu of notice and website posting, the Company may instead, at its sole discretion and as a condition to your continued use of the Service, require you to enter into an agreement regarding temporary material changes.

F. Access Necessary for Service

You warrant that you have obtained permission from any necessary party, including but not limited to the owner, landlord, or building manager, to allow Data Stream and its subcontractors reasonable access to install, maintain, and repair the Service and to make any alterations Data Stream deems appropriate for the work to be performed or for the Service to be provided.

You acknowledge that the Company may use existing wiring, including altering the wiring and removing accessories, located within your unit (“Inside Wiring”). You warrant that you own or control the Inside Wiring, and give the Company permission to use, alter, and remove equipment from, such Inside Wiring. Without limiting any other provisions of this Agreement, you agree to indemnify the Company from and against all claims by an owner, landlord, building manager, or other party in connection with installation, maintenance, repair, or provision of the Services

III. PRICING

When you purchased the Service, you agreed to the specific price and plan set forth on the Terms of Service, which may have included a term for the Service of one or more years (“Term Plan”).

Some plans may offer a discount on the Service if you sign up for other Data Stream services (“Bundle Discount”). You agree to maintain the Service and any bundled services for the applicable term of the Term Plan or Bundle Discount, as applicable. If you signed up for a Term Plan or a Bundle Discount, the price under the applicable plans is valid until one of the following events occurs, at which time the price of the Service may revert to the then-existing price for such Service: (1) the term of your plan expires; (2) you drop one of the Company’s services that you were required to purchase to receive the special rate; or (3) the Company exercises a right under this Agreement to terminate your use of the Service.

IV. TERMINATION OR CANCELLATION OF SERVICE

A. Your Decision to Terminate or Continue Service

You may cancel the Service, but if you do so before the end of any applicable term, you will be subject to any early termination fee associated with that plan as specified in the Terms of Service. At the conclusion of your term, or at all times if you did not agree to a Term Plan, your continued Service will be provided on a month-to-month basis.

B. Service Suspension or Termination

The Company may immediately terminate or suspend your Account, or all or a portion of the Service, without notice, for any of the reasons set forth in the Company’s Acceptable Use Policy, or if: (a) you provide false or inaccurate information to the Company; (b) you violate this Agreement or the Company’s Acceptable Use Policy; (c) you engage in conduct that is a violation of any law, regulation or tariff (including, without limitation, copyright and intellectual property laws); or (d) you engage in conduct that is threatening, abusive or harassing to the Company, its employees, or its agents or representatives, including, for example, making threats to physically harm or damage employee or company property; frequent use of profane or vulgar language; or repeatedly contacting our customer service representatives for reasons that do not pertain to our provisioning, maintenance, repair or general servicing of the Service after you have been asked to stop such conduct. If We terminate the Service and you have a term commitment, We may charge you an early termination fee, as set forth in the Terms of Service, in addition to any other rights that We reserve in other provisions of this Agreement or the Terms of Service.

The Company may suspend or terminate the Service if your payment is past due. While the Service is suspended, billing will continue for your monthly charges. If the Company suspends the Service for non-payment, you must pay all past due amounts in order to have service restored.

If the Service is terminated, Data Stream has the right to immediately delete all data, files, and other information stored in or for your account without further notice to you. You must pay all charges for the Service through the date of termination. Should you wish to resume Service after any suspension or termination, a Restoral of Service fee may apply. This Restoral of Service fee is in addition to all past due charges and other fees.

V. PAYMENT

A. Amount Due

You agree to pay in full each month: (1) the monthly fee specified when you ordered the Service; (2) any charge(s) for equipment acquired or leased from Us; (3) activation fees, connection and/or installation charges, if any; (4) late fees, Restoral of Service fees, and other applicable charges; and (5) any applicable taxes, recovery fees and surcharges that the Company pays to municipalities or other governmental entities and may pass on to you. The outstanding balance is due in full each month by the due date. For a list of additional fees that could apply to the Service, please see the Terms of Service. It is your responsibility to notify Us immediately if your contact information changes.

B. Credit Check / Advance Payments & Deposits

You permit Us to obtain your credit information from credit reporting agencies at any time. If We determine that you may be a credit risk due to: (1) unsatisfactory credit rating; (2) insufficient credit history; (3) fraudulent or abusive use of any Company services; or (4) late payments for current or prior bills, We may refuse to provide the Service or require an advance payment, a non-refundable payment, and/or deposit. Interest will not be paid on advance payments or deposits unless required by law. We may require special payment terms such as additional advance payments or deposits if We determine that the initial payment was inadequate. We may establish limits and restrict the Service or features as We deem appropriate. If your account balance goes beyond any such limit or restriction We set for you, We may immediately interrupt or suspend the Service until your balance is brought below the limit. Any charges you incur in excess of your limit or restriction become immediately due. Upon determination solely by the Company of satisfactory payment history or as required by law, We may begin refunding of deposits through bill credits, cash payments, or as otherwise determined solely by Us.

C. Billing Begins When Service is Provisioned

Billing will begin when Service is provisioned by the Company, whether or not you have begun to use the Service. You will automatically receive an online bill (see below), unless you specifically notify Us that you want to receive a paper bill by apar@dtestream.com , or www.dtestream.com/mystream or 888-719-2464.

D. Payment by Credit Card

In order to activate the Service, you will be asked to provide Us with a credit card number from a card issuer that We accept. Your monthly charges may be billed to that credit card. You hereby authorize Us to charge and/or place a hold on your credit card with respect to any unpaid charges for the Service or any related equipment. You authorize the issuer of the credit card to pay any amounts described herein without requiring a signed receipt, and you agree that this Agreement shall be accepted as authorization to the issuer of the credit card to pay any amounts described herein without requiring a signed receipt, and you agree that this Agreement shall be accepted as authorization to the issuer of the credit card to pay all such amounts. You authorize Data Stream (or any vendor or agent of ours who acts as our billing agent) to continue to attempt to charge

and/or place holds with respect to all sums described herein, or any portion thereof, to your credit card until such amounts are paid in full. You agree to provide the Company with updated credit card information upon the Company's request and any time the information you previously provided is no longer valid. You acknowledge and agree that neither the Company nor any vendor or agent of ours will have any liability whatsoever for any non-sufficient funds or other charges incurred by you as a result of such attempts to charge, and/or place holds on, your credit card. If you mistakenly provide a debit card number, instead of a credit card number, you authorize all charges described herein to be applied to such debit card unless and until you provide a credit card number. Payment made by credit card or debit card will also be subject to the terms and conditions established by the credit or debit card issuer.

E. Online Billing

You may establish a personal customer login account to provide for online billing. To do so, you must register online at www.dtestream.com/mystream including providing a billing email address and establishing a username and password. You will then be able to view your account information online and pay your bill online by logging on to your personal customer login account.

You understand that you have sole responsibility for the security of your password and you are solely responsible for notifying the Company if your password is lost or stolen, as set forth below in more detail in Section VII. We and our billing agents are not liable for any claims, costs, damages, or expenses arising from a lost, misplaced, or stolen password. If you have forgotten your password or want to change your password for any reason, you may request to reset your password online.

F. Late Payment Charge and Dishonored Check or Other Instrument Fee

You agree that for each bill not paid in full by the payment due date, a late payment charge will be assessed, and if the Service is suspended for non-payment, we may charge you a Restoral of Service fee to resume Service. We may charge you a fee for any check or other instrument (including credit card charge backs) returned unpaid for any reason. If charges cannot be processed through your credit card, or if your bank draft or electronic funds transfer is returned for insufficient funds, We may charge you an additional fee. For a list of additional fees that could apply to the Service, please see the Terms of Service.

G. Bill Inquiries and Refunds

If you believe you have been billed in error for the Services or any related equipment, please notify Us within 60 days of the billing date by contacting Us at apar@dtestream.com , or www.dtestream.com/mystream or 888-719-2464. The Company will not issue refunds or credits after the expiration of this 60-day period, except where required by law or regulation. Any amounts refunded in the form of bill credits, cash payments or any other form shall be inclusive of all applicable taxes, fees and surcharges that were originally paid on such amounts.

H. Collection

If you fail to pay amounts you owe Us, you may be subject to collections by Data Stream or a third-party collection agency. To the extent permitted by law, you will pay Us any costs and fees We reasonably incur to collect amounts you owe.

I. Contact Regarding Your Account

You expressly authorize, and specifically consent to allowing, the Company and/or its outside collection agencies, outside counsel, or any other agents acting by or on behalf of the Company to contact you regarding your account, including but not limited to contact in connection with any and all matters relating to unpaid past due charges billed by the Company to you. You agree that such contact may be made to any mailing address, telephone number, cellular phone number, e-mail address, or any other electronic address that you have provided, or may in the future provide, to the Company and to any and all telephone numbers billed on your account. You expressly consent and agree that such contact may be made using, among other methods, pre-recorded or artificial voice messages delivered by an automatic telephone dialing system, text messages delivered by an automated system, pre-set e-mail messages delivered by an automatic e-mailing system, or any other pre-set electronic messages delivered by any other automatic electronic messaging system. You agree to provide true, accurate, current and complete contact information to the Company and its authorized agents and to promptly update your contact information to keep it true, accurate and complete.

VI. EQUIPMENT

Other than the equipment and/or software installed, provided, sold, or leased to you by Us for use with the Service, you must provide all equipment, devices and software necessary to receive the Service. Any equipment or software that was not provided to you by Us, including batteries, is not the responsibility of Data Stream; and We will not provide support for, or be responsible for ongoing maintenance of such equipment.

A. Equipment Provided by the Company

The Company may make available to you certain equipment (which may include a modem/gateway; or an Optical Network Terminal (“ONT”); or an Intelligent Network Interface Device (“iNID”) (which provides your services if you do not have a gateway), all of which is herein collectively referred to as “Internet Equipment”), required for the Service. Any Company-provided modem, router or gateway will be either a new or a fully inspected and tested refurbished unit.

If you have not purchased Internet Equipment from the Company or if previously purchased Internet Equipment is beyond the applicable warranty period (from date of installation) and requires replacement, then you agree to pay a monthly equipment fee for the Internet Equipment as part of your purchase of or continued use of the Service, as set forth in the Terms of Service. Internet Equipment fee/purchase options depend on the rate plan you order and the installation options you choose. If any equipment has a warranty, the warranty is provided by the equipment

manufacturer and Data Stream is not responsible or liable for the manufacturer's obligations under such warranty.

Internet Equipment provided by the Company to you requires electrical power from your location to operate, which you are responsible for providing. You may choose to purchase battery backup for your Internet Equipment from third-party manufacturers or retailers. You agree to (a) be solely responsible for determining when backup batteries for any Internet Equipment require replacement and for replacing and recycling used batteries and (b) read and follow all manufacturer or vendor directions for the replacement and recycling of backup batteries.

Note that Internet Equipment without battery backup will not function in the event of a loss of customer-supplied power. This will disrupt the Service as well as any additional services that use the Company connection for transport. The Company will have no liability for loss of any Service in the event of interruption of customer supplied power, with or without battery backup present in the Internet Equipment.

Tampering with the Internet Equipment, or attempting to connect it to other hardware, will be treated as damage due to your intentional acts or negligence. You agree that you will use the Internet Equipment only for its intended use, and not for any other purpose (such as on another Company network, or on another provider's network).

You agree to notify Data Stream immediately at dispatch@dtestream.com, or www.dtestream.com/contactus or 888-719-2464 if the Internet Equipment is stolen or if you become aware at any time that the Service is being stolen or fraudulently used. When you call or write, you must provide a detailed description of the circumstances of the theft, including documentation of theft or fraudulent use of the Internet Equipment or the Service (such as a copy of a police report). You will be responsible for all charges incurred until you report the theft or fraudulent use. You will also be responsible for stolen Internet Equipment not owned by you; however, the Company may in its sole discretion waive or reduce charges upon submission of documentation of theft or other circumstances. Failure to provide notice to the Company of theft in a timely manner may result in the termination of the Services and additional charges to you. Unless notified otherwise by the Company, after you report the theft or fraudulent use of the Services, you will remain responsible for paying your monthly fees for Services not stolen or fraudulently used.

If the Service is terminated for any reason, we will arrange for all Internet Equipment to be picked up and you will provide access to the Property to allow for such pickup. If the Internet Equipment is damaged, you may be charged a fee or we may retain any advance payment or deposit, or portion thereof that previously had not been refunded to you, in each case as set forth in the Terms of Service.

B. Management of Equipment

Regardless of whether the equipment used to access the Service (modem, gateway, etc.) is owned by you or the Company, the Company reserves the right to manage such equipment for the duration of the Service, and retains exclusive rights to data generated by the equipment. Neither you nor a

third party may change, interfere with, or block access to such equipment, the data thereon or generated by such equipment, or the settings on such equipment.

If equipment installed, provided, sold, or leased to you by Us for use with the Service becomes damaged, the Company will repair or replace that equipment as We deem necessary. You understand that repair or replacement of equipment may delete stored content, reset personal settings or otherwise alter the functionality of such equipment. You will be responsible for payment of service charges for visits by the Company or its agents or representatives to your premises when a service request results from causes not attributable to the Company or its agents or representatives, including, but not limited to, when you are unwilling to complete troubleshooting steps requested by the Company. If you own the equipment, or if the equipment is damaged due to your intentional acts or negligence as determined by Us, you will be responsible for the price of repair or replacement. You will provide the Company and its agents or representatives with reasonable access to your premises in order to install, maintain, and repair the Service and you authorize any other adult resident or guest at your residence to grant access to your premises for these purposes. You understand and agree that the Company may drill, cut, and otherwise alter improvements on the premises (including walls, flooring, and/or other surfaces) in order to install, maintain, or repair the Service.

VII. ACCOUNT SECURITY

A. Password Integrity

Upon establishing a personal mySTREAM account, you will receive a password associated with your Account ID. You agree to keep confidential all passwords, IP addresses, and computer names and are solely responsible for any liability or damages resulting from your failure to maintain that confidentiality. You are also solely and fully responsible and liable for all activities that occur under your password, Account ID or IP address. You agree to immediately notify the Company if you suspect any breach of security such as loss, theft, public use, or unauthorized disclosure or use of your password, Account ID, or any credit or charge card number provided to the Company, by contacting Us at dispatch@dtstream.com , or www.dtstream.com/mystream or 888-719-2464.

In addition, you agree to ensure that you exit from your account at the end of each session, and to periodically change your password. There is a risk that other users may attempt to access your computer through the Internet or connected networks. You acknowledge this risk as inherent to the shared nature of the Service and you agree to take full responsibility for taking adequate security precautions and safeguarding your data from loss.

B. Network Management

Some customers use the Service in a way which creates harm to the Network, compromised capacity, degradation in network performance or service levels, or adversely impacts access to or the use of the Service by other customers. The Company reserves the right to engage in reasonable network management practices to protect its broadband network from harm, compromised capacity, degradation in network performance or service levels, or uses of the Service which may adversely impact access to or the use of the Service by other customers. Reasonable network

management practices that the Company may adopt include, but are not limited to, the following: (i) a cap on data usage; (ii) a modification of the technology used for the Service; or (iii) modification of or limitation on your data throughput speed or data consumption. Please see Data Stream's Acceptable Use Policy for additional Network Management terms.

In the event that the Company adopts a network management practice which will apply to the Service, We will provide you with a notice, by web posting, bill insert, email, letter or other appropriate means, which describes the network management practice, explains how it will work, and explains how it could impact the Service.

VIII. MANAGEMENT OF YOUR DATA

You are responsible for management of your information, including but not limited to back-up and restoration of data, erasing data from disk space you control, and changing data on or settings for your modem and/or router. The Company is not responsible for the loss of your data or for the back-up or restoration of your data, regardless of whether this data is maintained on our servers or your computer server.

You, and not the Company, are entirely responsible for all content that you upload, download, post, email, transmit or otherwise make available by use of the Service.

IX. DISPUTE RESOLUTION BY BINDING ARBITRATION

Most customer concerns can be resolved quickly and to the customer's satisfaction by contacting our customer service department at dispatch@dtestream.com , or www.dtestream.com/contactus or 888-719-2464.

In the unlikely event that Data Stream is unable to resolve a complaint you may have to your satisfaction (or if Data Stream has not been able to resolve a dispute it has with you after attempting to do so informally), you and We each agree to resolve those disputes through binding arbitration. Any arbitration under this Agreement will take place on an individual basis; class arbitrations and class actions are not permitted. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide. Any arbitration hearings will take place in Minnesota. If your claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing. The arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. This arbitration provision shall survive termination of this Agreement.

X. OPERATIONAL LIMITS AND FORCE MAJEURE

The Company's provisioning of the Service is subject to the availability and the operational limitations of the requisite equipment and associated facilities. You understand and agree that temporary interruptions of the Service may occur as normal events in the provision of the Service and that the Company is not liable for such interruptions. You further understand and agree that the Company has no control over third-party networks you may access in the course of your use of the Service, and therefore, delays and disruptions of other network transmissions are beyond the control of the Company. In addition, the Company is not liable for any failure of performance due to any cause beyond our reasonable control including acts of God, fire, explosion, vandalism, terrorism, cable cut, major weather disturbance, national emergencies, riots, wars, labor difficulties, supplier failures, shortages, breaches, any law, order, regulation, direction, action, or request by any government, civil or military authority, or suspension of existing service in compliance with state and/or federal law, rules and regulations, or delays caused by you or your equipment.

XI. CUSTOMER SERVICE SUPPORT

The Company provides free basic customer care for Service purchased from the Company and covered under this Agreement. Although the Company reserves certain rights related to equipment necessary to receive the Service and will repair or replace damaged equipment as the Company deems necessary (in each case, as described in, and subject to the terms and conditions (including fees and other charges) set forth in, Section VI above), the Company does not provide support for devices that access the Service.

XII. CUSTOMER INFORMATION

You represent that you are at least 18 years of age and a resident of the United States.

You agree to provide true, accurate, current and complete contact information about yourself, and maintain and promptly update your contact information to keep it true, accurate, and complete.

XIII. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

You expressly understand and agree that:

- 1. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OR GUARANTIES OF ANY KIND. DATA STREAM AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES IMPLIED BY A COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.**
- 2. DATA STREAM AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS, (II) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE,**

CURRENT, COMPLETE OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATION, (V) ANY ERRORS IN THE SERVICE WILL BE CORRECTED AND (VI) THE SERVICE IS FREE OF VIRUSES OR OTHER DISABLING DEVICES OF HARMFUL COMPONENTS.

3. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK. YOU ARE SOLELY RESPONSIBLE FOR VERIFYING THE QUALITY AND ACCURACY OF INFORMATION YOU OBTAIN THROUGH THE SERVICE. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. DATA STREAM ACCEPTS NO RESPONSIBILITY FOR THE QUALITY OR ACCURACY OF ANY INFORMATION OBTAINED USING THE COMPANY'S SERVICE.
4. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE COMPANY OR THROUGH OR FROM THE SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.
5. NEITHER DATA STREAM NOR ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS OR LICENSORS WILL BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, OPPORTUNITY, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF DATA STREAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM (A) THE USE OR INABILITY TO USE THE SERVICE; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (C) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (D) STATEMENTS OR CONDUCT OF ANY THIRD PARTY RELATING TO THE SERVICE; (E) FAILURE TO ENSURE THE COMPATIBILITY OF YOUR SYSTEM (INCLUDING THE EQUIPMENT, DEVICES AND SOFTWARE THAT YOU PROVIDE TO RECEIVE THE SERVICES) WITH THE SERVICE; (F) ANY OTHER MATTER RELATING TO THE SERVICE; (G) BATTERY BACKUP.

Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages or of certain warranties, so the above limitations or exclusions may not apply to you.

In no case shall the Company's liability exceed three times your monthly fee for the Service. The disclaimers and limitations set forth above will apply regardless of whether you accept the Service.

XIV. INDEMNITY

You agree to indemnify and hold Data Stream and its subsidiaries, affiliates, officers, employees, agents, co-branders, licensors or other partners harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of (a) content or data you submit, post, transmit or otherwise make available through the Service; (b) your use of the Service; (c) your connection to the Service; (d) your violation of this Agreement; (e) your violation of the Acceptable Use Policy; or (f) your violation of any rights of another.

You acknowledge that you are responsible for all use of the Service using your account, and that this Agreement, the Acceptable Use Policy and Privacy Policy, as amended from time to time, apply to any and all usage of your account. You agree to abide by these terms and you agree to defend, hold harmless and indemnify the Company from and against any and all claims stemming from usage of this account – whether or not such usage is expressly authorized by you.

XV. MISCELLANEOUS PROVISIONS

A. Contact Information

Unless otherwise specified in this Agreement, notices by you to Data Stream must be given by contacting Data Stream in writing at sales@dtestream.com.

B. Trademark Information/Proprietary Rights

Data Stream, and the Company's logos, brands, and product and service names ("Data Stream Marks") are registered trademarks or trademarks of Data Stream. Any use of Data Stream Marks is prohibited without the Company's permission.

Nothing contained in this Agreement may be construed to convey to you any interest, title, or license in any Account ID, Universal Resource Locator, IP address, or domain name used by you in connection with the Service.

C. Additional Terms

This Agreement, any other policies or guidelines referenced herein, the Terms of Service, and the terms set forth in any promotional offer for the Service constitute the entire agreement between the Company and you.

This Agreement governs your use of the Service, superseding any prior agreement between you and the Company with respect to the subject matter of this Agreement. You also may be subject to additional terms and conditions that may apply when you use or purchase certain other Company or affiliate services, third-party content or third-party software.

The failure of the Company to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision.

If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of this Agreement remain in full force and effect.

You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

You agree that regardless of any statute of laws to the contrary, any claim or cause of action arising out of or related to use of the Service or this Agreement must be filled within one (1) year after such claim or cause of action arose or be forever barred.

The Company can assign all or part of our rights or duties under this Agreement without notifying you. You may not assign this Agreement or the Services without prior written consent.

The section titles and paragraph headings in this Agreement are for convenience only and have no legal or contractual effect.

D. Survival

Obligations and rights in connection with this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, will survive the termination, cancellation or expiration of the Agreement, including, but not limited to those in the following sections: Termination or Cancellation of Service; Payment; Equipment; Dispute Resolution by Binding Arbitration; and Disclaimer of Warranties and Limitation of Liability.