



## RESIDENTIAL TERMS OF SERVICE

These Terms of Service (“Terms”) govern GoNetspeed’s residential internet service and equipment (Services”). They require the use of binding arbitration to resolve disputes rather than jury trials or class actions. Please follow the instructions in the Disputes section below if you wish to opt out of that provision. The Services are provided by NetSpeed LLC, located at 777 Canal View Blvd.#600, Rochester, NY 14623, or one of its subsidiaries (NetSpeed LLC and its subsidiaries are referred to herein as “GoNetspeed”).

By signing up for Services, you agree to the Terms, and you represent that you are at least eighteen years old and capable of entering into a legally binding agreement on behalf of yourself and others in your residence who may use the Services.

Service is not available in all areas.

### 1. Communicating Electronically with GoNetspeed

GoNetspeed may be required to provide certain disclosures, notices and communications (collectively “Communications”) to you in written form. We will deliver such Communications to you in electronic form. By signing up for Services, you agree and consent to receive such Communications electronically. You consent to receive electronically all Communications that we may provide you regarding your GoNetspeed account and your use of the Services. GoNetspeed may send Communications to you by posting them to your online account, posting them to the GoNetspeed website, or sending them via email to the address associated with the account. Communications will be deemed received by you as of the date of posting or sending, as the case may be. In addition, GoNetspeed may send Communications to you by United States Postal Service. In such instances, delivery is deemed to be three days from the date post marked. Communications may include:

- agreements and policies related to the Services, including updates to those agreements and policies;
- payment authorizations and transaction receipts or confirmations;
- account statements and history; and
- all other communications or documents related to or about your account, your purchases, changes to the Services or the rates and fees we charge for the Services, and your use of the Services.

To access and retain electronic Communications, you will need to maintain or have access to the following computer hardware and software at your own expense:

- a computer or mobile device with Internet or mobile connectivity;
- a current web browser that includes 128-bit encryption (e.g., Internet Explorer version 6.0 and above, Firefox version 2.0 and above, Chrome version 3.0 and above, or Safari 3.0 and above) with cookies enabled;
- software capable of opening PDF documents;
- access to the valid email address you used to create your GoNetspeed and GoNetspeed Payments account registrations; and
- sufficient storage space to save Communications or a printer to print them.

By signing up for Services, you confirm that you can meet the above requirements, and that you can receive, open, and print or save any Communications for your records. You should maintain copies of electronic Communications by printing paper copies or saving electronic copies, as applicable. Also, you may contact GoNetspeed to request another electronic copy of a Communication. We reserve the right to terminate your use of the Services if you decline or withdraw consent to receive electronic Communications, except that you may decline to receive telephone calls and text messages without having your service terminated, as set out in the following section.

## **2. Eligibility for GoNetspeed Services**

You may apply for GoNetspeed Services online at [GoNetspeed.com](http://GoNetspeed.com). GoNetspeed reserves the right to determine whether any Services are made available to a particular address.

## **3. GoNetspeed Installation**

You agree to provide GoNetspeed with all necessary access to the premises at the address where you sign up for Services to be installed so that the necessary equipment to receive the Services may be installed and configured. You agree that GoNetspeed may install equipment on the exterior and interior of your residence (including but not limited to laying underground conduit and/or affixing equipment to the outside of your residence) at any reasonable location. You also agree that GoNetspeed may use, and that you have the necessary permissions to approve GoNetspeed's use of, existing facilities, including existing wiring in and around your residence, to complete the installation services. Installation may require drilling through or otherwise penetrating outside walls to bring facilities into the residence.

**If you rent or otherwise do not own your residence, you may be asked to provide written evidence that you have received all permissions necessary**

**for GoNetspeed to perform installation services. If GoNetspeed incurs any costs or losses, including attorneys' fees, because you did not get the necessary authorization(s) for GoNetspeed to install the equipment required for the Services, you are responsible for reimbursing GoNetspeed for those costs or losses. You or your landlord may have agreements related to the Services with property owners, managers, or other third parties outside these Terms; GoNetspeed is not a party to such agreements and therefore is not responsible for nor bound by such agreements.**

Acceptance of these Terms does not guarantee that GoNetspeed will install or provide any Services. GoNetspeed may require a separate agreement with you or your landlord to install the Services.

#### **4. Construction and Installation Fees**

GoNetspeed may charge a service initiation fee, construction or installation fee or other similar fee when you sign up for Services. Your payment of a service initiation fee, construction fee or any other similar fee for Services to be provided at a particular address does not obligate GoNetspeed to provide any Services to a particular address. If GoNetspeed determines that the address at which you receive Services is not a residential address, GoNetspeed may require you to transition to another type of account to continue receiving the Services. This transition may include an increase in any fee for the Services. GoNetspeed may (but is not obligated to) allow some users to pay construction or installation fees in installments. If you cancel or make certain changes to your Service plans, or your Services are otherwise terminated due to failure to comply with these Terms, before you have paid the entire construction or installation fee, you agree to pay the outstanding construction or installation fee balance as of the date of such change, cancellation or termination. GoNetspeed reserves the right to change service initiation fees, construction fees, and installation fees.

#### **5. GoNetspeed Equipment**

GoNetspeed may provide or rent various pieces of equipment to you as part of the Services. If you lose or damage this equipment after installation, GoNetspeed may charge you a fee for replacement equipment. Equipment fees are subject to change. Unless explicitly stated otherwise on our website, GoNetspeed owns all equipment provided by GoNetspeed in connection with the Services.

GoNetspeed may offer you equipment that you may purchase in connection with the Services under separate terms to be provided with such equipment. You authorize GoNetspeed to install software upgrades on any equipment provided by GoNetspeed. You agree not to use the GoNetspeed equipment for any purpose other than using the Services.

#### **6. Using GoNetspeed Services**

You agree not to misuse the Services, which includes using the Services for purposes that are illegal, are improper, infringe the rights of others, or adversely impact others' enjoyment of the Services. You agree not to use the Services in violation of the Acceptable Use Policy, which is incorporated into these Terms. You are responsible for all activity on the Services, whether that activity is undertaken by you or someone else. GoNetspeed may change its Acceptable Use Policy, and, if it does, GoNetspeed will communicate those changes to you as set forth above in section 1.

## **7. Resale and Redistribution**

The Services are intended for the personal use of you and other occupants and guests within your residence. You may not to resell or repackage the Services or otherwise make them available to anyone outside of your residence, even if you are not paid or reimbursed for doing so. GoNetspeed may terminate the Services if you violate this section.

## **8. Security**

GoNetspeed makes commercially reasonable efforts to keep its network secure. While GoNetspeed may provide technical assistance to you, you are responsible for implementing appropriate security measures when using the Services, including taking whatever steps are necessary to ensure that your data is not accessed by unauthorized third parties. GoNetspeed makes no warranty for, and is not responsible for damages caused by, the provision of such technical assistance to you. GoNetspeed is not responsible for any damages to users of the Services that may be caused by unauthorized third parties.

## **9. Privacy**

You understand and agree that information provided to and collected by GoNetspeed in connection with the Services is subject to the GoNetspeed Privacy Policy and the GoNetspeed Privacy Notice.

## **10. Billing and Payment**

You agree to pay all applicable fees for the Services you purchase, whether ordered by you, someone authorized by you or someone with access to the Services pursuant to your GoNetspeed account. GoNetspeed will send all bills and other required notices by email to the address associated with your account. You may also access this information through your online GoNetspeed account. You agree to pay recurring monthly service fees in advance of the billing cycle in which you will receive the Services. GoNetspeed will bill one-time charges in the billing cycle following your authorization of such charges. You authorize GoNetspeed to automatically collect payments of any fees associated with your use of the Services from your designated payment method. GoNetspeed will

email a bill to the email address associated with your account. The bill will indicate the date the amount you owe will be collected via your designated payment method (which may be the same date your bill is sent if permitted by applicable laws). If payment is not received due to insufficient funds or for any other reason, GoNetspeed may, consistent with applicable laws, assess late payment fees and/or suspend or terminate the Services if payment is more than thirty (30) days past due. You agree that GoNetspeed is not responsible for any third-party charges you may incur in connection with your GoNetspeed Payments account, credit card or other payment method.

## **11. Changing and Canceling Services; Termination**

Unless otherwise agreed to as part of a promotion or special offer, you may change or cancel the Services at any time, but you may be required to pay for certain construction or installation fees that may have been waived when you signed up for the Service. You may also be required to return some or all of the equipment. If you do not return this equipment, you may be required to pay a replacement fee. The fees for Service upgrades or added premium packages will be prorated based upon the Service activation date. Any Services, including premium packages, that you downgrade will be available until the end of the billing cycle in which the downgrade request is received; no prorated credits or refunds will be issued for Services removed as part of a downgrade.

If you request cancellation of all your Services, your Services will be available until the cancellation date you select. Once your service is disconnected, a credit for the remaining portion of the current billing cycle will be applied towards any remaining balance. Your GoNetspeed account will not be terminated until all billing obligations are resolved. If there is a credit balance at the time your account is terminated, it will be refunded to the last used payment method in your GoNetspeed account. If your Services included free or paid-for subscriptions to services other than those provided by GoNetspeed, GoNetspeed will stop covering the costs of those services at the time your account is terminated or suspended. It will be up to you to work with the provider of those services to determine whether you wish to continue subscribing to those services and how you will pay for them.

GoNetspeed may suspend or terminate Service:

- If you breach any provision of this Terms (including payment obligations to GoNetspeed for these or any other services);
- If you use the Service in a manner that adversely affects service to other customers or harasses our customers or employees;
- If you or others use the Service to engage in fraud or unlawful conduct or are suspected of doing so;
- If you or someone using your Services violates the Acceptable Use Policy;

- If you violate the terms of section 7 (Resale and Redistribution); or
- Any regulatory agency, legislative body or court restricts or otherwise prevents GoNetspeed from furnishing the Service.

GoNetspeed reserves the right to terminate some or all of the Services it provides to you at any time, in its sole discretion without notice.

## **12. Promotions**

From time to time, GoNetspeed may offer free installation or other promotions in certain areas. GoNetspeed reserves the right to limit the geographic area to which promotions apply, and to offer and end promotions without prior notice. If service is terminated pursuant to Section 11 above within the first three months of service, any credits awarded pursuant to the promotion will be reversed, and you will be responsible for any charges that may now apply.

## **13. Commitment to Online Safety**

GoNetspeed complies with all applicable laws related to protecting minors online. This includes reporting cases of child abuse or exploitation to the National Center for Missing and Exploited Children.

## **14. Our Warranties and Disclaimers**

We provide the Services using a commercially reasonable level of skill and care.

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS OR IN A SEPARATE AGREEMENT PROVIDED TO YOU BY GONETSPEED OR AN AGENT THEREOF, NEITHER GONETSPEED NOR ITS SUPPLIERS OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES, INCLUDING ANY EQUIPMENT PROVIDED TO YOU BY GONETSPEED, ITS DISTRIBUTORS OR SUPPLIERS. GONETSPEED MAKES NO COMMITMENTS ABOUT ANY CONTENT WITHIN THE SERVICES, THE ACTUAL SPEED OF THE SERVICE, THE SPECIFIC FUNCTION OF THE EQUIPMENT OR SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE THE SERVICES AND EQUIPMENT "AS IS."

TO THE EXTENT PERMITTED BY LAW, GONETSPEED EXCLUDES ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

## **15. Liability for our Services**

GONETSPEED'S AND ITS SUPPLIERS' AND DISTRIBUTORS' ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDIES WITH RESPECT TO ANY SERVICE PROVIDED TO CUSTOMER (INCLUDING BUT NOT LIMITED TO THE MAINTENANCE, INSTALLATION, DELAY, TERMINATION, INTERRUPTION, OR RESTORATION OF ANY SUCH SERVICE) OR BREACH OF CONTRACT, WHETHER IN AN ACTION FOR OR ARISING OUT OF CONTRACT, WARRANTY, TORT, INDEMNITY OR STRICT LIABILITY, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE SERVICES (OR, IF WE CHOOSE, TO SUPPLYING YOU THE SERVICES AGAIN).

IN NO EVENT SHALL EITHER PARTY (OR ITS AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS OR AGENTS) BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF REVENUE, FINANCIAL LOSSES, LOSS OF USE, LOSS OF PROFITS, LOST DATA, OR LOSS OF CUSTOMERS, CLIENTS OR GOODWILL ARISING IN ANY MANNER FROM THE SERVICES OR THE FAILURE TO PROVIDE THE SERVICES. THIS DOES NOT LIMIT CUSTOMERS RESPONSIBILITY FOR PAYMENT OF ALL APPROPRIATE CHARGES UNDER THE CONTRACT DOCUMENTS. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT.

IN ALL CASES, GONETSPEED, AND ITS SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

## **16. Indemnification**

You agree that GoNetspeed will not be liable or responsible for any third-party claims or damages that arise from your use or another person's use of the Service, further, you agree to defend, hold harmless, and to reimburse GoNetspeed for all costs and expenses related to the defense of any such claims, including attorney's fees. This provision will continue to apply after the Service ends.

## **17. Copyright Issues**

GoNetspeed responds to notices of alleged copyright infringement and terminate accounts of repeat infringers according to the process set out in the U.S. Digital Millennium Copyright Act.

## **18. Businesses**

If you wish to subscribe to any Services on behalf of a business, please visit GoNetspeed for Small Business for more information. Additional terms of service apply to use of the Services by a business.

## 19. Disputes

PLEASE READ THIS SECTION CAREFULLY. FOLLOW THE INSTRUCTIONS BELOW IF YOU WISH TO OPT OUT OF THE PROVISIONS REQUIRING YOU TO RESOLVE DISPUTES THROUGH INDIVIDUAL ARBITRATION.

Arbitration. GoNetspeed and you agree to arbitrate all disputes and claims that arise from or relate to these Terms or the Services, except for claims arising from bodily injury. This agreement to arbitrate is intended to be broadly interpreted, including, for example:

- claims arising under any legal theory;
- claims for mental or emotional distress or other emotional/mental injury arising from the relationship between us;
- claims that arose before you accepted these Terms (such as claims related to disclosures or the marketing of the Services);
- claims that may arise after the termination of your use of the Services or any agreement between us; and
- claims brought by or against our respective subsidiaries, parent companies, members, as well as the respective officers, directors, employees, agents, predecessors, successors, and assigns of these entities, you, and GoNetspeed.

This arbitration agreement does not preclude either you or GoNetspeed from bringing an individualized action in small claims court. It also does not preclude either of us from seeking an individualized preliminary injunction or temporary restraining order, pending arbitration, in any court that has jurisdiction. Nor does this arbitration agreement bar you from bringing issues to the attention of federal, state, or local agencies. Such agencies can, if the law allows, seek relief against GoNetspeed on your behalf.

You agree that, by entering into this agreement, we are each waiving the right to a trial in a court or to participate in a class or representative action. The Federal Arbitration Act governs the interpretation and enforcement of this arbitration provision.

Notice of disputes. If either of us intends to seek arbitration of a dispute, that party must provide the other with notice in writing. The notice to GoNetspeed should be sent to GoNetspeed's agent for service of process, Corporation Service Company ("CSC"), at the following address ("GoNetspeed Notice Address"):

NetSpeed LLC  
c/o Corporation Service Company  
2595 Interstate Drive Suite 103  
Harrisburg, PA 17110

GoNetspeed will send notice to you at the e-mail and mailing addresses associated with your account. Your notice to GoNetspeed must (a) provide your name, mailing address, email address, and your GoNetspeed account number; (b) describe the dispute; and (c) state the relief you are requesting. If we are unable to reach an agreement to resolve the dispute within 60 days after the notice is received, you or we may commence arbitration. Unless we agree otherwise, your demand for arbitration should be sent to GoNetspeed at the GoNetspeed Notice Address above.

Arbitration procedures. The arbitration will be governed by the Consumer Arbitration Rules ("AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org). If the AAA is unavailable, the parties shall agree to another arbitration provider or the court shall appoint a substitute. Unless we agree otherwise, any arbitration hearings will take place in the county (or parish) of your residence (or principal place of business if you are a small business). If the value of your claim is \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, by telephone, or by an in-person hearing. If the value of your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of this arbitration provision or the arbitrability of disputes are for the court to decide. The arbitrator may consider but is not bound by rulings in other arbitrations between GoNetspeed and GoNetspeed residential subscribers. The arbitrator can award the same individualized damages and relief that a court can award. Judgment on the award may be entered by any court having jurisdiction.

Costs of arbitration. The AAA's fee schedule is subject to change and may be found in the AAA Rules (available online at [www.adr.org](http://www.adr.org)). GoNetspeed will pay all AAA filing, administrative, and arbitrator fees for any arbitration that GoNetspeed commences. If you provided GoNetspeed with 30 days' notice of your intent to arbitrate before commencing arbitration and the value of your claim is \$75,000 or less, GoNetspeed will pay your share of any such AAA fees. If the value of your claim is between \$75,000 and \$300,000, your share of any such fees will be capped at \$200 (unless the law of your state requires GoNetspeed to pay all such fees). And if the value of your claim exceeds \$300,000, the allocation of AAA fees will be governed by the AAA Rules (unless the law of your state requires GoNetspeed to pay all such fees). If, however, the arbitrator finds that either the substance of your claim or the relief sought is frivolous or brought for an improper purpose (as measured by the standards in Federal Rule of Civil Procedure 11(b)), then the payment of all AAA fees shall be governed by the

AAA Rules. In such cases, the arbitrator may direct you to reimburse GoNetspeed for amounts that GoNetspeed paid on your behalf.

No class arbitration. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. YOU AND GONETSPEED AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL PROCEEDING. Further, unless all affected parties agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. If a court decides that applicable law precludes enforcement of any of this subsection's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court.

30-Day Opt-Out Period. IF YOU DO NOT WISH TO BE BOUND BY THE ARBITRATION AND CLASS-ACTION WAIVER PROVISIONS IN THIS DISPUTES SECTION, YOU MUST NOTIFY GONETSPEED BY COMPLETING THIS ONLINE OPT-OUT FORM WITHIN 30 DAYS OF THE DATE THAT YOU ACCEPT THESE TERMS (UNLESS A LONGER PERIOD IS REQUIRED BY APPLICABLE LAW).

Future changes to arbitration provision. If GoNetspeed makes any changes to this Disputes section of these Terms (other than a change to the address at which GoNetspeed will receive notices of dispute), you may reject any such change by completing this online change rejection form. It is not necessary to reject a future change to this arbitration provision if you had properly opted out of this arbitration provision within the first 30 days after you accepted these Terms. By rejecting a future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this arbitration provision, as modified by any changes you did not reject.

## **20. Changes to These Terms**

GoNetspeed may modify these Terms. If GoNetspeed modifies the terms, it will communicate notice of the modifications as set forth in section 1 by indicating the date the Terms are last modified. Changes will not apply retroactively and will become effective no sooner than fourteen days after they are posted. Notwithstanding the foregoing sentence, changes addressing new functions for a Service, changes regarding the launch of a new Service, or changes made for legal reasons will be effective immediately. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service and contact us to change or terminate your Services.

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