

## Leapfrog Internet DSL Service Contract

1. **One Year Term of Agreement:** This Agreement has an initial term of one year (the "Initial Term") and will continue on a month-to-month basis thereafter. After the Initial Term, **either** party may terminate this Agreement upon thirty

(30) days' notice or initiate a contract renewal at the current rates. The Initial Term begins the day your DSL line is successfully installed by the DSL provider, as recorded in its database. **If Leapfrog Internet or the DSL provider cannot successfully deliver the Service, this contract is implicitly terminated without penalty or cost to you.**

**1.1 Contingency Fees:** During the installation process the DSL supplier will need access to your premises, phone closet or inside your location. If the supplier has to return due to lack of access there will be additional fees for truck roll, missed appointment or refused access to equipment rooms.

2. **Description of Service:** The Service is made up of two elements: DSL service to your premises, and Internet Access through Leapfrog Internet

**2.1 DSL Service:** DSL Service is a digital data telecommunications service that consists of one permanent circuit between your premises and the serving wire center. DSL Service provides upstream and downstream maximum throughput rates from 128 kbps up to 1.5 Mbps. The maximum throughput rate depends upon such factors as the distance from your premises to the servicing wire center, and the quality of the copper telephone line serving your premises. DSL Service provides high-speed access to our Internet Access Service.

**2.2 Internet Access Service:** Our Internet Access Service through Leapfrog Internet will provide you with access to the Internet and e-mail services. For the terms and conditions of our Internet Access Service, please see our Site Use Terms web page at <http://www.theriver.com> on the Internet. These terms are subject to change without notice at any time.

3. **Rates and Payment Terms:** The rates for DSL service ("Rates") are set forth in the attached Rate Schedule. The Rates will be in effect for the Initial Term, and may be changed by us after the end of the Initial Term by giving you written or e-mailed notice of the new Rates at least thirty (30) days before their effective date. In addition to the Rates, we will bill you for all federal, state, county, and local taxes, surcharges, fees, and universal service contribution on the Service. Charges for the Services will begin when the Services are installed. Payments for Services will be made through monthly charges to your credit card, unless we agree with you to the contrary. You may pre-pay by check or money order if you prefer not to pay via credit card, but a credit card number is required in all cases, and your credit card will be charged if you do not maintain a credit balance in your account. You must keep us informed of any changes in your credit card information, or you will be in default under this agreement.

4. **Limited Warranty - DSL Service:** We warrant that, subject to the limitations set forth below, the DSL service will operate in substantial accordance with the terms of this Agreement. The limitations include:

**4.1 NO 911 SERVICE. You are hereby notified that DSL Service provides only point-to-point communication services, and does not provide 911, E911, or other emergency, operator or ancillary services that are usually available through local telephone services.**

**4.2** You understand and acknowledge that the actual transmission speeds may vary from the transmission speeds that you might otherwise expect, due to such factors as the length and gauge of the telecommunications line serving your premises, and other operation characteristics of the facilities and equipment used in the DSL Service. It is possible that there may be a lack of facilities or other operational impediments may preclude or delay the actual installation, repair and maintenance of DSL Services to your

premises. We reserve the right to terminate this Agreement without liability to you if we are not able to provide, repair or maintain DSL Services to your premises.

**4.3** We and our DSL Service providers will use commercially reasonable efforts to provide installation, repair and maintenance services. If you experience a substantial reduction in transmission speed or significant interruption of service, please notify us and we and the DSL Service provider will undertake commercially reasonable efforts to restore the DSL service. We will not be responsible for service issues relating to your computer, network or software.

**4.4** We will make reasonable efforts to provide at least 3 business-day advance notice on our Web site (<http://www.leapfroginternet.com/>) before outages for scheduled maintenance. Outages due to scheduled network maintenance will not be grounds for any credits or claims for damages against us. Since the DSL provider reserves the sole and exclusive right to terminate its service in any area or cease operations with sixty (60) days' notice to us, we reserve the right to terminate service hereunder upon forty-five (45) days' notice to you for any reason.

**4.5** The limited warranty shall not apply if: 1) Your equipment has been subjected to unusual physical or electrical stress, misuse, neglect, accident or abuse, or damaged by any other external causes; 2) The DSL Service or related equipment has been installed, repaired or altered by any one other than our DSL service supplier or its subcontractors or affiliates, without prior written approval; or 3) the DSL Service or related equipment is used in violation of applicable law or in violation of instruction furnished by us our DSL service provider, if any.

**4.6 The foregoing limited warranties shall be in lieu of and shall exclude all other express or implied warranties, including without limitation, warranties of merchantability, and fitness for a particular use or purpose.**

**5. Inside Wire and Premises Equipment Warranty by Independent Providers:** Since all inside wiring services and customer premises equipment for DSL Services are provided by 3<sup>rd</sup> party independent contractors, we do not warrant the premises' wiring, customer premises equipment, or the installation of services for them. However, they may offer a warrant for this work at their sole discretion.

**6. Limitation of Liability:**

**6.1** ANY LIABILITY OF Leapfrog Internet ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES AND NEITHER PARTY SHALL HAVE ANY LIABILITY FOR ANY INDIRECT OR SPECULATIVE DAMAGES (INCLUDING, WITHOUT LIMITING THE FOREGOING, CONSEQUENTIAL, INCIDENTAL AND SPECIAL DAMAGES, LOSS OF USE, BUSINESS INTERRUPTIONS, AND LOSS OF PROFITS) IRRESPECTIVE OF WHETHER THE PARTY HAS ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH DAMAGES.

**6.2** NOTWITHSTANDING THE FOREGOING, Leapfrog Internet's TOTAL LIABILITY TO ANYONE UNDER THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT THAT YOU WOULD HAVE PAID Leapfrog Internet UNDER THIS AGREEMENT DURING THE PERIOD OF TIME THAT SUCH LIABILITY WAS INCURRED, OR FIVE HUNDRED DOLLARS (\$500.00), WHICHEVER IS LESS.

**6.3** YOU ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING THE PRICES FOR SERVICE UNDER THIS AGREEMENT.

**7. Force Majeure:** We will not be responsible for any failure to perform any obligation or provide any Services hereunder because of any Act of God or nature, strikes, work stoppage, equipment or facilities shortages, governmental acts, directives or abuse, war, riot or civil commotion, or any other force beyond our immediate and reasonable control.

8. **Entire Agreement; Amendments in Writing; Severability:** This Agreement, which includes all Attachments and Schedules referenced herein, if any, constitutes the entire Agreement between us concerning the subject matter hereof and supersedes all prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. Any changes to this Agreement, or any amendment or supplement to the Agreement must be in writing and signed by Leapfrog Internet to be enforceable. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the original intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

9. **Arbitration:** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be held in Colorado, depending on the geographical location of the premises, by a single arbitrator who has special knowledge of the industry or technology involved in the dispute.

10. **Default, Remedies and Early Termination Charges:** You will be considered in Default of the Agreement if: 1) payment for any Service has not been made within ten (10) days after we have sent you a notice via e-mail that such payment is overdue, 2) cancellation of the order after 5 working days after the DSL service has been ordered or 3) for any other breach of this Agreement that is not remedied within ten (10) days after notice of such breach, or for any breach of the Site Use Terms for our Internet Access Service. If you are in Default of this Agreement, we may terminate all Services under this Agreement without further notice to you. If this Agreement is terminated before the end of the Initial Term, you will also be responsible for all charges for the Services that would have been billed for the remainder of the Initial Term, or five hundred dollars (\$500.00), whichever is less.

11. **Faxed Copies:** You may sign this Agreement and fax it to us, and it will have the same effect as if you had returned to original signed document to us. In proving this Agreement, it will not be necessary for us to produce or account for the original document signed by you if we produce the faxed copy that you sent to us.



877.807.0989 Voice; 313.557.1637 Fax

**Port Speed                      Delivery                      Monthly Fee**

- Up to 128 Kbps                      IDSL                      \$109
- Up to 192 Kbps                      SDSL                      \$119
- Up to 384 Kbps                      SDSL                      \$159
- Up to 768 Kbps                      SDSL                      \$219
- Up to 1.1 Mbps                      SDSL                      \$249
- Up to 1.5 Mbps                      SDSL                      \$299

**Reach Service**

- | <b>Port Speed</b>                       | <b>Delivery</b> | <b>Cost</b> |
|---|-----------------|-------------|
| <input type="checkbox"/> Up to 384 Kbps | Frame Relay     | \$349       |
| <input type="checkbox"/> Up to 768 Kbps | Frame Relay     | \$439       |
| <input type="checkbox"/> Up to 1.1 Mbps | Frame Relay     | \$609       |
| <input type="checkbox"/> Up to 1.5 Mbps | Frame Relay     | \$729       |

Installation \_\_\_\_\_

CPE \_\_\_\_\_

Total one time charges \_\_\_\_\_

Monthly Recurring Fees \_\_\_\_\_

**Technical information**

Operating System on primary machine connected to Leapfrog Internet

\_\_\_\_\_

Number of PC's on LAN

\_\_\_\_\_

Number of Servers on LAN

\_\_\_\_\_

**Order Acceptance**

Company Name \_\_\_\_\_

Leapfrog Internet

Name Print \_\_\_\_\_

Name Print \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_