



## COMMERCIAL CUSTOMER AGREEMENT

Effective as of June 24, 2014, until replaced

THIS DIRECTV COMMERCIAL CUSTOMER AGREEMENT (THIS "AGREEMENT") DESCRIBES THE TERMS AND CONDITIONS OF YOUR RECEIPT OF AND PAYMENT FOR DIRECTV SERVICE AND IS SUBJECT TO ARBITRATION (SECTION 9) AND DISCLAIMER OF WARRANTIES (SECTION 8). IF YOU DO NOT ACCEPT THESE TERMS, PLEASE NOTIFY US IMMEDIATELY AND WE WILL CANCEL YOUR ORDER OR SERVICE SUBJECT TO APPLICABLE CANCELLATION TERMS AND/OR FEES (SEE SECTION 5). IF YOU INSTEAD DECIDE TO RECEIVE OUR SERVICE, IT WILL MEAN THAT YOU ACCEPT THESE TERMS AND THEY WILL BE LEGALLY BINDING.

### CONTACTING DIRECTV:

You may contact us 24 hours a day, any day of the year, by sending an e-mail to [DIRECTV.com/CommercialEmail](mailto:commercialcontracts@directv.com) or [commercialcontracts@directv.com](mailto:commercialcontracts@directv.com) or by writing to:

**Notices and Mail**  
DIRECTV, LLC  
Business Service Center  
P.O. Box 5392  
Miami, FL 33152-5392

**Payments**  
DIRECTV, LLC  
Commercial Account Payments  
P.O. Box 60036  
Los Angeles, CA 90060-0036

You can also call our DIRECTV Business Service Center at 1-888-200-4388. If your bill for DIRECTV Service comes from a party other than DIRECTV, please use the contact information provided on your bill for any questions about your DIRECTV Service.

Thank you for choosing DIRECTV. DIRECTV and its affiliates, subsidiaries and employees (defined here collectively as "DIRECTV" and referred to as "DIRECTV" or "we") provide digital satellite entertainment programming and services (referred to collectively as "Service") to commercial establishments located within the United States. We do not provide, and you may not receive or use, Service at an address or location outside of the United States. When referring to you herein, "you," "your," or "Customer" means the entity that owns the commercial establishment receiving the Service and/or the entity that is responsible for the payment of fees and charges to DIRECTV.

### CUSTOMER AGREEMENT

#### 1. OUR SERVICE.

These are the terms on which we will provide you Service:

(a) Program Choices and Receiving Equipment. You must subscribe to a base package in order to receive additional Services such as premium movie services or sports subscriptions. All programming selections have their own rates, terms and conditions. Information about programming is at [www.directv.com/business](http://www.directv.com/business). The use of DIRECTV Receiver(s), Genie Mini/Client(s), Access Card(s) (as defined below), remote control(s) and a receiving antenna dish (referred to collectively as "**Receiving Equipment**") are required to view the Service. In addition, in some cases, as authorized by DIRECTV, you may be able to use Receiving Equipment that can enable more than one television to view the Service (an "**Enabled TV**").

(b) Your Programming Changes. You may change your programming selection by notifying us. A fee may apply to such changes (described in Sections 2 & 5(b)). Some programming may be purchased in minimum blocks of one month or multiples of one month.

(c) Our Programming Changes. Many factors affect the availability, cost and quality of programming and may influence the decision to raise prices and the amount of any increase. These include, among others, programming and other costs, consumer demand, market and shareholder expectations, and changing business conditions. Accordingly, we must

reserve the unrestricted right to change, rearrange, add or delete our programming packages, the selections in those packages, our prices, and any other Service we offer, at any time. We will endeavor to notify you of any change that is within our reasonable control and its effective date. In most cases this notice will be about one month in advance. You always have the right to cancel your Service, in whole or in part, if you do not accept the change (see Section 5). If you cancel your Service, a deactivation fee (described in Sections 2 & 5(b)) or other charges may apply. Credits, if any, to your account will be posted as described in Section 5. If you do not cancel, your continued receipt of our Service will constitute acceptance.

(d) Access Card. You have received a conditional access card (referred to as the “**Access Card**”) and a License Agreement governing your use of the Access Card while you are receiving our Service. If you tell us that the original Access Card was lost, damaged, defective or stolen, we will replace it, as long as there is no evidence of unauthorized tampering with or modification of the Access Card and your account is in good standing. A replacement fee may apply (described in Section 2). Tampering with or other unauthorized modification of the Access Card is strictly prohibited and may result in criminal or civil action. Tampering with or inserting any device into your Receiving Equipment other than an authorized unmodified Access Card is prohibited. DIRECTV reserves the right to cancel or replace the Access Card. Upon request, the card must be returned to DIRECTV. If you do not return the Access Card to DIRECTV when you cancel your Service, you may be charged a fee as described in Section 2. Requesting Access Cards on behalf of other persons or for purposes other than lawful viewing of DIRECTV Service is prohibited. **Access Cards are the exclusive property of DIRECTV**. If you wish to transfer your license to use the Access Cards as part of a sale of your commercial establishment, you must contact DIRECTV immediately and obtain DIRECTV’s approval of the transfer in accordance with Section 10(c) below.

(e) Phone or Internet Connections. For optimal performance of your Receiving Equipment, including ordering with your remote control or receiving certain Services, your Receiving Equipment must be directly connected to the same land-based telephone line or internet connection. If you enable Service on additional TVs, depending on the establishment type you may purchase a separate subscription for each additional TV, or, if your Receiving Equipment is continuously connected to the same land-based telephone line or internet connection, we can charge you only the fee amount described in Section 2. You agree to provide true and accurate information about the location of your Receiving Equipment. If it is determined that the Receiving Equipment is not at the service address identified on your account, we may disconnect the Receiving Equipment or charge you the full programming subscription price for the Receiving Equipment.

(f) Music Services. Any music services, including packaged music channels, shall be used only as accompaniment to routine activities for which there is no admission fee charged, such as, but not limited to, work, shopping, conversation, dining, and relaxation, and the music service shall not be used as an accompaniment to dancing or to serve as an adjunct to any other physical activity (e.g. skating).

(g) Viewing Limitations. You may not rebroadcast, transmit or perform the programming, charge admission for its viewing or transmit or distribute running accounts of the Services. If you are a movie theater, Services may not be displayed, viewed or otherwise made available in the theater viewing area. Notwithstanding the provisions of Section 9, we or any programming provider may prosecute violations of the foregoing against you and other responsible parties in any court of competent jurisdiction, under the rules and regulations of the Federal Communications Commission and other applicable laws.

(h) Blackouts. Certain programming, including sports events, may be blacked out in your local reception area or otherwise unavailable to commercial customers in your local reception area due to legal, contractual, or other restrictions. Blackout restrictions are decided by the sports leagues and the other entities that own the local broadcast rights. You may visit [www.directv.com](http://www.directv.com) for more information. If you circumvent or attempt to circumvent any of these blackouts, you may be subject to legal action.

(i) Loss of Receiving Equipment. You should notify us immediately if any of your Receiving Equipment is lost or stolen. If you notify us within 5 days, we will not charge you for unauthorized use. In any case, we will not charge you for unauthorized use occurring after we receive your notice; but non-return fees will apply.

(j) Transfer of Receiving Equipment. We consider you to be responsible for, and the recipient of programming on, any Receiving Equipment you own. You are liable for charges incurred in the use of your Receiving Equipment. If you wish to transfer ownership of your Receiving Equipment as part of a sale of your commercial establishment, you must contact DIRECTV immediately and obtain DIRECTV’s approval of the transfer in accordance with Section 10(c) below.

(k) Your Viewing Restrictions. It is your responsibility to impose any viewing restrictions on employees or guests, as you think appropriate. We are not responsible to you or anyone else based on the content of our programming. Please visit [www.directv.com](http://www.directv.com) for information on parental controls, locks and limits and password protection on your account.

(l) Change of Address. You must notify us immediately of any change in your contact name, business name, business ownership, mailing address, service address or telephone number.

(m) Inspection. DIRECTV, or its authorized agent, shall have the right to inspect your Receiving Equipment at any time during your normal business hours. If we reasonably determine that you are in breach of any of these rules for use, or of your obligations under this Agreement, we may immediately inactivate any or all Services provided to you. If Services to you are so inactivated, in addition to the indemnification obligations described below, you are still responsible for payment of all outstanding balances accrued through the date of inactivation.

(n) Modifications. Unless authorized by DIRECTV in writing through a DIRECTV subscription service, you agree that all Services will be exhibited in entirety, in original form and as provided by us, without any modifications, additions (including the addition of a crawl line), or deletions to any of the Services.

(o) DIRECTV Marks. You may not use any of our Marks without our prior written consent. "Marks" means any trademarks, symbols, logos, etc. whether owned by DIRECTV or a third party(s), that are used in connection with or are otherwise associated with the Services.

## **2. PAYMENT.**

In return for receiving our Service, you promise to pay us as follows:

(a) Programming. You will pay in advance, at our rates in effect at the time for all Service ordered by you or anyone who uses your Receiving Equipment, with or without your permission, until the Service is canceled. If the Service is part of an offer through which you receive credits offsetting all or part of the Service price, such credits are also paid in advance. If you cancel the Service, you are no longer entitled to receive the credits and we reserve the right to recoup pre-paid credits. The outstanding balance is due in full each month. To establish service, you were required to provide a credit card. You may use this or another credit or debit card to establish recurring payments. See Section 5(e) regarding payment upon cancellation. We may, in our discretion, accept partial payments, which will be applied to the oldest outstanding statement. No "payment in full" notation or other restrictive endorsement written on your payments will restrict our ability to collect all amounts owing to us. If you do not pay your statements on time, we may reduce your Service to a minimum service level, at our rates in effect at the time, restrict the availability or renewability of your Service options, require immediate payment for Services ordered, or deactivate your Service.

(b) Taxes. You will pay all state and local taxes or other governmental fees and charges, if any, which are assessed, including any such taxes, fees or charges assessed against discounted fees or service credits.

(c) Administrative Fees. To control the basic charges which apply to all customers, we may charge fees that arise in specific circumstances only to those customers responsible for them. DIRECTV reserves the right to modify these fees or charge additional fees. In addition to other fees, we may charge you a fee, as set forth on the rate card (if applicable), for each additional DIRECTV Receiver, Genie Mini/Client(s) and/or Enabled TV authorized to receive the same programming. Each DIRECTV Receiver, Genie Mini/Client(s) and Enabled TV must be located at the same service address as the initial DIRECTV Receiver and you must meet the qualifications specified in Section 1(e). We reserve the right to limit the number of the DIRECTV Receiver, Genie Mini/Client(s) and/or Enabled TVs that you may use and to establish rules for such use. If we charge late fees, late fees are not an interest charge, finance charge, time price differential or other such charge or payment of a similar nature.

(d) Billing Statements. Subject to any third party billing relationship, if you receive your bill from DIRECTV, we will send you a statement for each billing cycle (usually once every 30 days) unless you have a zero or nominal balance due, or a nominal credit balance, on your account at the end of a billing cycle. If you receive your bill from a DIRECTV dealer, please speak with them regarding payments and timing of payments. Statements from DIRECTV will show: (1) payments, credits, purchases and any other charges to your account, (2) the amount you owe us and (3) the payment due date.

(e) Questions About Your Statement. If you think your statement is incorrect or if you need more information about it, contact us immediately. We will try to resolve any complaints you have as promptly as we can. **You must contact us within 60 days of receiving the statement in question. Undisputed portions of the statement must be paid by the**

**due date to avoid a late fee and possible reduction or deactivation of Service.** Remember, if your bill for DIRECTV Service comes from a party other than DIRECTV, please use the contact information on your bill.

(f) Consents Regarding Credit. In order to establish an account with us, you authorize us to inquire into your creditworthiness (subject to Section 6), by checking with business credit reporting agencies. If you are delinquent in any payment to us, you also authorize us to report any late payment or nonpayment to credit reporting agencies. Due to the subjective nature of creditworthiness, we reserve the right to require prepayment for any Service via cashier's check, money order or credit card, notwithstanding your credit rating, past history or practice.

(g) Collection Costs. If you fail to pay amounts you owe us, you may be subject to collections by DIRECTV or your account may be referred to 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 us.

### 3. CUSTOMER INFORMATION

(a) Representations. The person ordering Service represents and warrants that (s)he is (i) at least 18 years of age, (ii) a resident of the United States and (iii) authorized to agree to the terms of this Agreement. You have had the opportunity to consult with an attorney or any other person/entity of your choosing for legal/professional advice prior to agreeing to this Agreement. THE SERVICE PROVIDED TO YOU IS DEPENDENT ON THE TYPE OF COMMERCIAL ESTABLISHMENT YOU OPERATE. YOUR RECEIPT OF SERVICES CONSTITUTES YOUR AGREEMENT TO THE FOLLOWING, AS APPLICABLE:

**Public Viewing Establishments and Programming Packages:** Public Viewing programming packages are required for an establishment if you intend to display the Service where the viewing is generally accessible to the public and/or the establishment's clientele AND, either: (1) the establishment is a hospitality or entertainment establishment where food/beverage is served for immediate consumption (such as a bar, restaurant, diner, casino, club, café, or bowling alley and including any such establishment within a larger establishment, such as a stadium, hotel or theater), or (2) the establishment charges, as a part of its primary business operation, an admission or cover charge (any establishment requiring Public Viewing programming package is a "**Public Viewing Establishment**"). If you ordered a Public Viewing programming package, you represent, warrant, acknowledge and agree that the Services will only be displayed at a Public Viewing Establishment.

**Business Viewing Establishment:** Business Viewing programming packages are required for an establishment if you intend to display the Service where the viewing is generally accessible to the public and/or the establishment's clientele BUT (1) the establishment does NOT sell food/beverage for immediate consumption, AND (2) the establishment does not charge admission or cover charge to view the Service (except that monthly membership dues for membership organizations are acceptable, such as gyms or fraternity or sorority memberships) (any establishment requiring Business Viewing programming package is a "**Business Viewing Establishment**"). If you ordered a Business Viewing programming package, you represent, warrant, acknowledge and agree that the Services will only be displayed at a Business Viewing Establishment.

**Private Viewing Establishment:** Private Viewing programming packages are required for an establishment if you intend to display the Services at where the viewing is in areas that are not accessible to the public and/or the establishment's clientele (such as offices and conference rooms) (any establishment requiring Private Viewing programming package is a "**Private Viewing Establishment**"). If you receive Private Viewing programming, (1) you may not display or exhibit, and shall not permit others to display or exhibit, in any manner whatsoever, any of the Services in areas accessible to the public and/or common areas and (2) you may not distribute the Service through a satellite master antenna television system or in a Public Viewing Establishment or Business Viewing Establishment. If you ordered a Private Viewing programming package, you represent, warrant, acknowledge and agree that the Services will only be displayed at a Private Viewing Establishment.

**Other Commercial Establishments and Customers:** If your business or establishment or location does not meet the qualification for Public Viewing Establishment, Business Viewing Establishment or Private Viewing Establishment but you still wish to receive the Service, you may qualify for other types of commercial establishment services subject to additional terms to be agreed to in connection with this Agreement. If you agree to such additional terms, you represent, warrant, acknowledge and agree that the Services will only be displayed as permitted under such terms.

(b) Contact Information. You agree to provide true, accurate, current and complete contact information about your commercial establishment, and maintain and promptly update your contact information to keep it true, accurate and

complete. With regard to all telephone numbers, including cellular numbers you choose to provide on your account, you acknowledge and consent to receive business and informational calls relating to your Service to such numbers, including collections calls. You agree such calls may be pre-recorded messages or placed with an automatic telephone dialing system. In addition, you agree that we may send non-marketing service or account related text messages to cellular phone numbers provided on your account. Carrier message and data rates may apply but, on some text message programs, you may opt out of a text message program by replying "stop" to a message from that program (visit [www.directv.com](http://www.directv.com) for information). If you choose to provide an e-mail or other electronic address on your account, you acknowledge and consent to receive business and informational messages relating to your Service at the address, including collections messages, and that such address is your private address and is not accessible or viewable by any other person.

(c) Online Access. If you have an online account with DIRECTV, you are responsible for maintaining the confidentiality of the password and account e-mail address used for any online billing and account maintenance at [www.directv.com](http://www.directv.com), and are fully responsible for all activities that occur under your password and account. You agree to: (i) keep your e-mail address and password confidential and not share them with anyone else; (ii) immediately notify DIRECTV of any unauthorized use of your password and account or other breach of security and (iii) use only your e-mail address and password to log into [www.directv.com](http://www.directv.com).

#### **4. CHANGES IN CONTRACT TERMS.**

We reserve the right to change the terms and conditions on which we offer Service. If we make any such changes, we will send you a copy of your new Commercial Customer Agreement containing its effective date. You always have the right to cancel your Service, in whole or in part, at any time, and you may do so if you do not accept any such changed terms or conditions. See Sections 5(b), (d) and (e) below. If you elect not to cancel your Service after receiving a new Commercial Customer Agreement, your continued receipt of Service constitutes acceptance of the changed terms and conditions. If you notify us that you do not accept such terms and conditions, then we may cancel your Service as provided in Section 5, as we cannot offer Service to different customers on different terms, among other reasons.

#### **5. CANCELLATION**

(a) Term. The term of this Agreement is indefinite and Service will continue until canceled as provided herein. Unless you notify us that you wish to cancel it, we will automatically renew Service that you subscribe to on a periodic basis, including any monthly or annual subscriptions and seasonal sports subscriptions, as long as we continue to carry the Service.

(b) Your Cancellation. You may cancel Service by notifying us in writing (including by email or facsimile). In addition to cancelling in writing, DIRECTV may accept cancellation requests over the phone; however, DIRECTV is not required under this Agreement to do so. If your account remains active and you have only notified DIRECTV of cancellation over the phone you remain responsible for all outstanding balances accrued until you provide notice in writing. You may be charged a deactivation fee as described in Section 2 and issued a credit as described below. Your notice is effective on the day we receive it. You will still be responsible for payment of all outstanding balances accrued through that effective date. In addition to any deactivation or change of service fees provided in Section 2, if you cancel Service or change your Service package, you may be subject to an early cancellation fee if you agreed to a programming commitment with DIRECTV, and have failed to maintain the required programming package for the required period of time. For Services sold only in blocks of one month or multiples of one month, if you cancel such Service, we will credit you only for full months not used. For example, if you subscribe for a year of such Service from January through December but cancel on March 10, we will credit you for the subscription fees for April through December. However, we will not credit any fees for January through March. Additionally, we will not credit seasonal sports subscriptions after the season starts.

(c) Our Cancellation. We may cancel your Service at any time if you fail to pay amounts owing to us when due, subject to any grace periods, breach any other material provision of this Agreement, or act abusively toward our staff. In addition, we may cancel your Service if you elect not to accept any changed terms described to you, as provided in Section 4. Upon cancellation, you will still be responsible for payment of all outstanding balances accrued through the effective date, which may include the deactivation fee described in Section 2 and/or an early cancellation fee.

(d) Credit Balances. When your account is closed, we will review your account and refund any excess monetary payments. Retention or similar credits may not be refunded.

(e) Payment Upon Cancellation. You acknowledge that you have provided your credit or debit card account information to us. You understand that you will incur fees and charges as a result of your receipt and use of Service and/or Receiving

Equipment, and may incur early cancellation fees and/or equipment non-return fees (as specified in any programming or other service commitment agreement you entered into in connection with obtaining Receiving Equipment). By giving us your credit or debit card account information at any time, you authorize us to apply this method of payment, in accordance with applicable law, to satisfy any and all amounts due upon cancellation. You also acknowledge and agree that you are required to maintain current credit or debit card information with us and agree to notify us whenever there is a change in such information, such as a change in the card number or the expiration date and additionally, that DIRECTV may obtain such updated information through payment card networks, card issuers or other third party sources.

## 6. GOVERNMENTAL ENTITIES.

The parties recognize that DIRECTV is a provider of a commercial service and, even if Customer is a government entity, that the provision of the Service does not deem DIRECTV a "government contractor" or subject DIRECTV to federal, state or local procurement regulations applicable to government contractors. Notwithstanding anything herein, if you are a government entity, to the extent applicable law prohibits (1) credit inquiries or reporting of government entities to credit bureaus, Section 2(f) shall not apply, (2) the payment of cost of collection, Section 2(g) shall not apply, (3) indemnification of commercial vendors, indemnification under Section 8(f) shall not apply, and (4) the resolution of disputes through arbitration, Section 9 shall not apply. Section 2(b) shall be subject to a government entities' tax exempt status.

## 7. DIRECTV® DVR SERVICE AND SOFTWARE LICENSE.

DIRECTV DVR Service is a separately sold service, at our rates in effect at the time, available to Private Viewing Establishment customers with DVR-enabled Receiving Equipment. The DIRECTV DVR Service is not authorized for use by Business Viewing Customers or Public Viewing Customers. The DIRECTV DVR Service gives you the ability to see and record televised programs ("**Third Party Content**"). You understand that DIRECTV does not guarantee the access to or recording of any particular program, or the length of time any particular recorded program may remain available for your viewing. You also understand that Third Party Content is the copyrighted material of the third party that supplies it, is protected by copyright and other applicable laws, and may not be reproduced, published, broadcast, rewritten or redistributed without the written permission of the third party that supplied it, except to the extent allowed under the "fair use" provisions of the U.S. copyright laws or comparable provisions of foreign laws. You agree that DIRECTV will have no liability to you, or anyone else who uses your DIRECTV DVR Service, with regard to any Third Party Content. DIRECTV may, at its discretion, from time to time change, add or remove features of the DIRECTV DVR Service, or change the service fee for DIRECTV DVR Service. We may use local telephone calls to provide the DIRECTV DVR Service. You are responsible for such telephone charges and acknowledge and agree that you shall be solely responsible for all disputes with any telephone company related to the same. The Receiving Equipment incorporates software which is owned by DIRECTV or its third party licensors (the "**Software**"). Before using the Receiving Equipment or activating the DIRECTV DVR Service, please read the terms and conditions for use of the Software. If you do not agree to these terms you may not use the Receiving Equipment and may not activate the DIRECTV DVR Service and should immediately return the Receiving Equipment to DIRECTV or your supplier. These terms also apply to any modifications, updates or supplements to the software provided to you. Below is a summary of the terms of the Software license. A complete text of the terms and conditions for use of the Software is located in the user manual and at [www.directv.com](http://www.directv.com).

(a) License Grant and Conditions. DIRECTV grants you a non-exclusive, non-transferable, limited license to use the Software solely in executable code form and solely as integrated with, incorporated into, and in conjunction with the Receiving Equipment. Certain third party Software used in connection with the Receiving Equipment may be made directly available to you by the providers thereof. DIRECTV reserves the right to modify, supplement, update and otherwise alter the Software via Software download or other modification procedures, and these terms will apply to such Software as modified, supplemented, updated, and otherwise altered.

(b) License Restrictions. You may not copy, modify or transfer the Software, or any copy thereof, in whole or in part. You may not reverse engineer, disassemble, decompile or translate the Software, or otherwise attempt to derive the source code of the Software, except to the extent allowed under any applicable law. The Software may include some components that are covered by "free software" licenses, open source software, and other similar license use rights which require such components to be used, modified and/or distributed only under the terms of such licenses.

(c) Ownership of Software and Reservation of Rights. The Software is licensed, not sold, to you for use only under the terms of this license agreement, DIRECTV is NOT transferring title or any ownership rights in the Software to you and DIRECTV and its suppliers reserve all rights not expressly granted to you. Except as stated above, this license agreement does not grant to you any intellectual property rights in the Software.

(d) Termination. These terms are effective until terminated. You may terminate these terms by returning the Receiving Equipment to DIRECTV or your supplier. These terms will terminate automatically without notice if you fail to comply with these terms or any other agreement between you and DIRECTV. Upon termination you must return the Receiving Equipment to DIRECTV or your supplier.

(e) Disclaimer. THE SOFTWARE IS, TO THE EXTENT PERMITTED BY LAW, SUPPLIED **AS IS AND WITH ALL FAULTS**. NEITHER DIRECTV NOR ANY OF ITS LICENSORS EXPRESSLY MAKES OR PASSES ON TO YOU ANY WARRANTY OR REPRESENTATION ON BEHALF OF DIRECTV OR ITS LICENSORS WITH RESPECT TO THE SOFTWARE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

(f) Limitation of Liability. IN NO EVENT WILL DIRECTV OR ITS LICENSORS BE LIABLE TO YOU WITH RESPECT TO THE SOFTWARE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGE (INCLUDING LOSS OF PROFITS, LOST SAVINGS, LOSS OF DATA OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES) ARISING OUT OF THE USE OR THE INABILITY TO USE THE SOFTWARE, EVEN IF DIRECTV OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY A THIRD PARTY. Some states or jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, so the above limitations may not apply to you.

(g) Additional Information. DIRECTV's licensors and suppliers shall be third party beneficiaries of these license terms, as applicable. Certain additional terms and information for the Software and certain third party software (including the text of licenses applicable to any free, open source and other similar software that may be included in the Software), may be found in the DIRECTV website located at [www.directv.com](http://www.directv.com), and the GNU website located at [www.gnu.org](http://www.gnu.org).

(h) Third-Party Beneficiary. DIRECTV and you expressly acknowledge and agree that TiVo, Inc., a Delaware corporation with its principal place of business at 2160 Gold Street, Alviso, CA 95002, is an intended third-party beneficiary of this license agreement as it relates to TiVo software that may be contained in the Receiving Equipment. These license provisions are made expressly for the benefit of TiVo and are enforceable by TiVo in addition to DIRECTV.

## **8. LIMITS ON OUR RESPONSIBILITY**

(a) Service Interruptions. Service may be interrupted from time to time for a variety of reasons. We are not responsible for any interruptions of Service that occur due to acts of God, power failure or any other cause beyond our reasonable control. However, because we value our customers, for an interruption of a significant length of time that is within our reasonable control, upon your request we will provide what we reasonably determine to be a fair and equitable adjustment to your account to make up for such Service interruption. THIS WILL BE YOUR SOLE REMEDY AND OUR SOLE DUTY IN SUCH CASES.

(b) WARRANTY DISCLAIMER. EXCEPT AS PROVIDED HEREIN, WE MAKE NO WARRANTY REGARDING ANY SERVICE OR YOUR RECEIVING EQUIPMENT, WHICH IS PROVIDED AS IS. ALL SUCH WARRANTIES, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED. YOU BEAR THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE RECEIVING EQUIPMENT AND ARE RESPONSIBLE FOR THE ENTIRE COST OF ANY NECESSARY REPAIR.

(c) Limitations of Liability. WE ARE NOT RESPONSIBLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, INCIDENTAL DAMAGES OR LOSSES RELATING TO THE RECEIVING EQUIPMENT OR ANY SERVICE, WHETHER BASED ON NEGLIGENCE OR OTHERWISE. WE SHALL NOT BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, NOR FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, OR INTERRUPTION OF BUSINESS. Some states or jurisdictions do not allow the exclusion or limitation of consequential damages, so the above limitation may not apply to you.

(d) Warranty Services. You agree that this Agreement does not provide for, and the Service does not include, any warranty services or other services that we might provide separately, including, without limitation, any fee based or other programs.

(e) Exhibition and Music Rights. WE SHALL HAVE NO LIABILITY TO ANY PERSON OR ENTITY DUE TO OR BASED ON THE CONTENT OR YOUR EXHIBITION OF ANY OF THE PROGRAMMING OR OTHER SERVICES PROVIDED BY US INCLUDING, BUT NOT LIMITED TO, LIABILITY FOR THE PAYMENT OF ANY REQUIRED MUSIC LICENSE

FEES. IF YOU WISH TO PLAY MUSIC (OTHER THAN MUSIC SERVICES PROVIDED BY DIRECTV AS PART OF A PACKAGED MUSIC CHANNEL SERVICE AND DISPLAYED IN ACCORDANCE WITH OUR RULES OF USE), INCLUDING MUSIC INCLUDED WITHIN TELEVISION PROGRAMMING OR ADVERTISING, IN YOUR COMMERCIAL ESTABLISHMENT YOU ARE RESPONSIBLE FOR ALL REQUIRED MUSIC LICENSE FEES.

(f) Indemnification. YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD DIRECTV, ITS OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS OF LITIGATION), LOSSES, JUDGMENTS, AND ASSESSMENTS OF ANY KIND WHATSOEVER DIRECTLY OR INDIRECTLY RESULTING FROM YOUR BREACH OF ANY OF YOUR OBLIGATIONS UNDER THIS AGREEMENT.

## 9. RESOLVING DISPUTES.

In order to expedite and control the cost of disputes, you and we agree that any legal or equitable claim relating to this Agreement, any addendum, or your Service (referred to as a "**Claim**") will be resolved as follows:

(a) Informal Resolution. We will first try to resolve any Claim informally. Accordingly, neither of us may start a formal proceeding (except for Claims described in Section 9(d) below) for at least 60 days after one of us notifies the other of a Claim in writing. You will send your notice to the address on the first page of this Agreement, and we will send our notice to your billing address.

(b) Formal Resolution. Except as provided in Section 9(d), if we cannot resolve a Claim informally, any Claim either of us asserts will be resolved only by binding arbitration. The arbitration will be conducted under the rules of JAMS that are in effect at the time the arbitration is initiated (referred to as the "JAMS Rules") and under the rules set forth in this Agreement. If there is a conflict between JAMS Rules and the rules set forth in this Agreement, the rules set forth in this Agreement will govern. **ARBITRATION MEANS THAT YOU WAIVE YOUR RIGHT TO A JURY TRIAL.** You may, in arbitration, seek any and all remedies otherwise available to you pursuant to your state's law. If you decide to initiate arbitration, we agree to pay the arbitration initiation fee and any additional deposit required by JAMS to initiate your arbitration. We also agree to pay the costs of the arbitration proceeding. Other fees, such as attorney's fees and expenses of travel to the arbitration, will be paid in accordance with JAMS Rules. The arbitration will be held at a location in your hometown area unless you and we both agree to another location or telephonic arbitration. To start an arbitration, you or we must do the following things:

(1) Write a Demand for Arbitration. The demand must include a description of the Claim and the amount of damages sought to be recovered. You can find a copy of a Demand for Arbitration at [www.jamsadr.com](http://www.jamsadr.com).

(2) Send three copies of the Demand for Arbitration, plus the appropriate filing fee, to:

**JAMS**  
**500 North State College Blvd., Suite 600**  
**Orange, CA 92868**  
**1-800-352-5267**

(3) Send one copy of the demand for arbitration to the other party.

(c) Special Rules. (i) In the arbitration proceeding, the arbitrator has no authority to make errors of law, and any award may be challenged if the arbitrator does so. Otherwise, the arbitrator's decision is final and binding on all parties and may be enforced in any federal or state court that has jurisdiction. (ii) Neither you nor we shall be entitled to join or consolidate claims in arbitration by or against other individuals or entities, or arbitrate any claim as a representative member of a class or in a private attorney general capacity. Accordingly, you and we agree that the JAMS Class Action Procedures do not apply to our arbitration. A court may sever any portion of Section 9 that it finds to be unenforceable, except for the prohibition on class, representative and private attorney general arbitration.

(d) Exceptions. Notwithstanding the foregoing: (i) any Claim based on Section 1(h) above, and (ii) any dispute involving a violation of the Communications Act of 1934, 47 U.S.C. § 605, or the Digital Millennium Copyright Act, 17 U.S.C. § 1201, or the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, or any other statement or law governing theft of service, may be decided only by a court of competent jurisdiction. You may also assert an individual action in small claims court in lieu of arbitration.



## 10. MISCELLANEOUS

(a) Notice. Notices to you will be deemed given when personally delivered, addressed to you at your last known address and deposited in the U.S. Mail (which may include inclusion in your billing statement), or sent via Internet to the e-mail address you provided us or sent via satellite to your Receiving Equipment or delivered when a voice message is left at the telephone number on your account. Your notices to us will be deemed given when we receive them at the address or telephone number on the first page of this Agreement.

(b) Applicable Law. The interpretation and enforcement of this Agreement and any disputes related to your agreements or service with DIRECTV shall be governed by the rules and regulations of the Federal Communications Commission, other applicable federal laws, and the laws of the state and local area where Service is provided to you. This Agreement is subject to modification if required by such laws. Notwithstanding the foregoing, Section 9 shall be governed by the Federal Arbitration Act.

(c) Assignment of Account. We may assign your account or this Agreement and all rights and/or obligations hereunder to any third party without notice for any purpose, including, without limitation, collection of unpaid amounts, or in the event of an acquisition, corporate reorganization, merger or sale of substantially all of the party's assets to another entity. You hereby consent to such assignment. You must continue making all required payments to us in accordance with your billing statement, unless notified otherwise. You may not assign or transfer your Service, Receiving Equipment or Access Cards, this Agreement or any or your rights and obligations under this Agreement without our prior written consent. If as part of the sale of your commercial establishment, you wish to transfer any of the foregoing, contact DIRECTV immediately so that DIRECTV can review your account and determine whether DIRECTV will approve the transfer.

(d) Other. This Agreement and any lease, activation, programming, or other service commitment agreement that you entered into in connection with obtaining Service or Receiving Equipment constitute our entire agreement. No salesperson or other representative is authorized to change it. If any provision is declared by a competent authority to be invalid, that provision will be deleted or modified to the extent necessary, and the rest of the Agreement will remain enforceable. The terms of this Agreement that expressly or by their nature survive termination shall continue thereafter until fully performed.

### THANK YOU.

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