



## Terms and Conditions

### I. Agreement

1. This Agreement is between SUBSCRIBER, and Davey Holdings LLC, a Kentucky Limited Liability Corporation doing business as Silica Broadband (hereafter "Silica") at 12921 W US Hwy 42, Prospect, KY 40059
2. This agreement is the sole agreement between SUBSCRIBER and Silica, and supersedes any other written or oral agreement. This agreement is bound when any SUBSCRIBER initiates service with Silica. Silica also reserves the right, upon published notice to SUBSCRIBER'S electronic mail account, to modify the terms and conditions specified below.
3. In the event Silica modifies the terms and conditions of the original agreement, SUBSCRIBER may terminate this agreement without penalty by giving Silica written notice within 30 days of such modification. Failure to comply with stated policies will result in termination of accounts or services.
4. The laws of the Commonwealth of Kentucky govern this Agreement, SUBSCRIBER'S account, Silica, its directors, officers, employees, agents, subsidiaries and parent company.
5. SUBSCRIBER agrees that the law the Commonwealth of Kentucky will apply to all matters relating to this agreement and to our computer systems and network. In addition, SUBSCRIBER agrees and consents that if SUBSCRIBER ever takes legal action against us, the courts of Kentucky will have exclusive jurisdiction over any such legal actions. All matters with respect to this agreement, including, without limitation, matters of validity, construction, effect and performance shall be governed by the internal laws of the Commonwealth of Kentucky applicable to contracts made and to be performed therein between the residents thereof (regardless of the laws that might otherwise be applicable under principles of conflicts of law). All actions filed with respect to this agreement will be filed in the Circuit or District Court of Oldham County, Kentucky and the parties to this agreement consent to the personal jurisdiction of our courts.

### II. Registration Requirements

1. SUBSCRIBER represents that he/she is at least 18 years of age and has the right and ability to enter into this Agreement. By accepting this Agreement, SUBSCRIBER represents that they meet this age requirement. Minors who use the Service are required to have parental or guardian consent to do so.
2. SUBSCRIBER agrees to provide Silica with accurate and complete contact information including legal name, physical street address and local telephone numbers. Silica may refuse service if any contact information is found to be inaccurate or unverifiable. Any changes to address or contact information must be reported to Silica within 10 days of the change.



### III. Use of Services

1. SUBSCRIBER agrees that all use of Silica's Services are to be used for SUBSCRIBER'S own use and may not be provided or resold to, in any manner, whether wholesale or retail, to the public or to any of SUBSCRIBER'S customers, clients or tenants, without prior written consent from Silica.

Revealing your account passwords to others or allowing use of your account by others is prohibited. SUBSCRIBER is responsible for ensuring the privacy of their passwords are protected.

SUBSCRIBER is solely responsible for the provisioning, configuration and maintenance of all equipment of SUBSCRIBER'S premise, including but not limited to, computer equipment, software, modems and phone lines.

### IV. Internet Services - Guarantees

Silica is a best effort service.

### V. Acceptable Use Policy

1. The use of Silica service for illegal purposes is prohibited.
2. Use of Peer to Peer, Torrent, or other mass downloading applications is strictly prohibited.
3. Unlawful use may include, but is not limited to: illegal on-line gambling, transmissions, posting or downloading of child pornography, intentional spreading of computer viruses or harmful code, unlawful entry into public or private computer systems including Silica's own network infrastructure, trafficking in stolen credit card codes, use of the Silica network in violation of the Digital Millennium Copyright Act (DMCA), or any other violation of an applicable federal, state, or local law will result in immediate account termination.
4. Silica reserves the right to restrict, suspend or cancel SUBSCRIBER'S service if SUBSCRIBER'S use is considered excessive, abusive, or in any way interferes with other Silica SUBSCRIBERS or Silica's networks, at Silica's sole discretion.

### VI. Electronic Mail

1. Any use of Silica's electronic mail systems other than to send correspondence to a known personal recipient or business contact is strictly prohibited.



2. Forging of message headers, for the purpose of masking SUBSCRIBER'S identity, is prohibited.
  
3. Spamming is the common term for the sending of unsolicited emails. The sending of such emails is an extremely undesirable activity in the Internet community and may be a violation of state and/or federal laws. Unsolicited mail sent from, through, to, or in reference to Silica services or SUBSCRIBERS is prohibited. Any violation of this or any of the following policies may result in the immediate termination of Silica services without notice or refund, and a maintenance fee up to \$200.00 per day may be charged to cover our costs of ensuring that all traces of the mailings have been eliminated, including removing messages in our mail input queues, answering complaints and removing Silica from any spam-block lists.
  
4. Bulk email, even when solicited, is prohibited unless prior written consent is obtained from Silica. The sending of bulk email messages is defined as sending 50 or more mostly identical messages during a 24-hour period.
  
5. Chain letters, "Get Rich Quick" schemes, or other potentially fraudulent content is prohibited.
  
6. Accounts that have not been accessed in 30 days will be marked inactive. Inactive accounts that have not been reactivated will be removed after 90 days.

#### VII. Unauthorized Solicitation

1. The use of any network, or system to solicit Silica SUBSCRIBERS by other competitive services is prohibited

#### VIII. Harassment, Hacking and Fraudulent Behavior

1. Threatening actions of any kind with the implication or intent to harm persons, groups or property is prohibited. Harassment of any kind with the intent to annoy or threaten other persons is prohibited.

2. Silica forbids active searches for security problems in Silica's network, or any other network, reachable by SUBSCRIBER. Silica will pursue all legal avenues against those violating this policy, including but not limited to, criminal prosecution.



3. SUBSCRIBER will not attempt to probe, undermine, hinder, damage, or disrupt the hardware, software, or security of the Silica system, the Silica network, the Internet, or any system reachable directly or indirectly through our service.

4. Any access to other networks through Silica must comply with the rules appropriate for that network. Specifically, this prohibits any commercial use of any public access network without prior consent from the administrators of that network.

5. SUBSCRIBER will not make fraudulent offers of products, items or services originating from Silica.

#### IX. Malicious Conduct / Violations of the Law

1. SUBSCRIBER may use Silica's Services for lawful purposes only. All uses of Services by SUBSCRIBER shall comply with all local, state and federal laws as well as all rights, obligations, limitations or other interests of any third person or entity.

2. Unauthorized copying of copyrighted material, including but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, music, and copyrighted software is prohibited. The SUBSCRIBER assumes all risks regarding the determination of whether material is in the public domain.

3. Using Silica services to post or transmit, in any form, any threatening, abusive, libelous, defamatory or otherwise objectionable information of any kind, including without limitation, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, or Federal law or regulation, including without limitation, the U.S. export control laws is strictly prohibited. Silica reserves the right to, in its reasonable good faith discretion and without notice, to provide SUBSCRIBER information to the courts, law enforcement agencies or others involved in the prosecuting claims or investigations for conduct alleged to be illegal or to threaten or violate the rights of any person or entity.

#### X. Indemnity

1. SUBSCRIBER agrees to defend, indemnify and hold Silica and its affiliates harmless from any and all liabilities, costs, and expenses, including reasonable attorney's fees, resulting from use of the Service that damages SUBSCRIBER or another party.

#### XI. Terms of Agreement

1. This agreement is effective from SUBSCRIBER'S acceptance thereof, which is indicated by SUBSCRIBER'S initial use of Service.



## XII. Disclaimer of Warranty

1. SUBSCRIBER EXPRESSLY AGREES THAT USE OF THE SERVICES IS AT THE SUBSCRIBER'S SOLE RISK. NEITHER SILICA NOR ANY OF ITS INFORMATION PROVIDERS, LICENSORS, EMPLOYEES OR AGENTS WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES Silica OR ANY OF ITS INFORMATION PROVIDERS, LICENSORS, EMPLOYEES OR AGENTS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF THE SERVICES. THE SERVICES ARE DISTRIBUTED ON AN "AS IS, AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. NEITHER Silica NOR ANYONE ELSE INVOLVED IN CREATING, PRODUCING OR DELIVERING THE SERVICES SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF THE SERVICES OR THE INABILITY TO USE THE SERVICES OR OUT OF ANY BREACH OF ANY WARRANTY. SUBSCRIBER EXPRESSLY ACKNOWLEDGES THAT THE PROVISIONS OF THIS PARAGRAPH SHALL ALSO APPLY TO ALL THIRD PARTY CONTENT AND ANY OTHER CONTENT AVAILABLE THROUGH THE SERVICES. SUBSCRIBER AGREES THAT IT WILL NOT IN ANY WAY HOLD SILICA RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, THIRD PARTIES IN CONNECTION WITH THE SERVICES.

2. SUBSCRIBER acknowledges that Internet sites and use of the Internet might consist of, include and/or provide access to images, sound, text and other content that may be unsuitable for children and may be objectionable to adults. SUBSCRIBER acknowledges that Silica is not responsible for any such content or material and agrees that access to same through use of the Services is at SUBSCRIBER'S sole risk.

3. SUBSCRIBER acknowledges that the reliability, availability and performance of resources accessed through the Internet are beyond Silica's control and are not in any way warranted or supported by Silica. SUBSCRIBER acknowledges that safeguards relative to copyright, ownership, decency, obscenity, security, reliability and integrity of content may be entirely lacking with respect to the Internet and content accessible through it. SUBSCRIBER acknowledges that Silica does not evaluate, endorse or in any way vouch for the accuracy, completeness, truthfulness, security or reliability of any service, opinion, material of information made available through the Services. SUBSCRIBER assumes all risk and liability for use of the Internet.

4. Silica assumes no liability for damage to account files or loss of data due to Silica's direct or indirect fault. Silica assumes no liability for connect time charges that are attributable to the SUBSCRIBER'S failure to maintain confidentiality or from failure to protect the password from unauthorized



SUBSCRIBERS. Silica makes no guarantee and assumes no liability for the security of any data on any server including "secure servers". The SUBSCRIBER acknowledges that there is no guaranteed privacy on the Internet and that Silica is not liable for any viewing or interception of the SUBSCRIBER'S email, news, etc. by outside parties.