

**RIT DIGITAL DEN
COMPUTER REPAIR SERVICE PLANS
TERMS AND CONDITIONS**

IMPORTANT: THESE TERMS AND CONDITIONS ARE A LEGAL AGREEMENT BETWEEN YOU, A ROCHESTER INSTITUTE OF TECHNOLOGY (“RIT”) STUDENT, FACULTY MEMBER, EMPLOYEE, OR RETIREE, AND RIT DIGITAL DEN (“DEN”). PLEASE READ IT CAREFULLY. BY USING ANY OF THE RIT COMPUTER REPAIR SERVICE PLANS, YOU INDICATE YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS (“AGREEMENT”). IF YOU DO NOT AGREE WITH ANY OF THIS AGREEMENT, DO NOT USE ANY RIT COMPUTER REPAIR SERVICE PLAN.

1. TERM. This Agreement shall commence on the day an RIT Computer Repair Service Plan (“Plan”) is purchased, and end on the last day of that current Plan period (the “Term”).

2. SERVICES AND FEES. A description of the various Den Plans currently available for subscription, together with associated fees, is located on the Den website. Den may make other Plans available from time to time, modify the fees for existing Plans, and amend the features or benefits offered with respect to any Plan at any time and from time to time. Your purchase of a Plan does not guarantee You a level of service other than that described on the Den website at the time the service is requested. You acknowledge that all fees paid under this Agreement are non-refundable. You further acknowledge that Den may withhold Your personal computer or provision of any services provided under the Plans until all appropriate fees have been paid.

3. DEN RESPONSIBILITIES AND AGREEMENTS. Den warrants and represents that all services provided under the Plan (“Services”) shall be performed in a professional manner consistent with reasonable and customary standards of the computer service/repair industry. **EXCEPT AS PROVIDED ABOVE, DEN DOES NOT MAKE ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY: (A) IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE; OR (B) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.**

Den does not warrant and represent that the Services will be error free or that the Services will diagnose and/or correct any deficiency in Your computer. Den shall not be responsible for any data on Your personal computer, nor will Den be responsible for safeguarding Your hardware and/or software. Den may be required by applicable law to report any materials contained on Your personal computer which can be reasonably determined to be in violation of laws, rules, regulations, or community standards. In the event that Den is required to make such a report, Den shall not be liable to You for any damages You may suffer as a result.

4. YOUR RESPONSIBILITIES AND AGREEMENTS. You represent and warrant that you are an RIT student, faculty member, employee, or retiree, that you have a valid RIT identification card, and that the computer presented to Den for Services is owned by You, or if not owned by You, that You have the authority of the owner to request repairs. You agree to pay for the Services provided by Den, according to the fees outlined on Den’s website at the time the Services are requested, regardless of Den’s ability to repair Your computer. You shall be solely responsible for the data, hardware, and software on Your computer and You warrant and represent that all materials contained on Your computer were either created by You, duly licensed from a third party, or maintained with the express permission of the content owner.

You agree not to use the Services to upload, post, display, transmit or otherwise make available (A) any inappropriate, defamatory, obscene, or unlawful content; (B) any content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any party; (C) any messages,

communication or other content that knowingly promotes pyramid schemes, chain letters, constitutes disruptive commercial messages or advertisements, or is prohibited by applicable law or this Agreement; or (D) any malicious code.

5. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL DEN OR RIT BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE YOUR PERSONAL COMPUTER, THE SERVICES, THIS AGREEMENT, A GRANT OR RECEIPT OF RIGHTS OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY YOU NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT.

DEN'S AGGREGATE LIABILITY UNDER THIS AGREEMENT, AND YOUR SOLE REMEDY FOR ANY BREACH OF THIS AGREEMENT, SHALL BE LIMITED TO A REFUND OF THE FEES PAID FOR THE PARTICULAR SERVICES ALLEGED TO HAVE CAUSED THE DAMAGE.

6. INDEMNIFICATION. You hereby agree to indemnify, defend and hold Den, RIT, its trustees, officers, employees, agents, and affiliates harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Claims") suffered or incurred by such indemnified parties resulting from or arising out of Your use of the Services.

7. FORCE MAJEURE. Den shall not be liable to You for failure to perform any of its obligations hereunder due to causes beyond its reasonable control and occurring without its fault or negligence, including but not limited to fire, flood, earthquake or other natural disaster; war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits Den from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

8. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York, without regard to its conflict of law principles, and the parties commit to the exclusive jurisdiction and venue of the state and federal courts located in Monroe County, New York to adjudicate any dispute arising under or relating to this Contract.

9. MISCELLANEOUS. If any term or condition of this Agreement is determined to be invalid or unenforceable by any judicial, governmental or similar authority, the remainder of this Agreement, or the application of such term or provision to this Agreement, will not be affected thereby. Neither You nor Den may assign its rights under this Agreement without the prior written consent of the other party. Den, in the performance of its obligations under this Agreement, in an independent contractor. No partnership, joint venture, or agency relationship is intended by Den or You. No rights to third parties are granted under this Agreement.

10. ENTIRE AGREEMENT. This Agreement, including all service and pricing information contained on the Den website, embodies the entire agreement and understanding by and between the parties with respect to the subject matter herein referred to, and no representations, promises, agreements, or understandings, written or oral, not herein contained shall be of any force or effect. No change or modification shall be valid or binding unless the same is in writing and signed by both parties.