

LakeNet LLC Commercial Terms of Service

LakeNet LLC ("LakeNet") agrees to provide the certain service(s) to the Customer as outlined in the Service Agreement and pursuant to these Commercial Terms of Service (hereinafter "Terms of Service").

Standard Payment Terms

Customer agrees to pay all billed-for fees and charges, specifically including but not limited to

- (a) *Monthly Service Fees.* Customer agrees to pay Monthly Service Fees in advance of the provision of the services. Monthly Service Fees are due on the date specified in the Service Agreement.
- (b) *One-Time Charges.* Customer agrees to pay the One-Time Charges as described on the Service Agreement.
- (c) *Taxes, Fees, and Government Charges.* Customer agrees to pay any sales, use, property, excise or other taxes, franchise fees and governmental charges (excluding income taxes), arising under this Agreement.
- (d) *Charges for Change Requests.* Any charges associated with service and equipment installations, additions, modifications, substitutions, upgrades, reconfigurations, rebuilds or relocations at a site and requested by Customer subsequent to executing a Service Agreement for that site, are the sole financial responsibility of Customer.
- (e) *Site Visits and Repairs.* If Customer's misuse, abuse or modification of the services, equipment or Network facilities supplied by LakeNet necessitates a visit to the Customer site for inspection, correction or repair, LakeNet shall charge Customer a site visit fee as well as charges for repair or replacement necessary to restore service(s).
- (f) *Invoicing Errors.* Customer must provide notice to LakeNet of any invoice errors or disputed charges within thirty (30) days of the invoice date on which the errors and/or disputed charges appear in order for Customer to receive any credit that may be due.
- (g) *Late Fees.* If Customer fails to pay an invoice within fifteen (15) days of issuance, the Customer will be charged a late fee of ten percent (10%) per month on any outstanding past-due balance.
- (h) *Non-Payment.* If services are disconnected because Customer does not pay the invoice, LakeNet may, in its sole discretion, require that Customer pay all past due charges, a reconnect fee and a minimum of one month's Monthly Service Fees in advance before LakeNet will reconnect services.
- (i) *Returned Checks, Bankcard or Credit Card Charge-Backs and Collection Fees.* LakeNet will charge an additional commercially reasonable fee for all returned checks and bankcard, credit card or other charge card charge-backs.
- (j) *Collection Fees.* Customer shall be responsible for all expenses, including reasonable attorney's fees and collection costs, incurred by LakeNet in collecting any unpaid amounts due under the Service Agreement and/or these Terms of Service.
- (k) *Commitment Term.* If a commitment term is indicated on the Service Agreement, for any month in which the monthly service fee is not paid in full (delinquent account, vacation hold, credits issued to account, etc.); the commitment term shall be extended by one (1) month.

Service Location Access and Installation

- (a) *Access.* Customer hereby authorizes and provides LakeNet with all desired physical and legal access to the Customer's premises for LakeNet to construct, operate, review, install, inspect, maintain, or repair any equipment necessary to provide services and/or operate LakeNet's network. Customer hereby grants to LakeNet permission to enter all premises, building(s), and/or site(s) for the maximum exercise of such right. If such is not owned and/or controlled by Customer, the Customer will obtain, to LakeNet's satisfaction, such right of access. If Customer is not able to gain right of access, LakeNet's obligations under this Agreement and the appropriate Service Agreement for such site are terminated, null and void at LakeNet's sole discretion.
- (b) *Installation Review; Subsequent Interference.* LakeNet may perform a review prior to installation of the

services. Customer may be required to provide LakeNet with accurate site and/or physical network diagrams or maps for proposed services prior to the installation review. LakeNet may inspect the premises before beginning installation and shall satisfy itself that safe installation and proper operation of equipment, network, and services are possible in the location(s) proposed by Customer. If LakeNet, in its sole discretion, determines that safe installation and/or activation of the services will have negative consequences to LakeNet's personnel, service, network, and/or equipment, and/or cause technical difficulties to LakeNet or its other customers, LakeNet may terminate the Service Agreement effective upon prior written notice to Customer or may require the Customer to correct the situation before proceeding with installation or activation of the services. In the event during the initial or any renewal of services, (i) proper operation of LakeNet's network or equipment and/or unhindered delivery of services is no longer possible as a result of interference or obstruction caused by the acts or omissions of Customer, a third party, or any force majeure event, or (ii) such interference/obstruction or the cause thereof will have negative consequences to LakeNet's personnel, equipment, and/or network, and/or cause technical difficulties to LakeNet or its customers, as LakeNet may determine in its sole discretion, LakeNet may terminate the affected Service Agreement(s) without liability upon written notice to Customer.

- (c) *Site Preparation.* Unless agreed upon otherwise in the Service Agreement, Customer shall be responsible, at its own expense, for all site preparation activities necessary for delivery, use, and/or installation of any equipment and the installation and ongoing provision of services, including, but not limited to, the relocation of Customer's personal property and/or property fixtures as necessary to install and operate the equipment and/or services. To ensure proper installation, initiation and continued delivery of services, Customer may be required to provide electrical or other utilities and/or accurate physical network diagrams and/or maps prior to installation.
- (d) *Installation.* LakeNet may schedule one or more installation visits with Customer. Customer's authorized representative should be present during installation. In the event that during the course of installation LakeNet determines additional work is necessary to enable LakeNet to deliver services, LakeNet will notify Customer of any new or additional charges that may be necessary at time of installation. Customer shall be responsible for necessary preparation changes and activities necessary for LakeNet to install and operate the services. With respect to any excavation, LakeNet shall be not held responsible for any restoration efforts necessary to address any displacement resulting from such excavation.

Equipment and Materials

- (a) The Customer shall:
 - (i) safeguard LakeNet's equipment against others;
 - (ii) not add other equipment nor move, modify, disturb, alter, remove, nor otherwise tamper with any portion of the equipment;
 - (iii) not hire nor permit anyone other than personnel authorized by LakeNet acting in their official capacity to perform any work on equipment; and
 - (iv) not move nor relocate equipment to any other location without the prior written consent of LakeNet.
- (b) *Unauthorized connection.* Any unauthorized connection or other tampering with equipment, network, or services, including any part or portion thereof, shall be cause for immediate disconnection of services and termination of services. LakeNet shall be entitled to recover damages, including, but not limited to, the value of any service and/or equipment obtained in violation of these Terms of Service in addition to reasonable collection costs including, but not limited to, reasonable attorneys' fees. Should any third-party equipment interfere with LakeNet's equipment, network and/or services, LakeNet shall not be obligated to distribute a quality signal better than the highest quality which can be furnished as a result of such interference until such time as the interference is eliminated or corrected.
- (c) *Customer Security Responsibilities.* Customer shall be responsible for the implementation of reasonable security procedures and standards with respect to use of and access to the equipment, network, and/or service. LakeNet may temporarily discontinue or disconnect services upon learning of a breach of security and will attempt to contact Customer in advance, if possible. The temporary discontinuation or disconnection of the services shall not constitute a breach of this Agreement.
- (d) *Ownership.* Customer understands and agrees that, except as provided in the Service Agreement, all equipment installed or provided by LakeNet is and shall always remain under the ownership of LakeNet, shall not become a fixture to the Customer's premises, and must be returned to LakeNet upon its demand in the condition in which it was received subject to ordinary wear and tear. Customer will not sell, lease, pledge, assign nor encumber any asset, equipment, or property of LakeNet. Customer shall

keep all equipment located on Customer's premises free and clear of all liens, encumbrances and security interests. Failure to do so shall be deemed a breach of these Terms of Service.

- (e) *Equipment Return, Retrieval, Repair and Replacement.* Immediately upon termination of services, Customer shall surrender and hereby authorizes LakeNet to retrieve any and all equipment supplied by LakeNet. If Customer causes LakeNet not to be able to retrieve demanded equipment within thirty (30) days after services are terminated, Customer shall be liable an amount equal to the full retail cost of replacement of the unreturned equipment. In addition, Customer agrees to pay for the repair or replacement of any damaged equipment (whether or not caused by Customer's negligent act, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material/workmanship defects), together with any costs incurred by LakeNet in obtaining or attempting to regain possession of such equipment, including, but not limited to, reasonable attorneys' fees.

Internet Services

Continued use of service for delivery of internet connectivity services is subject to the follow—

- (a) *Equipment and Software Requirements.* Customer shall obtain and maintain all necessary computer hardware and/or software to utilize services. Please refer to www.LakeNetMI.com (or the applicable successor URL) for the current specifications.
- (b) *Internet Service Speeds.* LakeNet shall use commercially reasonable efforts to achieve the Internet connectivity speed selected by the Customer. However, Customer understands and agrees that such speeds may vary and such variability is not a breach of this Agreement.
- (c) *Access and Use.* Any person who uses or has access to services, equipment, and/or network shall comply with the terms of this Agreement. Customer shall be responsible for all charges incurred and all conduct, whether authorized or unauthorized, caused by use of or access to services, equipment, and/or network.
- (d) *Electronic Addresses.* Any e-mail addresses, e-mail account names, and IP addresses ("Electronic Addresses") provided by LakeNet are and shall remain the property of LakeNet. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.
- (e) *No Liability for Changes of Address.* Due to growth, acquisitions and changes in technology, LakeNet reserves the right to change technical addressing schemes, including e-mail and IP addresses.
- (f) *No Liability for Risks of Internet Use.* The Internet is a shared network and LakeNet does not warrant services will be error free. Unless other specified in the Service Agreement, equipment, service, and network are not guaranteed to be secure, and others may access or monitor the Customer's technical traffic. LakeNet does not warrant that data or files sent or received by the Customer will not be subject to unauthorized access by others, that other users will not gain access to the Customer's data, nor that the data or files will be free from computer viruses or other harmful components. LakeNet has no responsibility and assumes no liability for such acts or occurrences.
- (g) *No Liability for Purchases.* Customer may have access certain information, products and services of third-parties, for which there is or may be a charge not charged by LakeNet. Customer shall be solely liable and responsible for all fees or charges for these online services, products or information. LakeNet shall have no responsibility to resolve disputes with such third-parties or any other content vendors.
- (h) *Blocking and Filtering.* While the industry may provide blocking and filtering software that empowers Customer to monitor and restrict access to Customer's computer and its data, LakeNet is not the publisher of this software. LakeNet strongly recommends that the Customer employ a firewall and/or other security software. Customer assumes all responsibility for providing and configuring any security measures for use with equipment, network, and/or services. LakeNet shall not be responsible in any manner for the effectiveness of these blocking and filtering technologies. LakeNet does not warrant that other users will be unable to gain access to Customer's computer(s) and/or data even if the Customer utilizes blocking and filtering technologies.
- (i) *Acceptable Use Policy.* Customer further and expressly agrees to comply with the terms of LakeNet's Acceptable Use Policy ("AUP") found at www.LakeNetMI.com (or the applicable successor URL) and that policy is incorporated by reference into these Terms of Service. Customer confirms it has read the AUP and agrees to be bound by its terms; notwithstanding, the terms may from time to time be amended, revised, replaced, supplemented or otherwise changed. Customer expressly understands and agrees that the AUP may be updated or modified from time to time by LakeNet, with or without notice to Customer. LakeNet may, in its sole discretion, discontinue or disconnect services immediately for any violation of LakeNet's AUP with or without notice to Customer.

No Third-Party Hardware or Software Support

Customer is responsible for the installation, maintenance, repair and/or use of Customer-supplied third-party hardware and/or software. LakeNet does not technically support or guarantee third-party hardware or software supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. LakeNet assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third-party software, or any Customer-supplied hardware or software. If, at Customer's request, LakeNet should be requested attempt to resolve any technical difficulties caused by such third-party hardware or software, such efforts may be performed at LakeNet's discretion and a charge imposed.

Customer Use

Customer agrees not to re-sell or re-distribute access to any equipment, services, or network, including any part thereof, in any manner without the express prior written consent of LakeNet. Customer agrees not to use or permit third-parties to use services, network, and/or equipment provided by LakeNet for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

Performance

LakeNet will use commercially reasonable efforts in keeping with normal industry standards to ensure that service is available to Customer twenty-four (24) hours per day, seven (7) days per week. It is possible, however, that there will be interruptions. Specifically, Customer understands and agrees that service may be unavailable from time to time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond LakeNet's reasonable control. Unless expressly provided in the Service Agreement, temporary service interruptions/outages for such reasons, as well as service interruptions/outages caused by the Customer, or by a force majeure event, shall not constitute a breach by LakeNet to perform its obligations.

Default; Suspension of Service; Termination

No express or implied waiver by LakeNet of any event of default shall in any way be a waiver of any further subsequent event of default. Nothing herein shall relieve Customer of its obligation to pay LakeNet all amounts due.

- (a) *Default by Customer.* Customer shall be in default in the event that the Customer does one (1) or more of the following (each individually to be considered a separate event of default) and the Customer fails to correct each such noncompliance:
 - (i) LakeNet has not received payment from Customer for any outstanding statement or invoice by close of business on the due date listed on the statement or invoice;
 - (ii) Customer otherwise has failed to comply with the terms of the Service Agreement, these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy, together with any authorized modifications thereof.
- (b) *LakeNet's Right to Terminate and Termination Fee.* In the event Customer is in default, LakeNet shall have the right, at its option, and in addition to any other rights of LakeNet expressly provided or existing under applicable law, to:
 - (i) Immediately suspend services until such time as the underlying noncompliance has been corrected without affecting Customer's on-going obligation to pay LakeNet any amounts due under this Agreement;
 - (ii) Terminate the services; or
 - (iii) Terminate the Service Agreement.

If Termination is due to noncompliance by the Customer, Customer must pay LakeNet a termination fee as liquidated damages. This fee shall be equal to one hundred percent (100%) of the unpaid balance of the Monthly Service Fees that would have been due under the Service Agreement plus one hundred percent (100%) of all past and future charges under the Service Agreement and these Terms of Service.

- (c) *Default by LakeNet.* LakeNet shall only be in default under the Service Agreement and/or these Terms of Service in the event that Customer first provides written notice from Customer describing in reasonable detail the nature, scope and extent of the default or noncompliance and LakeNet thereafter fails to remedy each such noncompliance or occurrence within thirty (30) days of receipt of written notice. from Customer describing in reasonable detail the nature, scope and extent of the default or noncompliance.

Limitation of Liability

PLEASE READ THIS SECTION CAREFULLY, IT CONTAINS DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY.

- (a) *Limited Warranty.* For the period of providing services, LakeNet will use commercially reasonable efforts in keeping with industry standards to cause services to be available to the Customer. LAKENET MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY SERVICE PROVIDED OR PROVIDED HEREUNDER AND SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. WITHOUT LIMITING ANY EXPRESS PROVISIONS PROVIDED FOR ELSEWHERE IN THIS AGREEMENT, LAKENET SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THE SERVICE AGREEMENT OR THESE TERMS OF SERVICE (INCLUDING ANY SERVICE IMPLEMENTATION DELAYS AND/OR FAILURES), UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS APPLIES TO ALL CAUSES OF ACTIONS AND CLAIMS, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS. Any claim by Customer, by law or equity, must be made within thirty (30) days after services have either been terminated or concluded. The parties agree with respect to any breach by LakeNet, as a pre-determined liquidated damages remedy, shall be a prorated refund of the amounts paid by Customer based on the period of time when services were out of compliance.
- (b) *Content.* Customer understands that any content that Customer may access or transmit through service is provided by independent content providers, over which LakeNet does not exercise and disclaims any control. LakeNet neither previews content nor exercises editorial control; does not endorse any opinions or information accessed through any service; and assumes no responsibility for content. LakeNet specifically disclaims any responsibility for the accuracy or quality of the information obtained using services. Such content or programs may include, without limitation, programs or content of an infringing, abusive, profane or sexually offensive nature. Customer and their authorized users accessing content do so at Customer's own risk, and LakeNet assumes no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such content.
- (c) *Damage, Loss or Destruction of Software Files and/or Data.* Customer agrees that Customer uses the services, network, and equipment at its sole risk. LakeNet does not manufacture the hardware or software and are provided on an "as is" basis without warranties of any kind. LakeNet assumes no responsibility whatsoever for any damage to or loss or destruction of any of Customer's hardware, software, files, data or peripherals which may result from use of services, network, and/or equipment. LakeNet does not guarantee that data or files sent by or to Customer will be transmitted in uncorrupted form or within a reasonable period of time.
- (d) *Unauthorized Access.* If Customer chooses to run or offer access to computer/device applications that permits others to gain access, Customer must take appropriate security measures. LakeNet is not responsible for and assumes no liability for any damages resulting from the use of such computer/device applications, and Customer shall hold LakeNet harmless from and indemnify LakeNet against any claims, losses, or damages arising from such use. LakeNet is not responsible and assumes no liability for losses, claims, damages, expenses, liability, or costs resulting therefrom and Customer shall hold LakeNet harmless from and indemnify LakeNet against any such claims, losses, or damages to the fullest extent arising from such access.
- (e) *Force Majeure Event.* Customer agrees that LakeNet shall not be liable for any inconvenience, loss, liability or damage resulting from any failure or interruption of services, directly or indirectly caused by circumstances beyond LakeNet's control, including but not limited to acts of war or terrorism, criminal, illegal or unlawful acts, natural causes, mechanical or power failures, or any order, law or ordinance in any way restricting the operation of the services.

Indemnification

In addition to its specific indemnification responsibilities set forth elsewhere herein, Customer agrees, at its own expense, to indemnify, defend and hold harmless LakeNet and its directors, employees, representatives, attorneys, officers and agents, (the "Indemnified Parties") against any and all claims, liabilities, lawsuits, damages, losses,

judgments, costs, fees and expenses incurred by Indemnified Parties, including but not limited to, reasonable attorneys' fees and court costs incurred by Indemnified Parties. Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim at Customer's cost and Customer agrees to cooperate with Indemnified Parties in such case.

Compliance with Laws / Sexually Explicit Images

Parties shall comply with all applicable laws and regulations when carrying out their respective duties hereunder. Furthermore, LakeNet expressly prohibits using equipment, network, or service for the posting or transferring of sexually explicit images, material inappropriate for minors, or other offensive materials. By signing, Customer expressly acknowledges that Customer will not post or transfer or permit others to post or transfer such materials using service(s).

Privacy

LakeNet treats private communications via its services as confidential and does not access, use or disclose the contents of private communications, except as permitted or required by law. LakeNet also maintains a Privacy Policy with respect to the services in order to reasonably protect privacy. The Privacy Policy can be found on LakeNet's website at www.LakeNetMI.com (or the applicable successor URL). Customer has read the Privacy Policy and is bound by its terms. Customer expressly understands and agrees that the Privacy Policy may be updated or modified from time to time by LakeNet, with or without notice to Customer.

General Customer Representations and Obligations

Customer represents to LakeNet that Customer (and any signing individual on its behalf) has the authority to execute, deliver and carry out the terms of the Service Agreement(s), these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy. Customer also represents that any person who uses equipment, network, and/or services will be an authorized user and be subject to these Terms of Service and of the Service Agreement. Customer shall be responsible for ensuring that all such users will understand and comply with all terms.

Notices

Any notices to be given shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses:

If to LakeNet:

LakeNet LLC
136 W. Saginaw St.
Hemlock, MI 48626

If to Customer:

See Service Agreement.

Each party may change its respective address(es) for legal notice by providing notice to the other party.

Miscellaneous

- (a) *Entire Agreement.* The Service Agreement(s), these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy constitute the entire understanding with respect to services, network and equipment. These provisions supersede all prior understandings, promises and undertakings, if any made orally or in writing by or on behalf of the parties with respect to the subject matter of the Service Agreement.
- (b) *No Amendments, Supplements or Changes.* Any Service Agreement may not be amended, supplemented or changed without both parties' prior written consent.
- (c) *No Assignment or Transfer.* Customer may not assign or transfer (directly or indirectly by any means, by operation of law or otherwise) their rights or obligations under the Service Agreement(s), these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy to any other entity without first obtaining written consent from LakeNet. Notwithstanding, LakeNet may assign its rights or obligations to affiliates controlling, controlled by or under common control with LakeNet, or to its successor-in-

- interest in the event LakeNet sells the underlying communications system, without Customer's consent.
- (d) *Severability.* If any term, covenant, condition or provision shall be deemed invalid or unenforceable, the remainder shall not be affected and shall be valid and enforceable to the fullest extent permitted by law.
 - (e) *Section Headings.* The section headings are furnished for the convenience of the parties and are not to be considered in the construction or interpretation.
 - (f) *Governing Law.* all matters arising out of or related to the Service Agreement(s), these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy shall be governed by the laws of the State of Michigan, without regard to conflicts of law provisions. Customer agrees that the federal and state courts of Michigan alone have jurisdiction over all disputes arising under this Agreement, and Customer consents to personal jurisdiction of those courts with respect to any disputes arising under this Agreement.
 - (g) *Jointly Drafted.* Both parties hereby acknowledge that they participated equally in the negotiation and drafting these provisions and that, accordingly, shall not be construed more stringently against one party than against the other.
 - (h) *No Third-Party Beneficiaries.* The benefits of the Service Agreement(s), these Terms of Service, the Acceptable Use Policy, and/or the Privacy Policy only runs to the respective parties hereto, and that no person or entity not a party shall have any rights as third-party beneficiaries.
 - (i) *Waiver.* Except as otherwise provided herein, the failure of LakeNet to enforce any provision shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

LakeNet LLC Commercial Terms of Service 10/20/2018