



LightNex Communications, Inc.

Terms and Conditions and Acceptable Usage Policy

The following is LightNex Communications, Inc.'s Terms and Conditions of Service and Acceptable Usage Policy ("Policy") applicable to you and your subsidiaries and supersedes any other written or oral Policy. Upon notice published on-line via LightNex Communications's web page we may modify the Policy, amplify the Policy, as well as discontinue or change services offered.

We reserve the right to revise this Policy at any time.

If you wish to report a violation of our Policy, please email support@lightnex.com

By using any of the services offered by us, you are bound by and must comply with this Policy in its entirety. Violations of the Policy, delineated below, will result in cancellation of your services or such other action as we, in our sole discretion, may deem appropriate.

1 System and Network Security

- 1.1 You may not tamper with other accounts, or commit unauthorized intrusion into any part of our system, or use any of our machines, files, accounts, nor networks to intrude without authorization into any other system.
- 1.2 You may not use any of our services not included in your account, nor devise ways to circumvent security in order to access services you are not paying for. This clause includes, but is not limited to, the scanning of our network or other networks with intent to breach and/or evaluate security.
- 1.3 You may not use the system in a manner that encumbers disk space, processors or other system resources beyond those allowed by the specific type of account. You may not make deliberate attempts to interfere with a service, overload a service nor attempt to disable a host.
- 1.4 We will take action against the use or attempted use of Internet services or systems without the owner's authorization. Such unauthorized use or attempted use includes, but is not limited to, password cracking, defrauding others into releasing their passwords, denial-of-service attacks (sending packets with an illegal packet size, UDP flooding, ping-flooding, half-open TCP connection flooding, etc.). Additionally, you may not use programs, scripts, commands nor send messages with the

intent to interfere with a user's terminal session.

- 1.5 You may not use any of our services or systems to transmit computer viruses, trojan horses, cancel bots, or other destructive programming code with the intent to interfere with the operation, function, or use of any service or system.
- 1.6 You may not use software or any other device that would allow your dial-up Internet account to stay logged on while you are not actively using LightNex Communications services or use the account for the purpose of operating a service of any type.
- 1.7 The Service is generally available daily, seven days a week, except for regularly scheduled maintenance. LightNex Communications may, at any time, without notice or liability, restrict the use of the Service or limit its time of availability in order to perform maintenance activities and to maintain session control.
- 1.8 You may only use your account for log-on sessions in accordance with your account restrictions.
- 1.9 You may not resell the Service or engage in similar activities, commercial or non-commercial, which constitute resale, nor use the Service for high volume or commercial purposes if your service type is residential or SOHO.
- 1.10 You agree that if your Service is terminated for any reason, LightNex Communications, Inc. has the right to delete all data, files and other information stored in or for your account.
- 1.11 At no time can there be simultaneous use of the same username and password combination on more than one computer or by more than one user, unless specifically allowed by your account.
- 1.12 You are responsible for any viruses, trojans, or other software on your computer or network, whether you are aware of its existence or not. LightNex Communications reserves the right to disconnect your service temporarily without notice if we believe your computer or network is transmitting viruses, trojans, or other harmful programs or data. In this event your connection will be restored once you have verified the removal of such software from your computer or network.

2 Email

- 2.1 You may not send unsolicited email to any

account that has not specifically requested such unsolicited information or that causes complaints from the recipients of such unsolicited email. Our Services may not be used to send unsolicited advertising messages to other network users. You may not flood/spam newsgroups with commercial or non-commercial postings.

- 2.2 You may not continue to send commercial email to a recipient if that recipient has requested that you discontinue such communication.
- 2.3 We prohibit the transmission of email or newsgroup postings that are harassing, libelous, defamatory, legally obscene or pornographic, threatening, abusive, or hateful to non-consenting recipients.
- 2.4 The forwarding or propagation of chain letters of any type (including charity requests or petitions for signatures) is impermissible.
- 2.5 You specifically agree that you will not utilize the LightNex Communications service, LightNex Communications' equipment or any LightNex Communications electronic mail address in connection with the transmission of the same or substantially similar unsolicited message to 50 or more recipients or 15 or more newsgroups in a single day. For each day upon which this provision is violated, you agree to pay LightNex Communications \$10.00 per day for an unintentional violation of this provision, but where warranted, such as in the case of an accidental transmission, LightNex Communications may waive all or part of the applicable charge. In cases of willful violations of this provision, you agree to pay LightNex Communications \$200.00 per day. LightNex Communications at its sole discretion shall determine whether such a violation was unintentional or willful. Payment made under this provision shall not prevent LightNex Communications from seeking to obtain other legal remedies against member, including other damages or an injunction.
- 2.6 You may not forge header information on email or any other material transmitted through our servers.
- 2.7 We prohibit the use of your account, or network connection, to collect replies of messages sent from any another provider that violates the rules of this Policy or those of the originating provider.
- 2.8 To provide the use of shared network services, LightNex Communications has resource limits for the use of the e-mail services. LightNex Communications shall not be liable to you or parties interacting with you for any damages resulting from the actions LightNex Communications takes to enforce the following

provisions:

- 2.8.1 Total mailbox storage is limited to between 5 megabytes and 10 gigabytes per mailbox, depending on your package. When the mailbox reaches the storage limit, mail will be returned to the sender with a message indicating that the receiver's mailbox is full.
- 2.8.2 The maximum size of an e-mail message is five megabytes, either for inbound or outbound messages. Messages that exceed five megabytes will not be delivered, and the user will receive a notification message informing them that the message was too large.

3 Usenet

- 3.1 We may provide you with a Usenet news feed. We do not control newsgroup content nor are we responsible for any postings, by our customers or others, to these newsgroups.
- 3.2 It is the responsibility of posters to determine a newsgroup's etiquette. Therefore, if you submit content to newsgroups you must refrain from posting advertisements or other messages that are not expressly permitted by a newsgroup's charter or FAQs. Posters are expected to submit messages relevant to the newsgroup's topic and agree not to submit the same message to large numbers of forums or newsgroups.
- 3.3 You are prohibited from forging header information and from posting chain letters of any type.
- 3.4 You may only post binary files to newsgroups designed for that purpose.
- 3.5 You may not cancel nor supersede a posting of a message other than your own unless you serve as a newsgroup moderator and cancel or supersede a posting in the performance of your online responsibilities as a moderator.
- 3.6 We prohibit the use of your account, or network connection, to collect replies of messages sent from another provider that violates the rules of this Policy or those of the originating provider.

4 Internet Relay Chat (IRC)

- 4.1 We do not maintain an IRC server, however, you may use your Internet connection to access the server of another provider. In such a case, you are obligated to abide by the rules set forth by that provider as well as follow proper IRC etiquette.

5 General

- 5.1 Internet connections and all other services provided to you by us may only be used for lawful purposes. You may not use our service or servers to initiate a transmission of or to store any

information, data, or material in violation of any U.S. Federal or state regulation or law. This includes, but is not limited to, material protected by copyright, trademark, trade secret, or any other statute, or material that is threatening or obscene. We reserve the right to remove any and all materials that infringe on another's copyright or other intellectual property rights. Such materials may be removed at any time upon receiving a complaint and/or notice of alleged infringement.

- 5.2 Certain Internet services may contain language, pictures or other content which some individuals may find offensive, inflammatory, or of an adult nature. We do not endorse such materials, but we are not responsible for any such content, and disclaim any and all liability for such content. Access to such materials is at your own risk.
- 5.3 Use of any information obtained via our service is at your own risk. We specifically deny any responsibility for the accuracy or quality of information obtained through our services.
- 5.4 The rules and regulations contained within this Policy apply to all other means of Internet-based transmissions, including, but not limited to Internet fax or Internet phone.
- 5.5 Use of other organizations' networks or computing resources is subject to their respective permission and usage policies.
- 5.6 You agree not to resell our products or services without prior written consent from us.
- 5.7 If we cancel your account for any reason, you agree not to re-register without our written consent. In the event you re-register without our prior written consent, we will cancel your account and all dues and fees paid to date regardless of whether service has been rendered will be forfeited. Additionally, any amounts owed in arrears, will be made due and payable immediately.
- 5.8 We require that you are qualified to contract. We cannot accept payments from persons who are not at least eighteen (18) years of age. You will be held responsible for keeping all billing data for us accurate and up to date. False data supplied for the contract between you and us will be grounds for account termination.
- 5.9 We exercise no control whatsoever over the content of the information passing through our services.
- 5.10 LightNex Communications may preserve Content and/or log files and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the AUP; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of LightNex Communications, its users and the public.
- 5.11 You understand that the technical processing and transmission of the Service, including your Content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices and that LightNex Communications does not have control or guarantee these external connecting networks or devices.
- 5.12 You agree to defend, hold harmless, and expeditiously indemnify us from any and all liability, claim, loss, damage or expense arising out of your breach or violation of any covenant contained in this Policy, or resulting from your use of the service.
- 5.13 You agree to waive and hold us harmless from any claims relating to any action taken by us as part of an investigation into a suspected violation of this Policy or as a result of its conclusion that a violation of this Policy has occurred. Therefore, you cannot sue or recover any damages whatsoever from us as a result of the decision to remove material from our server, or to suspend or terminate your account.
- 5.14 Personal Web Page Content - You acknowledge and agree that (i) the use of your personal website and any content, information, and all other aspects of your personal website will not violate any applicable law, or any rights of another; (ii) you are solely responsible for the content, quality, performance, and all other aspects of the information or other content contained in or provided through your personal website; and (iii) LightNex Communications has no proprietary, financial, or other interest in any of the content or information that may be described in or made available through your personal website. LightNex Communications may, without prior notice, terminate or suspend your personal website if LightNex Communications, in its sole discretion, believes that you have violated this Section.
- 5.15 Personal Web Page Domain Name - If LightNex Communications provides you with a domain name that has the names or marks of LightNex Communications embedded therein ("lightnex.net Domain Name"), you may use the lightnex.net Domain Name only during the Term. LightNex Communications shall own the lightnex.net Domain Name and the lightnex.net Domain Name may be subject to change by LightNex Communications or the applicable domain name registry. Other than

for identifying the location of your personal website, you may not use the name or any marks of LightNex Communications or any of its affiliates in any press release, promotional materials, or other manner without the express written approval of LightNex Communications.

5.16 Ownership of Web Page Content - You shall own all graphics, text or other information or content supplied by you for incorporation into or delivery through your personal website. LightNex Communications shall own any software developed or modified by LightNex Communications and all graphics, text or other information or content materials supplied by LightNex Communications for incorporation into your personal website ("LightNex Communications Materials"). You may only use the LightNex Communications Materials in association with your personal website and only during the Term.

6 Policy Enforcement

6.1 If we become aware of an alleged violation of our Acceptable Use Policy, we will initiate an investigation. During the investigation we may restrict your access in order to prevent further possible unauthorized activity. Depending on the severity of the violation, we may, at our sole discretion, restrict, suspend, or terminate your account and/or pursue other civil remedies. If such violation is a criminal offense, we will notify the appropriate law enforcement department of such violation.

7 Term and Termination

7.1 Discontinuing Service - When you notify LightNex Communications of discontinuing service, your service will be disconnected on the last day of the month. No refunds will be issued for partial months of service. Usage acquired during partial months will be billed as a full month.

7.2 Upgrading Service - If you choose to upgrade your service, there will be a 6 month upgrade commitment. Following this 6 month period you will then be able to downgrade to a lesser service for a small fee.

7.3 Termination Provision Applicable to Customers with Service Commitments for an Annual Period. The term of service for Service customers with an annual service commitment shall be for twelve (12) consecutive months beginning with the date of initial service installation (the "Initial Term"), and continuing thereafter on a month-to-month basis until terminated by either party as permitted by this Agreement. In the event you terminate your Service before completing the Initial Term, then without limitation to any other remedy LightNex Communications, Inc. may have, you

agree to pay LightNex Communications, Inc. upon discontinuance of the Service a termination fee in the amount of Two Hundred Dollars (\$200) (the "Termination Fee"). In addition to the Termination Fee, any promotional credits you may have received (such as free full or partial months of service) will be forfeited and you agree to pay LightNex Communications those amounts due as a result of the forfeited credits. Activation or set-up fees paid at the initiation of your Service are not refundable. Customers with a twelve (12) month service commitment who change their Service may be subject to additional charges and/or a new twelve (12) month commitment.

8 Copyright Infringement

8.1 If you have a good faith belief that a user of our service is infringing on your copyright, please notify our Agent for claims of infringement:

Agent's Name and Address:
LightNex Communications, Inc.
C/O Herndon & Sweeney P.C.
2877 Overland Avenue Suite B
Billings, MT 59102
Phone: 406.652.1212

8.2 Any such notification must include the identity and location of the alleged infringing material and your contact information. In addition, your notice must include a signed statement that information in the notice is accurate, and that under penalty of perjury, you have the authority to act on behalf of the copyright owner.

8.3 If we become aware of material that could be infringing on a third party's copyright, posted by you, we will initiate an investigation. We will notify you of the copyright infringement allegation and will allow you to respond to the allegation(s). If we find sufficient reason to believe that the material may be infringing on another's copyright, and that use of the work is not defensible, we, in our discretion, may remove the offending material.

8.4 We shall have no liability, directly or indirectly, to complainants or third parties for your infringing copyrighted materials. You shall reimburse us for all expenses associated with processing valid infringement allegations and defending any and all associated legal claims.

8.5 We reserve the right to terminate the account of repeat copyright infringers.

9 Reporting Network Abuse

9.1 Any party seeking to report any violations of LightNex Communications policy may contact us by emailing to support@lightnex.com.

10 Additional Terms and Conditions

10.1 LIMITATION OF LIABILITY LIGHTNEX
COMMUNICATIONS SHALL NOT BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFIT, LOSS OF INFORMATION OR DATA, OR INTERRUPTED COMMUNICATIONS, ARISING OUT OF OR RELATED TO THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL LIGHTNEX COMMUNICATIONS BE LIABLE TO YOU OR ANY THIRD PARTIES FOR AN AMOUNT GREATER THAN THE APPLICABLE CREDIT FOR SERVICE INTERRUPTIONS.

10.2 DISCLAIMER OF WARRANTIES LIGHTNEX
COMMUNICATIONS MAKES NO WARRANTY OF ANY KIND, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU UNDERSTAND AND AGREE THAT THE SERVICE IS NOT A GUARANTEE THAT VIRUSES, TROJAN HORSES, WORMS, TIME BOMBS, CANCELBOTS OR OTHER SIMILAR HARMFUL OR DELETERIOUS PROGRAMMING ROUTINES WILL NOT BE IMPORTED TO THE CUSTOMER'S NETWORK. LIGHTNEX COMMUNICATIONS DOES NOT GUARANTEE THAT YOUR NETWORK WILL EXPERIENCE UNINTERRUPTED COMMUNICATIONS OR NOT EXPERIENCE BREACHES IN SECURITY.

10.3 This Agreement shall be governed by, construed under, and enforced in accordance with, the laws of the State of Montana without reference to its choice of law principles. For any action or suit to enforce any right or remedy of this Agreement, the parties consent to exclusive jurisdiction and venue in the courts for Yellowstone County, Montana and the prevailing party shall be entitled to recover its costs, including reasonable attorney's fees.

11 Payment and Rates

11.1 Rates and Charges - The rates and charges for the Services shall be as set forth in accordance with LightNex Communications' rate schedule as in effect from time to time, a copy of which is available from LightNex Communications upon request. Rates and charges are subject to change by LightNex Communications from time-to-time by notice to you provided with the Services or otherwise. You will be invoiced monthly for usage of the Services and for any other services utilized by you or other users of your account which are billed for by LightNex Communications in connection with the Services. You agree to pay all applicable rates and charges for the Services, including, without limitations, any applicable fees and taxes, by the due date set forth in your billing statement, and to pay any interest or late fees incurred for late payment. Delinquent accounts may be suspended or canceled at LightNex Communications' sole discretion; however, charges

will continue to accrue until the account is canceled. LightNex Communications may bill an additional charge to reinstate a suspended account.

11.2 Payment for Non-Regulated Services - Local telephone service may not be disconnected if a customer refuses to pay for charges involving long distance calls or other charges on the local phone bill not directly related to local service. Customers may lose access to the long distance carrier to whom they owe past due amounts. However, the customer is not prevented from accessing another long distance company. This rule does not relieve telephone customers of their obligation to pay for local service or other legitimately incurred services or products. Even though local service may not be terminated for failure to pay for non-regulated services or products such as Internet, long distance, and cable television, any company to which legitimate charges are owed may collect the debt, impose a collection charge, and may add interest to any unpaid amounts.

11.3 Customer agrees to return all non-purchased equipment, including but not limited to television set-top boxes, converter boxes, remote controls, routers, or switches to LightNex Communications at time of cancellation or upon request in good condition, normal wear and tear excepted. Customer will be charged for any unreturned equipment or damage to returned equipment.

11.4 LightNex Communications is not responsible for any toll, long distance, or other charges in the event access to the Services is not provided via a local telephone number. You must pay for any long-distance, toll, or other charges you incur and you are solely responsible for determining if use of a particular dial-up number will cause you to incur long-distance, toll, or other charges.

11.5 The Customer agrees to pay all charges incurred. Charges shall be invoiced monthly. Payment is due within 20 days after the date of invoice. Accounts for which payments are not received within 20 days are delinquent. Delinquent accounts may be turned over to a collections agency for enforcement and collections activity and may be reported to national credit bureaus. If your account is delinquent you agree to pay LightNex Communications its reasonable expenses, including attorney and collection-agency fees, incurred in enforcing its rights under this Policy.

11.6 You may provide to us a valid credit card in your name. By giving us your credit card account information, you agree and authorize LightNex to apply payments against your credit card in accordance with applicable law, to satisfy any and all amounts due upon cancellation of your service.