

Lake Placid Fiber Subscriber Agreement

GENERAL TERMS AND CONDITIONS

READ THESE TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING ANY LAKE PLACID FIBER SERVICE. BY USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE AGREED TO BE LEGALLY BOUND BY THESE TERMS AND CONDITIONS AND THE RULES. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS AND THE RULES, YOU MAY NOT ACCESS OR USE THE SERVICE.

1. INTRODUCTION

All users of Lake Placid Fiber's ("LPF") Internet service, which may include Internet access, software, hardware, wireless data and other features ("the Service"), must comply with these Terms and Conditions of Use. These Terms and Conditions of Use, the Acceptable Use Policy ("AUP") and Lake Placid Fiber's other agreements and policies posted on Lake Placid Fiber's website or otherwise provided to you (collectively, the "Rules") constitute the entire agreement between you and Lake Placid Fiber with respect to your use of the Service. By establishing an account, using the Service, using Lake Placid Fiber-provided software, using the equipment or indicating agreement through the software or website, you agree to be bound by the Rules, including future revisions, and to use the Service in compliance with the current Rules. Lake Placid Fiber may revise, amend or modify the Rules at any time and in any manner. Notice of any revision, amendment or modification will be posted on Lake Placid Fiber's website (<http://www.lakeplacidfiber.com/>) and/or otherwise provided to you in Lake Placid Fiber's various publications and mailings.

YOU ARE RESPONSIBLE FOR ANY MISUSE OF THE SERVICE, EVEN IF THE MISUSE WAS COMMITTED BY A FRIEND, FAMILY MEMBER, NEIGHBOR, GUEST OR ANY OTHER USER WITH ACCESS TO YOUR SERVICE ACCOUNT.

Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Service by, for example, strictly maintaining the confidentiality of your Service login and password. In all cases, you are solely responsible for the security of any device you choose to connect to the Service, including any data stored or shared on that device.

2. ACCOUNT REQUIREMENTS

Every account must have one or more responsible party ("the Customer") assigned to place orders and make changes to the account. No addition, termination or changes will be made to the account without the direct consent of the responsible party and verification of the security questions on each account. Customer understands and agrees to this term.

Lake Placid Fiber reserves the right to require proof of identity and credit check before providing service. Customer understands and agrees to this term.

Pricing does not include taxes and surcharges, which will be assessed to the applicable portion of the Customer's bill. Customer understands and agrees to this term.

Lake Placid Fiber highly recommends all Customers install anti-virus software, anti-spyware software, and personal firewall to protect the Customer's system. Lake Placid Fiber shall not be responsible for any

loss of service resulting from customer negligence, including loss of service from viruses, spyware, and other malware.

3. ACCESS TO PREMISES

Customer understands and agrees that Lake Placid Fiber will not enter onto a Customer premise without the presence of an adult 18 years of age or older and that Customer must be present for the duration of the installation.

Customer grants to Lake Placid Fiber or any duly authorized agent an irrevocable license to enter upon Customer's premises at reasonable hours with reasonable notice to install, maintain and remove any equipment necessary for Lake Placid Fiber's provision for service to Customer or other Customers. In purchasing service from Lake Placid Fiber, Customer hereby assumes full responsibility for securing any and all required permissions for the installation of all applicable wiring and equipment. Customer hereby releases, holds harmless and indemnifies Lake Placid Fiber from any and all liability arising from any failure to secure such permission.

4. INSTALLATION

The Service may include equipment provided by Lake Placid Fiber. Lake Placid Fiber and its employees, agents, contractors, and representatives shall have no liability whatsoever for any damage to or loss or destruction of any of your hardware, software, files, data, or peripherals. Lake Placid Fiber shall not be responsible for the installation, operation or maintenance of equipment or software not provided by Lake Placid Fiber, nor shall Lake Placid Fiber be responsible for the transmission or receipt of information by equipment or software not provided by Lake Placid Fiber.

You shall be responsible for the use and compatibility of equipment or software not provided by Lake Placid Fiber. In the event you use equipment or software not provided by Lake Placid Fiber, which impairs your use of the Service, you nonetheless shall be liable for payment for the Service. Upon notice from Lake Placid Fiber that the equipment or software not provided by Lake Placid Fiber is causing or is likely to cause hazard, interference or service obstruction, you immediately shall eliminate the likelihood of hazard, interference or service. If necessary, you may request Lake Placid Fiber to troubleshoot difficulties caused by equipment or software not provided by Lake Placid Fiber and you shall be responsible for payment of such troubleshooting.

Lake Placid Fiber shall not be responsible if any changes in the Service cause equipment or hardware not provided by Lake Placid Fiber to become obsolete require modification or alteration, or otherwise affect performance of equipment or hardware not provided by Lake Placid Fiber.

If you provide your own router to interface with the Services, then

- (i) You are responsible for the installation, maintenance, and configuration of such customer-provided router;
- (ii) Lake Placid Fiber shall have the right to approve in advance the make, model and/or software revision of a customer-provided router, and
- (iii) Lake Placid Fiber shall have the right, with your cooperation, to set the initial configuration for the routers interface into the Service.

Because of the complex nature of Internet service, availability, and the underlying infrastructure, it may not be possible to provide the Service to everyone. Lake Placid Fiber, in its sole discretion, may cancel the installation process and refund any money that you have paid. Lake Placid Fiber will notify you of its intent to cancel as soon as reasonably possible. Lake Placid Fiber shall have no responsibility whatsoever for claims arising out of its failure or refusal to complete the installation or provide the Service.

Business, Professional and Active Ethernet Services require Lake Placid Fiber-provided professional installation. If Lake Placid Fiber, in its sole discretion, determines that the Service cannot be provisioned, you must return promptly all materials with all original packaging to Lake Placid Fiber.

LAKE PLACID FIBER DOES NOT REPRESENT, WARRANT, OR COVENANT THAT INSTALLATION BY YOU OR A THIRD PARTY CHOSEN BY YOU WILL ENABLE YOU SUCCESSFULLY TO ACCESS, OPERATE OR USE THE SERVICES, NOR THAT SUCH INSTALLATION WILL NOT CAUSE DAMAGE TO YOUR COMPUTER, DATA, SOFTWARE, FILES, OR PERIPHERALS. IN ADDITION, LAKE PLACID FIBER SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE, OR FOR THE FAILURE TO PROPERLY INSTALL, ACCESS, USE, OR OPERATE THE EQUIPMENT OR SERVICES BECAUSE OF YOUR INSTALLATION. THE FOREGOING LIMITATION OF LIABILITY IS IN ADDITION TO AND SHALL IN NO WAY BE CONSTRUED TO LIMIT ANY AND ALL LIMITATIONS OF LIABILITY SET FORTH ELSEWHERE IN THE RULES.

5. BILLING AND PAYMENT

Lake Placid Fiber bills for services on a calendar month basis, the billing cycle is from the first to last day of the month, for the next month of services.

Payment for services is due on the 10th of each month, unless automatic payment is elected. Automatic payments are processed on the 10th of the month.

Customer is responsible for payment of all charges for service furnished to or used by Customer. Customer overpayments will be applied to next billing cycle. For service canceled with a negative balance and equipment has been returned all monies due will be sent to Customer within thirty (30) days after the next billing cycle.

All charges due from Customer are payable to Lake Placid Fiber. Credit cards, personal checks, certified checks and cash are acceptable forms of payment. Automatic payment by ACH, Credit or Debit card is also available. Lake Placid Fiber is not responsible for any charges or expenses from payment options resulting from charges billed by Lake Placid Fiber.

Customer is billed from the date services are installed and activated to the date the services are disconnected. Therefore, the first bill a Customer receives or the first bill after an additional service has been installed or activated will include partial monthly charges. This charge will be from the date of installation and activation to the last day of the current billing month.

Credit policy is Lake Placid Fiber reserves the right to review Customer's previous billing history with Lake Placid Fiber or access Customer's credit history through a credit-reporting agency.

For customers with unfavorable credit history or continued delinquent notices a prepayment billing service is available with security down payment or credit card secured payment for equipment. Prepayment customers will be pre-billed on the 10th of the month for the following month of service.

Any objections to billed charges must be reported to Lake Placid Fiber within forty-five (45) days after the payment due date on the bill. Objections may be filed in person with Lake Placid Fiber's Customer Service Department, by telephone or by mail. Any adjustments or additional charges are shown separately on each bill. Lake Placid Fiber shall make no refund of overpayment by the Customer unless the claim of such overpayment, together with proper evidence, is submitted within one (1) year of the date of alleged payment.

6. LATE FEES AND DISCONNECTION

Service is provided and billed on a monthly basis. Bills are due by the 10th of the month. A late fee equal to 1.5% or \$5 whichever is greater may apply to any unpaid balances. The late fee begins to accrue no sooner than the 10th day after the due date. In the event that Lake Placid Fiber incurs fees or expenses, including attorney's fees, collecting or attempting to collect, any charges owed to Lake Placid Fiber, Lake Placid Fiber may charge the Customer, and the Customer shall pay these fees or expenses. Customer understands and agrees to this term.

Service may be disconnected by Lake Placid Fiber, upon prior written or customer preferred method of contact notice to the Customer, when there is an unpaid balance for service that is more than thirty (15) days overdue. When a customer is disconnected, the amount owed will be calculated from the first of the month to disconnection date and calculated with the method that every month shall be considered to have thirty (30) days and any monies owed will be billed immediately. Customer must return all equipment to finalize service disconnect.

If service has been disconnected or canceled for nonpayment and the Customer request reinstatement of services, service shall be restored when all past due amounts in addition to a reconnection fee of \$25.00 are paid or when a reasonable payment plan has been agreed upon between Lake Placid Fiber and the Customer for full payment of amounts owed.

7. EQUIPMENT

All equipment issued to Customer by Lake Placid Fiber shall remain the property of Lake Placid Fiber at all times. Customer agrees to be responsible for any loss, theft or damage of Lake Placid Fiber's equipment. Lake Placid Fiber is not responsible for the maintenance, operation, service or repair of any of Customer's equipment connected to the Services, including without limitation television, computer, telephone or any other device. Customer agrees to allow Lake Placid Fiber or its agents to send software to Customer's equipment and to configure Customer's equipment when necessary to provide Services, even if doing so changes, adds or removes features or functionality of any such equipment. Absent gross negligence or willful misconduct, Lake Placid Fiber will not be responsible for any damage to Customer's equipment arising from such activities. In the event of such damage, Lake Placid Fiber's maximum liability to Customer is \$500 for the cost of repairs. If Customer is not the owner of the equipment, Customer is responsible for obtaining any necessary approval from the owner to allow Lake Placid Fiber to access this equipment and to perform the activities listed above.

8. RETURNED CHECKS

Lake Placid Fiber reserves the right to assess a \$35.00 fee, whenever a check presented for payment of service is not accepted by the institution upon which it is written.

9. REPAYMENT PLAN

Any Customer having difficulty paying for service should contact Lake Placid Fiber to arrange a repayment plan. Any repayment plan entered into between the Customer and Lake Placid Fiber will apply to delinquent amounts. Lake Placid Fiber expects new current charges to be paid when due. Customer understands and agrees to this term.

10. DEPOSITS

Each applicant for service may be required to establish credit. Any applicant whose credit has not been duly established may be required to make a deposit at the time of application to be held as a guarantee of payment of charges. In addition, an existing Customer may be required to make a deposit if their service has been disconnected in the past. Lake Placid Fiber shall pay interest on deposits pursuant to applicable rules and regulations. Customer understands and agrees to this term.

An installment plan that may be billed in three (3) to six (6) installments is available for payment of deposits if payment in full would constitute a hardship. A deposit shall not exceed the estimated charges for two (2) months service + equipment cost and shall be returned: 1) at the end of twelve (12) consecutive months of a satisfactory credit history (i.e. no disconnections and no more than two disconnection notices); or 2) upon disconnection of service. Lake Placid Fiber shall apply the deposit against any outstanding balances due. If a credit balance exists after such application, Lake Placid Fiber shall refund the balance to the Customer in accordance with the rules and regulations.

11. CANCELLATION BY THE CUSTOMER

Customer may have service canceled upon written or verbal notice to Lake Placid Fiber customer service department. Cancellations by e-mail will not be accepted. Lake Placid Fiber requires at least a two (2) day notification prior to termination of service. Customer shall pay for service furnished until the disconnection date.

12. INTERRUPTION OF SERVICE

Lake Placid Fiber makes every effort to provide continuous and uninterrupted service. When Lake Placid Fiber schedules a service interruption for maintenance or repairs, Lake Placid Fiber will notify the Customer of the cause and expected duration of the interruption at least twenty-four (24) hours in advance, when possible. However, Lake Placid Fiber may designate a regular maintenance window during which maintenance may be conducted without notifying customers for each event. Such regular maintenance windows will be communicated to Customers.

UNFORSEEABLE CIRCUMSTANCES. Lake Placid Fiber shall not be liable for any failure, interruption or diminution of service in the event that such failure, interruption or diminution is caused by or due to causes beyond its control, including, but not limited to, acts of God; fire, earthquake, flood, water, the elements or other catastrophes; strikes, lock-outs, work stoppages or other labor difficulties; utility curtailments, power failures, explosions; insurrections, riots, wars or civil disturbances; any law, order, regulation, or requests of any government or of any civil or military authority; national emergencies; shortages or failure of equipment or supplies, including cable, fiber, switching and other network equipment of third parties; unavailability of transportation; acts or omissions of third parties; or any other cause beyond Lake Placid Fiber's reasonable control.

Credit allowances for interruptions of Internet service which are not due to Lake Placid Fiber's testing or maintenance of equipment, to the negligence or other wrongful act or omission of the Customer, or to the failure of equipment provided by the Customer or the Customer's agents, employees, or customers, are subject to the general liability provisions set forth herein. It shall be the obligation of the Customer to notify Lake Placid Fiber immediately of any interruption in service for which a credit allowance is desired by the Customer unless there is a system-wide disruption or the Customer's disruption is otherwise known or should have been known by Lake Placid Fiber. Before giving such notice, the Customer shall ascertain that the trouble is not within his or her control, or is not in wiring or equipment, if any, furnished by the Customer. Interruptions caused by Customer equipment or inside wiring that was not installed by Lake Placid Fiber are not deemed an interruption of service. An interruption is measured from the time the Customer notifies Lake Placid Fiber, personally, by telephone or in writing, or otherwise the interruption is known or should have been known to Lake Placid Fiber, until the trouble is resolved. Once Lake Placid Fiber receives notification of the interruption in service, the credit shall be automatic. Each interruption is considered separately for the purposes of establishing credit allowance. Interruptions reported after the fact shall not be eligible for a credit.

For purposes of billing or credit computation, every month shall be considered to have thirty (30) days. No credit shall be allowed for an interruption of continuous duration of less than twelve hours. For disruption greater than twelve (12) hours, an allowance equal to 1/30 of the regular monthly recurring charges shall be made for each twelve (12) hours the service remains disrupted; except that the total allowance may not exceed the regular monthly recurring charges for service.

13. EQUIPMENT AND WIRING

Except for the inside wiring, which Lake Placid Fiber considers the Customer's property, the equipment installed by Lake Placid Fiber or provided to the Customer by Lake Placid Fiber belongs to Lake Placid Fiber. Lake Placid Fiber may supply new or reconditioned equipment to the Customer. Customer may not sell or give away Lake Placid Fiber's equipment, and Lake Placid Fiber's equipment must be used only in the Customer's premise. If the Customer ceases to be a Lake Placid Fiber customer, the Customer is responsible for returning Lake Placid Fiber's equipment to Lake Placid Fiber or its designee. If the Customer moves, Customer shall not leave Lake Placid Fiber's equipment in the vacant home or with anyone else.

Lake Placid Fiber's equipment must be returned to Lake Placid Fiber or one of its representatives in working order, normal wear and tear accepted. IF CUSTOMER FAILS TO RETURN EQUIPMENT, IN A MANNER AS STATED ABOVE, AFTER TERMINATION OF SERVICE, CUSTOMER WILL BE CHARGED FOR THE COST OF REPLACING THE EQUIPMENT INVOLVED.

Customer is responsible for preventing the loss of or damage to Lake Placid Fiber's equipment within the home. Customer will be directly responsible for repair, replacement and other costs, damages, fees and charges if the equipment is not returned to Lake Placid Fiber in an undamaged condition.

Customer may not attach any unauthorized device to Lake Placid Fiber's equipment. If Customer makes any unauthorized connection or modification to the equipment or any other part of Lake Placid Fiber's network or equipment, Customer will be in breach of this Agreement, and Lake Placid Fiber may terminate service and recover such damages, as provided by applicable law that may arise as a result of the breach.

None of the equipment supplied by Lake Placid Fiber, nor any of Lake Placid Fiber's cable placed outside the home or property in connection with the installation of the equipment and service, shall be deemed fixtures, or in any way part of Customer's real property. The equipment supplied by Lake Placid Fiber may be removed by Lake Placid Fiber, at Lake Placid Fiber's option, at any time during or following the termination of Customer's service, and Customer shall allow Lake Placid Fiber access to the home for such purposes.

14. COMPLAINTS

If Customer has any questions, comments or complaints regarding service, Customer shall first contact Lake Placid Fiber's Customer Service Department by telephone at (518) 523-4237 between the hours of 8:00 a.m. – 6:00 p.m. Monday through Friday, 8:00am – 12:30pm on Saturday, email at contact@lakeplacidfiber.com or at the mailing address below.

Lake Placid Fiber LLC
PO Box 864
Lake Placid, NY 12946

If Customer is not satisfied with the manner in which the concern has been addressed after speaking with the Customer Service Department, the complaint must be submitted in writing to the General Manager at the address listed above.

If after further inquiry to the General Manager at Lake Placid Fiber, the dispute cannot be resolved with mutual satisfaction and the customer is still not satisfied, the Customer may file a complaint by contacting the New York State Department of Public Service (DPS) online (A), by phone (B) or by mail (C).

- A. Online:
<http://www.dps.ny.gov/complaints> or,
- B. Phone:
DPS Helpline (for complaints/inquiries):
1-800-342-3377 for Continental United States or,
1-800-662-1220 for Hearing/Speech Impaired: TDD or,
518-472-8502 for fax or,
- C. Mail:
NYS Department of Public Service
Office of Consumer Services
3 Empire State Plaza
Albany, NY 12223-1350

15. CHANGES IN SERVICES, CHANGES IN TERMS OR CONDITIONS

Lake Placid Fiber reserves the right to substitute, add, delete, dismantle and/or alter tiers of programming at any time. Lake Placid Fiber will notify Customer of any material change in this Agreement or services, or an increase in rates or charges at least thirty (30) days in advance. Notification of the change in charges may be in the form of a bill insert, email notification (for paperless billing) with read receipt in addition to other forms of company and customer communication. Payment of charges or continued use of services after you receive notice will constitute agreement by you to the changes.

16. LIMITED WARRANTY

Lake Placid Fiber warrants that the services will function substantially in accordance with the service descriptions. If the services fail to function in this manner and the failure is not due to: (a) the fault of Customer, or Customer's agents or (b) a contingency identified in Paragraph 13 of this Agreement, then Lake Placid Fiber, at our expense, will repair the services so that they function substantially in accordance with the service descriptions.

THIS LIMITED WARRANTY IS EXCLUSIVE AND INSTEAD OF ALL OTHER WARRANTIES FOR SERVICES PROVIDED BY LAKE PALCID FIBER, WHETHER EXPRESS, IMPLIED, WRITTEN OR ORAL, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

17. LIMITATIONS OF LIABILITY

Lake Placid Fiber's liability for damages arising out of any failure of service shall not exceed an amount equivalent to the proportionate charge to the Customer for the period during which the faults in transmission occur.

Except as expressly required by applicable law, Lake Placid Fiber will not be liable for delays, damages, or failures in performance due to Lake Placid Fiber's routine maintenance and testing of the services that Lake Placid Fiber provides to Customer or for causes beyond Lake Placid Fiber's reasonable control, including, but not limited to acts of a governmental body, civil commotion, acts of God, acts of third parties, fires, floods, strikes or other labor disputes, or inability to obtain necessary equipment or services.

Lake Placid Fiber is not liable for any act or omission of any entity, other than the employees or agents of Lake Placid Fiber, furnishing facilities or services connected with or provided in conjunction with the Lake Placid Fiber's services.

Customer agrees that all information provided on the Services, the Services themselves, and any Equipment are provided "AS IS" and on an "AS AVAILABLE" basis. Customer agrees to indemnify and hold Lake Placid Fiber harmless against claims for libel, slander or infringement of copyright from material transmitted over its facilities; against claims for infringement of patents arising from, combining with, or using in connection with facilities of Lake Placid Fiber, apparatus and systems of the customer; against all other claims arising out of any act or omission of the customer in connection with services provided by Lake Placid Fiber; and against any and all losses from damage to the customer's facilities or equipment attached or connected to services furnished by Lake Placid Fiber.

Lake Placid Fiber disclaims any and all warranties, whether expressed or implied, including, but not limited to, the implied warranty of merchantability, fitness for a particular purpose, or any warranty that the services or any associated software or network transport will be uninterrupted or error free. In no event shall Lake Placid Fiber be liable for any indirect, special, consequential or incidental damages, including without limitation, lost profits or loss of damage to data arising out of the use, partial use or inability to use the services, even if Lake Placid Fiber has been advised of the possibility of such damages. Lake Placid Fiber's entire liability and the customer's exclusive remedy under this Agreement, for any claim, whether in contract (including breach of warranty), or in tort (including negligence), shall be limited to the total amount paid by customers to Lake Placid Fiber for those services upon which the liability is based.

Lake Placid Fiber is not liable for any defacement or damage to the subscriber's premises resulting from the existence of Lake Placid Fiber's instruments, apparatus and associated wiring thereon, or from the installation or removal thereof, when such defacement or damage is not the result of negligence on the part of Lake Placid Fiber.

The subscriber's facilities and equipment shall conform to all applicable laws, regulations or ordinances as may be effective and the conditions of this Agreement. Lake Placid Fiber does not express, imply or warrant the adequacy, safety or other characteristics of subscriber owned or operated equipment by virtue of any inspection or rejection of facilities. Lake Placid Fiber shall not be held liable in any way for subscriber owned and maintained equipment, which causes or may cause a hazardous, unsafe or dangerous condition, or threatens the health of others, even if Lake Placid Fiber inspected such facilities.

18. LIABILITIES OF THE CUSTOMER

The Customer shall indemnify, defend and hold harmless Lake Placid Fiber (including the costs of litigation and reasonable attorney's fees) against:

- (1) Claims for libel, slander, invasion of privacy, infringement of copyright or patents or unauthorized use of any trademark, trade name or service mark arising out of the use of material, data, information, or other content transmitted over Lake Placid Fiber's services, facilities, or equipment; and
- (2) All other claims (including, without limitation, claims for damage to any business or property, or injury to, or death of, any person) arising out of any act or omission of the Customer, or the Customer's agents, employees, or customers, in connection with any service, facilities or equipment provided by Lake Placid Fiber
- (3) Customer is responsible and/or liable for all content transmitted over the network

19. ASSIGNMENT

Without Customer's consent, Lake Placid Fiber may assign all or part of this Agreement including Lake Placid Fiber's rights to receive monies under this Agreement. Customer shall not assign, subcontract, sublet or transfer this Agreement, in whole or in part, without Lake Placid Fiber's written consent. Any assignment, subletting, transfer, or subcontracting in violation of this paragraph shall be void.

20. SEVERABILITY

If any of the terms or conditions in this Agreement is held to be invalid or unenforceable by a government body of competent jurisdiction, the holding shall not affect any other term or condition of this Agreement, and the Agreement shall be construed as if it did not contain the invalid or unenforceable term or condition.

21. ENTIRE AGREEMENT

This Agreement supersedes all prior representations, understandings, or agreements on the subject matter of this Agreement. This Agreement may not be modified or waived except as described in this Agreement. With respect to all matters arising under this Agreement, this Agreement is a contract between the Customer and Lake Placid Fiber.