

## **LOGIX Fax to Email Service - Terms and Conditions**

### **1) ACCEPTANCE OF TERMS AND CONDITIONS**

This agreement is between Logix Communications, L.P. dba Logix Fiber Networks ("LOGIX") and Customer ("you" or "Customer"), as an authorized user of the LOGIX Fax to Email Service. (as defined in Section 2, below), and governs the terms and conditions of the Customer's use of the LOGIX Fax to Email Service. LOGIX Fax to email Service is provided to the Customer under these Terms and Conditions by LOGIX, including any operating terms, conditions, and/or policies that may be published by LOGIX from time to time (collectively, the "Agreement"). This Agreement and such policies constitute the entire agreement between Customer and LOGIX and supersede all prior agreements between the parties regarding the offering of the LOGIX Fax to Email Service. BY USING THE LOGIX FAX TO EMAIL SERVICE, CUSTOMER CONFIRMS ITS ACCEPTANCE OF, AND AGREES TO BE BOUND BY, THIS AGREEMENT.

LOGIX reserves the right to change the Agreement at any time and to notify Customer by posting an updated version of the Agreement on the LOGIX website. No other Agreement version will be effective or enforceable against LOGIX. Customer agrees to review changes to the Agreement and the LOGIX Privacy Statement from time to time and if any change is not acceptable to Customer, Customer agrees to immediately terminate use of the LOGIX Fax to Email Service. Customer's use of the LOGIX Fax to Email Service after the effective date of any such change constitutes Customer's acceptance of all such changes.

The rights granted to Customer under this Agreement are personal to Customer. Customer may not sell, assign, sublicense, or otherwise transfer or agree to transfer all or any portion of those rights without the prior written consent of LOGIX, which consent may be withheld in the absolute discretion of LOGIX.

### **2) LOGIX FAX TO EMAIL SERVICE**

The LOGIX Fax to Email Service is owned and operated by LOGIX. Individually, the LOGIX Fax to Email Service; provides Customers use of a LOGIX Service Number (as defined below in Section 6).

### **3) REQUIREMENTS FOR THE LOGIX FAX TO EMAIL SERVICE**

In order to use the LOGIX Fax to Email Service, Customer must (i) provide all equipment necessary to establish a connection to the Internet, including a computer and modem, and all telecommunications devices which the Customer intends to use in conjunction with the LOGIX Services, (ii) obtain access to the Internet through a separate service agreement, and (iii) download, install, and maintain software compatible with such LOGIX Services.

In consideration of these LOGIX Services, Customer agrees to: (i) provide current, complete, and accurate information about Customer's Internet access and telecommunications services as are required by LOGIX for provision of the LOGIX Services; (ii) maintain and update the information as required to keep such information current, complete, and accurate; (iii) use the LOGIX Services only in accordance with applicable law; (iv) comply with United States law regarding the transmission of technical data exported from the United States through the LOGIX Services; (v) not use the LOGIX Services for illegal purposes; and (vi) comply with all regulations, policies and procedures of networks connected to the LOGIX Services.

#### **4) USE OF LOGIX SERVICE NUMBERS**

Customers who subscribe to LOGIX Fax to email Service will be permitted to access the service through dedicated telephone numbers specifically identified for Customer's use in connection with the service ("LOGIX Fax Numbers"). With respect to each and every LOGIX Fax Number, LOGIX, not Customer, is the end-user subscriber for such LOGIX Fax Number, and Customer shall not obtain or assume any right or interest in any LOGIX Fax Number and may only utilize such LOGIX Fax Number to access the LOGIX Fax to email Service. LOGIX, as the end-user subscriber for all LOGIX Fax Numbers, has the right, in its sole discretion, to determine the manner in which LOGIX Fax Numbers may be used. LOGIX reserves the right to cancel, change or modify any LOGIX Fax Number at its sole discretion.

LOGIX reserves the right to cancel this Agreement and the LOGIX Fax to Email Service provided to Customer if no transmissions are received on the LOGIX Service Numbers during any period of sixty (60) consecutive days. LOGIX's failure to exercise that right as to any period of minimum usage or nonuse shall not preclude LOGIX from thereafter invoking its right to terminate. See Section 21: Termination.

In addition to any agreed service fees, by using Logix Service Numbers, Customer agrees to pay a monthly bill processing for of \$10 per month. Such bill processing fee will be waived if Customer receives any other Logix service such that the Logix Fax to Email Service is billed on a combined bill with other Logix services.

#### **5) MODIFICATIONS OF LOGIX FAX TO EMAIL SERVICE**

LOGIX reserves the right to terminate or modify individual features of Customer's LOGIX Fax to Email Service from time to time with or without notice to Customer. In the event LOGIX opts to send written notice to Customer detailing such termination or modification, an email will be sent to the email address most recently provided by Customer to LOGIX. Any such termination or modification to Customer's LOGIX Fax to Email Service will take effect upon the date of such written notice or such later date as specified therein.

LOGIX may, in its sole discretion, determine the extent, if any, to which any such modifications may impact the Charges for the LOGIX Fax to Email Service, but LOGIX shall not have any obligation to adjust the Charges by reason of any such modifications to the LOGIX Fax to Email Service.

LOGIX shall not be liable to Customer or any third party should LOGIX exercise its right to modify or terminate LOGIX Fax to Email Service or any feature of such service.

## **6) CUSTOMER CONDUCT**

Customer is solely responsible for the contents of his or her communications made using the LOGIX Fax to Email Service. LOGIX bears no responsibility for communications received by Customer from third persons while using the LOGIX Fax to Email Service. Customer's use of the LOGIX Fax to Email Service is subject to all applicable local, state, national and international laws and regulations.

Customer shall be fully liable for all use of Customer's account, including any unauthorized use of such account by any third party. LOGIX bears no responsibility for communications received by Customer from third persons while using the LOGIX Fax to Email Service or any use of any person's telecommunications service, including but not limited to, Customer's telecommunications services in connection with the use of LOGIX Fax to Email Service.

Customer shall not interfere with any other Customers' use and enjoyment of LOGIX Fax to Email Service. LOGIX may, in its sole discretion, terminate the LOGIX Fax to Email Service without notice if Customer fails to observe and comply with the terms and conditions of this Agreement. Failure on LOGIX's part to actively terminate Customer's account following any violation by Customer of this Agreement shall not constitute a waiver of LOGIX's right to terminate and shall not prevent LOGIX from terminating Customer's account, consistent with this Agreement, at any point for past and/or current violations of Agreement.

Customer is solely responsible for maintaining the confidentiality of Customer's password and account. Furthermore, Customer is entirely responsible for any and all activity that occurs under Customer's account. Customer may change Customer's password at any time by following the instructions posted on LOGIX's website. Customer agrees to immediately notify LOGIX of any unauthorized use of Customer's account or any other breach of security known to Customer.

## **7) PRIVACY POLICY**

Customer acknowledges and agrees that LOGIX neither endorses the contents of any communications to or from any Customers' account, nor assumes responsibility for any threatening, libelous, obscene, harassing or offensive material contained therein, any infringement of third party intellectual property rights arising therefrom, or any crime facilitated thereby.

The LOGIX Privacy Statement provides a detailed description of LOGIX's information gathering and privacy practices. Customer hereby agrees with the Privacy Statement, and the methodology in which LOGIX handles content of Customers' faxes, telephone messages and calls. The LOGIX Privacy Statement is hereby incorporated by reference into this Agreement in its entirety, and can be found on the LOGIX website at [logix.com/privacy-policy](http://logix.com/privacy-policy).

#### **8) DISCLAIMER OF WARRANTIES**

CUSTOMER EXPRESSLY AGREES THAT USE OF THE LOGIX FAX TO EMAIL SERVICE IS AT CUSTOMER'S SOLE RISK. THE LOGIX FAX TO EMAIL SERVICE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. LOGIX EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

LOGIX MAKES NO WARRANTY THAT THE LOGIX FAX TO EMAIL SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THE LOGIX FAX TO EMAIL SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES LOGIX MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE LOGIX FAX TO EMAIL SERVICE OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE LOGIX FAX TO EMAIL SERVICE, OR THAT DEFECTS IN THE LOGIX FAX TO EMAIL SERVICE WILL BE CORRECTED. LOGIX ASSUMES NO RESPONSIBILITY FOR THE DELETION OF OR FAILURE TO STORE OR DELIVER VOICE MAIL OR FAX MESSAGES.

#### **9) LIMITATION OF LIABILITY**

LOGIX SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, RESULTING FROM THE USE OR THE INABILITY TO USE THE LOGIX FAX TO EMAIL SERVICE OR FOR THE COST OF PROCURING ANY SUBSTITUTE GOODS AND SERVICES, OR RESULTING FROM ANY GOODS OR SERVICES PURCHASED OR OBTAINED, OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THE LOGIX FAX TO EMAIL SERVICE OR RESULTING FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF CUSTOMER'S TRANSMISSIONS OR DATA, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLE, EVEN IF LOGIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **10) SERVICE OUTAGES**

In the event of any service interruption or outage, during which LOGIX Services may be temporarily unavailable, Customer will continue to be billed for the LOGIX Fax to Email Service unless and until Customer or LOGIX terminate the LOGIX Fax to Email Service in accordance with this Agreement. LOGIX will use commercially reasonable efforts to manage all faxes and communications intended for Customer during any loss or interruption of such independent services.

Such independent service interruptions may include, but are not limited to:

- Power outages;
- Internet outages; and
- Outages due to Customer's account suspension.

## **11) FORCE MAJEURE**

LOGIX shall not be responsible for any delay or failure in performance that results from causes beyond its reasonable control ("Force Majeure Events"), whether or not foreseeable by such party. Such Force Majeure Events include, but are not limited to, adverse weather conditions, flood, fire, explosion, earthquake, volcanic action, power failure, embargo, boycott, war, revolution, civil commotion, act of public enemies, labor unrest (including, but not limited to, strikes, work stoppages, slowdowns, picketing or boycotts), inability to obtain equipment, parts, software or repairs thereof, acts or omissions of the other party, and acts of God.

## **12) INDEMNIFICATION**

Customer shall indemnify, defend, and hold LOGIX, its parents, subsidiaries, affiliates, officers, directors, and employees free and harmless from any and all claims, costs, damages, and expenses (including but not limited to reasonable attorneys' fees), which arise from or are related to any act or omission by Customer in connection with the use of the LOGIX Fax to Email Service, including but not limited to, any such claims, costs, damages, and expenses arising from or related to Customer's violation of any terms and conditions of this Agreement, Customer's violation of any applicable law, rule, or regulation, or any infringement by Customer (or any other person using the LOGIX Fax to Email Service in reliance on Customer's rights under this Agreement) of any intellectual property or other rights of any other person. This Section 14 shall survive termination of this Agreement.

### **13) TERMINATION**

Either Customer or LOGIX may terminate the LOGIX Fax to Email Service with or without cause at any time (the "Termination"). Termination by Customer shall occur only when Customer contacts LOGIX's Customer Care department by calling 800-444-0258 or gives notice in writing, at:

Logix Fiber Networks  
2950 North Loop West  
Houston, Texas 77092

Such notice shall state Customer's intent to terminate the Customer's LOGIX Fax to Email Service, and shall also state that Customer agrees to cease use of the LOGIX Fax to Email Service. Without limiting other rights of termination set forth in this Agreement, LOGIX may terminate the LOGIX Fax to Email Service or this entire Agreement by delivering to Customer written or electronic notice of the termination of Customer's LOGIX Fax to Email Service or this entire Agreement, which termination shall be effective immediately upon LOGIX's delivery of such notice. LOGIX shall not be liable to Customer or any third party for any circumstances resulting from the termination of LOGIX Fax to Email Service or this Agreement. In the event that notice of termination by Customer is provided via mail to the above address, such notice shall be deemed effective on the date on which LOGIX receives it.

Notwithstanding any other provision of this Agreement to the contrary, if Customer objects to any terms and conditions of the Agreement or any subsequent modifications thereto or becomes dissatisfied with the Customer's LOGIX Fax to Email Service in any way, Customer's sole and exclusive remedy shall be to terminate Customer's LOGIX Fax to Email Service as described above. Customer's right to use the LOGIX Fax to Email Service and associated software, and LOGIX Service Numbers utilized by Customer hereunder, when applicable, immediately ceases, unless Customer has subscribed and paid in advance Charges associated with the LOGIX Fax to Email Service. During the entire service period for which Customer has paid in advance Charges to LOGIX, LOGIX shall continue to provide Customer access to, and Customer shall continue to be entitled to use, the associated LOGIX Fax to Email Service. Thereafter, Customer shall have no right to use the LOGIX Fax to Email Service and LOGIX shall have no obligation to provide the same. In addition, LOGIX will not be held liable for any lost information or messages because of the termination of Customer's LOGIX Fax to Email Service initiated by Customer or LOGIX.

The LOGIX Service Numbers that are specifically identified at the time of Customer's registration of the LOGIX Services by LOGIX for Customer's use in accessing LOGIX Fax to Email Service will, upon termination, become immediately available for use by other LOGIX subscribers as specifically identified by LOGIX, and no LOGIX Service Numbers will be reserved or available for Customer's use after Customer's LOGIX Fax to Email Service have been terminated.

#### **14) TRADEMARK AND PROPRIETARY RIGHTS TO CONTENT**

LOGIX's trademarks, websites, corporate names, trade names, domain names, logos, and service marks ("Marks") are the property of LOGIX. Customer is not permitted to use the Marks without the prior written consent of LOGIX. LOGIX and the LOGIX logo are trademarks of LOGIX.

#### **15) NO THIRD PARTY BENEFICIARIES**

No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

#### **16) NOTICE**

LOGIX may broadcast notices or messages through the LOGIX Fax to Email Service to inform Customers of changes to the Agreement, the LOGIX Fax to Email Service, or other matters as LOGIX in its sole discretion, deems to be of importance to Customers. At LOGIX's election, such broadcast may be sent over email, conventional mail, and/or fax communication and notice shall be deemed delivered and received on the date on which it is transmitted. Use of the LOGIX Services constitutes Customer's consent to receiving and acknowledgment of the sufficiency of such notices.

#### **17) ARBITRATION**

All disputes which arise under this Agreement or in connection with the LOGIX Fax to Email Service to be delivered hereunder and which are not resolved within thirty (30) days following the delivery by one party to the other of a written notice describing the dispute shall be resolved by binding arbitration under the rules of the American Arbitration Association before a single arbitrator in Houston, Texas. The decision of the arbitrator shall be final and binding on the parties, and judgment thereon shall be entered in a court of competent jurisdiction. CUSTOMER ACKNOWLEDGES AND AGREES THAT BY CONSENTING TO THIS AGREEMENT, CUSTOMER IS CONSENTING TO BINDING ARBITRATION OF ALL DISPUTES HEREUNDER, AND THAT IN ARBITRATION, CUSTOMER SHALL NOT HAVE A RIGHT TO A JURY TRIAL, SHALL HAVE LIMITED DISCOVERY RIGHTS, AND SHALL HAVE VERY LIMITED RIGHTS OF APPEAL FROM THE DECISION OF THE ARBITRATOR.

NOTHING IN THIS SECTION 19: ARBITRATION IS INTENDED OR SHALL BE CONSTRUED TO MODIFY OR OTHERWISE BE INCONSISTENT WITH THE PROVISIONS OF SECTION 15: TERMINATION, ABOVE, WHICH SETS FORTH THE SOLE AND EXCLUSIVE REMEDY OF ANY CUSTOMER WHO OBJECTS TO ANY TERMS OF THIS AGREEMENT (OR ANY MODIFICATION HEREOF) OR BECOMES DISSATISFIED WITH ANY LOGIX SERVICE.

## **18) MISCELLANEOUS**

The Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas, excluding its conflict of law provisions. Subject to Section 19: Arbitration, above, and without limiting the applicability of any provisions thereunder, Customer and LOGIX agree to submit to the exclusive jurisdiction of the courts of the State of Texas and further agree that the exclusive venue for any cause of action arising under or relating to this Agreement or the LOGIX Services provided hereunder shall be the District Court in and for Harris County, Texas. Customer and LOGIX agree that any cause of action arising out of or related to the Agreement or the LOGIX Fax to Email Service must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.

If any provision of the Agreement is determined by an arbitrator or court of competent jurisdiction to be contrary to applicable law, then such provision shall be construed as nearly as possible to conform to applicable law and the other provisions of this Agreement shall remain in full force and effect.

The Agreement (i) constitutes the entire agreement between Customer and LOGIX and supersedes all prior agreements between the parties regarding the LOGIX Fax to Email Service, and (ii) may be modified or amended only in the manner expressly set forth herein.

LOGIX at any time and from time to time may assign its rights and delegate its duties under this Agreement without the prior consent of Customer. Customer may not assign this Agreement to any other person under any circumstances.

LOGIX's failure to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by LOGIX in writing.

The section titles in the Agreement are solely used for the convenience of the parties and have no legal or contractual significance.