

**LUMEN MASTER SERVICE AGREEMENT
STATE, LOCAL AND EDUCATION GOVERNMENT AGENCIES VERSION**

This Master Service Agreement ("Agreement") is between **CENTURYLINK COMMUNICATIONS, LLC D/B/A LUMEN TECHNOLOGIES GROUP** ("Lumen") and **CITY OF ANN ARBOR** ("Customer") and is effective on the date the last party signs it (the "Effective Date"). This Agreement provides the terms and conditions applicable to Customer's purchase of products and services ("Service") from Lumen.

1. **Term.** The term of the Agreement will commence on the Effective Date and continue until the expiration of the last Service term, unless earlier terminated in accordance with the Agreement ("Term").

2. **Service.** Lumen will provide Service in accordance with the Agreement, including all applicable Service Schedules, Service Exhibits, Statements of Work, Order(s), pricing attachments, and any other documents that are attached or expressly incorporated into the Agreement ("Service Attachments"). The following Service Attachments, if any, are initially attached and incorporated into the Agreement. Additional Service Attachments may be added by Amendment or by Customer placing an Order.

- **LUMEN CPE SERVICE SCHEDULE**

3. **Order(s).** Customer may submit requests for Service in a form designated by Lumen ("Order"). The term for a Service is defined in the applicable Service Attachment ("Service Term"). Unless otherwise set forth in a Service Attachment, Service will continue month-to-month at the expiration of the Service Term at the existing rates, subject to adjustment by Lumen on 30 days' written notice. Lumen will notify Customer of acceptance of requested Service in the Order by delivering (in writing or electronically) the date by which Lumen will install Service (the "Customer Commit Date"), by delivering the Service, or by the manner described in a Service Attachment. Renewal Orders will be accepted by Lumen's continuation of Service. For moves, adds or changes agreed to by Lumen, Customer will pay Lumen's then current charges unless otherwise specifically stated in a Service Attachment.

4. **Billing and Payment.**

4.1 **Commencement of Billing.** Unless otherwise set forth in a Service Attachment, Lumen will deliver written or electronic notice (a "Connection Notice") to Customer when Service is installed, at which time billing will commence ("Service Commencement Date"). If Customer notifies Lumen within three days after delivery of the Connection Notice that Service is not functioning properly, Lumen will correct any deficiencies and, upon Customer's request, credit Customer's account in the amount of 1/30 of the applicable monthly recurring charge (MRC) for each day the Service did not function properly. If Lumen cannot complete installation due to Customer delay or inaction, Lumen may begin charging Customer for the Service, and Customer will pay such charges.

4.2 **Payment of Invoices and Disputes.** Unless otherwise set forth in a Service Attachment, Invoices are delivered or made available monthly and due 30 days after the invoice date. Fixed charges are billed in advance and usage-based charges are billed in arrears. Customer's payments to Lumen must be made via an ACH transfer or any Lumen approved payment portal (e.g., Control Center) in the currency stated on the invoice. Lumen may charge administrative fees where Customer's payment and invoice preferences deviate from Lumen's standard practices. Past due amounts bear interest at 1.5% per month or the highest rate allowed by law (whichever is less). Lumen may charge Customer reasonable attorneys' fees and any third-party collection costs Lumen incurs in collecting such amounts. Customer is responsible for all charges regarding the Service, even if incurred as the result of unauthorized use. If Customer reasonably disputes an invoice, Customer must pay the undisputed amount and submit written notice of the disputed amount (with details of the nature of the dispute and the Services and invoice(s) disputed). Disputes must be submitted in writing within 90 days from the date of the invoice. If Lumen determines in good faith that a disputed charge was billed correctly, Customer must pay such amounts within 10 days after Lumen provides notice of such determination. Customer may not offset disputed amounts from one invoice against payments due on the same or another account.

4.3 **Taxes and Fees.** Excluding taxes based on Lumen's net income, Customer is responsible for all taxes and fees arising in any jurisdiction imposed on or incident to the provision, sale or use of Service. This includes value added, consumption, sales, use, gross receipts, withholding, excise, access, bypass, ad valorem, franchise or other taxes, fees, duties or surcharges (e.g., regulatory and 911 surcharges), whether imposed on Lumen or a Lumen affiliate, along with similar charges stated in a Service Attachment (collectively "Taxes and Fees"). Some Taxes and Fees, and costs of administering the same, are recovered through imposition of a percentage surcharge(s) on the charges for Service. If Customer is required by law to make any deduction or withholding of withholding Taxes from any payment due hereunder to Lumen, then, notwithstanding anything to the contrary in this Agreement, the gross amount payable by Customer will be increased so that, after any such deduction or withholding for such withholding Taxes, the net amount received by Lumen will not be less than Lumen would have received had no such deduction or withholding been required. Charges for Service are exclusive of Taxes and Fees. Customer may present Lumen with an exemption certificate eliminating Lumen's liability to pay certain Taxes and Fees. The exemption will apply prospectively.

4.4 **Non-Appropriations.** Customer intends to continue this Agreement for its entire Term and to satisfy its obligations hereunder. For each fiscal period for Customer: (a) Customer agrees to include in its budget request appropriations sufficient to cover Customer's obligations under this Agreement; (b) Customer agrees to use all reasonable and lawful means to secure these appropriations; (c) Customer agrees it will not use non-appropriations as a means of terminating this Agreement in order to acquire functionally equivalent products or services from a third party. Customer reasonably believes that sufficient funds to discharge its obligations can and will lawfully be appropriated and made available for this purpose. In the event that Customer is appropriated insufficient funds, by appropriation, appropriation limitation or grant, to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose (as evidenced by notarized documents provided by Customer and agreed to by Lumen), Customer may terminate this Agreement without incurring any termination charges by giving Lumen not less than 30 days' prior written notice. Upon termination and

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to the extent of lawfully available funds, Customer will remit all amounts due and all costs reasonably incurred by Lumen through the date of termination.

4.5 Regulatory and Legal Changes. If changes in applicable law, regulation, rule or order materially affect delivery of Service, the parties will negotiate appropriate changes to this Agreement. If the parties cannot reach agreement within 30 days after Lumen's notice requesting renegotiation, Lumen may, on a prospective basis after such 30-day period, pass any increased delivery costs on to Customer. If Lumen does so, Customer may terminate the affected Service on notice to Lumen delivered within 30 days of the cost increase taking effect.

4.6 Cancellation and Termination Charges. Unless otherwise set forth in a Service Attachment:

(a) Customer may cancel an Order (or portion thereof) prior to the delivery of a Connection Notice upon written notice to Lumen identifying the affected Order and Service. If Customer does so, Customer will pay Lumen a cancellation charge equal to the sum of: (1) for "off-net" Service, third party termination charges for the cancelled Service; (2) for "on-net" Service, one month's monthly recurring charges for the cancelled Service; (3) the non-recurring charges for the cancelled Service; and (4) Lumen's out-of-pocket costs (if any) incurred in constructing facilities necessary for Service delivery.

(b) Customer may terminate a specified Service after the delivery of a Connection Notice upon 30 days' written notice to Lumen. If Customer does so, or if Service is terminated by Lumen as the result of Customer's default, Customer will pay Lumen a termination charge equal to the sum of: (1) all unpaid amounts for Service actually provided; (2) 100% of the remaining monthly recurring charges for months 1-12 of the Service Term; (3) 50% of the remaining monthly recurring charges for month 13 through the end of the Service Term; and (4) if not recovered by the foregoing, any termination liability payable to third parties resulting from the termination and any out-of-pocket costs of construction to the extent such construction was undertaken to provide Service hereunder. The charges in this Section represent Lumen's reasonable liquidated damages and are not a penalty.

5. Default. If (a) Customer fails to make any payment when due and such failure continues for five business days after Lumen's written notice, or (b) either party fails to observe or perform any other material term of this Agreement and such failure continues for 30 days after the other party's written notice, then the non-defaulting party may: (i) terminate this Agreement and/or any Order, in whole or in part, and/or (ii) subject to Sections 6.1 (Damages Limitations) and 6.3 (Service Levels), pursue any remedies it may have at law or in equity.

6. Liabilities and Service Levels.

6.1 Damages Limitations. Neither party will be liable for any damages for lost profits, lost revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of the performance or failure to perform under this Agreement or any Order.

6.2 Disclaimer of Warranties. LUMEN MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY APPLICABLE SERVICE ATTACHMENT.

6.3 Service Levels.

(a) Any "Service Level" commitments applicable to Services are contained in the Service Attachments applicable to each Service. If Lumen does not meet a Service Level, Lumen will issue to Customer a credit as stated in the applicable Service Attachment on Customer's request, except that credits will not be provided for Excused Outages. Lumen's maintenance log and trouble ticketing systems are used to calculate Service Level events. Excused Outages mean scheduled maintenance under Section 8 and force majeure events, unless otherwise defined in a Service Attachment.

(b) Unless otherwise set forth in a Service Attachment, to request a credit, Customer must contact Customer Service (contact information is located at <https://www.lumen.com/en-us/home.html>) or deliver a written request with sufficient detail to identify the affected Service. The request for credit must be made within 60 days after the end of the month in which the event occurred. Total monthly credits will not exceed the charges for the affected Service for that month. Customer's sole remedies for any nonperformance, outages, failures to deliver or defects in Service are contained in the Service Levels applicable to the affected Service.

6.4 Right of Termination for Installation Delay. Unless otherwise set forth in a Service Attachment, in lieu of installation Service Level credits, if Lumen's installation of Service is delayed by more than 30 business days beyond the Customer Commit Date, Customer may terminate the affected Service without liability upon written notice to Lumen, provided such written notice is delivered prior to Lumen delivering a Connection Notice for the affected Service. This Section will not apply where Lumen is constructing facilities to a new location not previously served by Lumen.

7. Customer Premises; Title to Equipment. If access to non-Lumen facilities is required for the installation, maintenance, grooming, movement, upgrade and/or removal of Lumen network or equipment, Customer will, at its expense: (a) secure such right of access and (b) arrange for the provision and maintenance of power and HVAC as needed for the proper operation of such equipment

and network. Title to Lumen-provided equipment (including software) remains with Lumen. Customer will not create or permit to be created any encumbrances on Lumen-provided equipment.

8. Scheduled Maintenance and Local Access. Scheduled maintenance will not normally result in Service interruption. Unless otherwise set forth in a Service Attachment, if scheduled maintenance requires Service interruption Lumen will: (1) provide Customer seven days' prior written notice, (2) work with Customer to minimize interruptions and (3) use commercially reasonable efforts to perform such maintenance between midnight and 6:00 a.m. local time. If third-party local access services are required for the Services, Customer will: (1) provide Lumen with circuit facility and firm order commitment information and design layout records to enable cross-connects to Lumen Service(s) (provided by Lumen subject to applicable charges), (2) cooperate with Lumen (including changing demarcation points and/or equipment and providing necessary LOAs) regarding circuit grooming or re-provisioning, and (3) where a related Service is disconnected, provide Lumen a written disconnection firm order commitment from the relevant third-party provider. Lumen may re-provision any local access circuits from one off-net provider to another or to the Lumen owned and operated network (on-net), and such changes will be treated as scheduled maintenance.

9. General Terms.

9.1 Force Majeure. Neither party will be liable, nor will any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control ("force majeure event").

9.2 Assignment and Resale. Neither party may assign its rights or obligations under this Agreement or any Service Attachment without the prior written consent of the other party, which will not be unreasonably withheld. However, either party may assign its rights and obligations under this Agreement or any Order without the consent of the other party: (1) to any subsidiary, parent, or affiliate that controls, is controlled by, or is under common control with that party; (2) pursuant to the sale or transfer of substantially all of the business or relevant assets of that party; or (3) pursuant to any financing, merger, or reorganization of that party. This Agreement and all Service Attachments will apply to any permitted transferees or assignees. Any assignee of Customer must have a financial standing and creditworthiness equal to or better than Customer's. Unless otherwise set forth in a Service Attachment, Customer may provide Service to third parties or use the Services in connection with goods or services provided by Customer to third parties ("Customer Provided Services"). To the extent permitted under law, Customer will be responsible for any claims arising from or related to any Customer Provided Services. If Customer sells telecommunications services, Customer certifies that it has filed all required documentation and will at all times have the requisite authority with appropriate regulatory agencies respecting the same. Nothing in this Agreement confers upon any third party any right, benefit or remedy hereunder.

9.3 Affiliates. Lumen may use a Lumen affiliate or a third party to provide Service to Customer, but Lumen will remain responsible to Customer for Service delivery and performance. Customer's affiliates may purchase Service under this Agreement, and Customer will be jointly and severally liable for all claims and liabilities related to Service ordered by any Customer affiliate.

9.4 Notices. Notices will be in writing and deemed received if delivered personally, sent via facsimile, pre-paid overnight courier, electronic mail (if an e-mail address is provided below) or sent by U.S. Postal Service or First Class International Post. Unless otherwise provided for in a Service Attachment, requests for disconnection of Service (other than for default) must be submitted to Lumen via Customer's portal at <https://www.centurylink.com/business/login/> or via the following website / link: <https://www.lumen.com/help/en-us/disconnects.html> and will be effective 30 days after receipt (or such longer period set forth in a Service Attachment). Notices for billing inquiries/disputes or requests for Service Level credits must be submitted to Lumen via Customer's portal at <https://www.centurylink.com/business/login/> or via Email at: billing@lumen.com. Customer failure to follow this process and/or provide complete information may result in continued charges that will not be credited. All legal notices will be addressed to Lumen at: 931 14th Str., #900, Denver, CO 80202; Fax: 888-778-0054; Attn.: Notice Coordinator; and to any electronic or physical address of Customer as provided in the Agreement or in its absence, to Customer's address identified on the Order or as reflected in Lumen's records, Attn. General Counsel.

9.5 Acceptable Use Policy and Data Protection. Customer must comply with the Acceptable Use Policy ("AUP"), which is available at <https://www.centurylink.com/aboutus/legal/acceptable-use-policy.html>, for Services purchased under this Agreement. Lumen may reasonably modify this policy to ensure compliance with applicable laws and regulations and to protect Lumen's network and customers. If Customer will use the Services to process personal data subject to privacy or data protection law that requires specific terms in place with service providers, Customer is responsible for requesting such terms from Lumen.

9.6 Confidentiality. Except to the extent required by an open records act or similar law, neither party will: (a) disclose any of the terms of the Agreement; or (b) disclose or use (except as expressly permitted by, or required to achieve the purposes of, the Agreement) the Confidential Information received from the other party. A party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under the Agreement. Each party will limit disclosure and access to confidential information to those of its employees, contractors, attorneys or other representatives who reasonably require such access to accomplish the Agreement's purposes and who are subject to confidentiality obligations at least as restrictive as those contained herein. "Confidential Information" means any commercial or operational information disclosed by one party to the other in connection with the Agreement and does not include any information that: (a) is in the public domain without a breach of confidentiality; (b) is obtained from a third party without violation of any obligation of confidentiality; or (c) is independently developed by a party without reference to the Confidential Information of the other party.

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9.7 Intellectual Property Ownership; Use of Name and Marks. Nothing in the Agreement or the performance thereof will convey, license, or otherwise transfer any right, title, or interest in any intellectual property or other proprietary rights held by either party or its licensors. Neither party will use the name or marks of the other party or any of its affiliates for any purpose or issue any press release or public statement relating to this Agreement without the other party's prior written consent.

9.8 Governing Law; Amendment. This Agreement will be governed and construed in accordance with the laws of the State in which Customer's principal office is located, without regard to its choice of law rules. Each party will comply with all applicable laws, rules and regulations associated respectively with Lumen's delivery or Customer's use of the Service under the Agreement. This Agreement, including any Service Attachments, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service. Lumen is not subject to any obligations that are not explicitly identified in this Agreement. This Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each party. No failure by either party to enforce any right(s) hereunder will constitute a waiver of such right(s).

9.9 Critical 9-1-1 Circuits. The Federal Communications Commission's 9-1-1 reliability rules mandate the identification and tagging of certain circuits or equivalent data paths that transport 9-1-1 calls and information ("9-1-1 Data") to public safety answering points. These circuits or equivalent data paths are defined as Critical 911 Circuits in 47 C.F.R. Section 12.4(a)(5). Lumen policies require tagging of any circuits or equivalent data paths used to transport 9-1-1 Data. Customer will cooperate with Lumen regarding compliance with these rules and policies and will notify Lumen of all Services Customer purchases under this Agreement utilized as Critical 911 Circuits or for 9-1-1 Data.

9.10 International Services. For Services provided outside the United States, Customer or its local affiliate may be required to enter into a separate local country addendum/agreement (as approved by local authorities) ("LCA") with the respective Lumen affiliate that provides the local Service(s). Such Lumen affiliate will invoice Customer or its local affiliate for the respective local Service(s).

9.11 Relationship and Counterparts. The relationship between the parties is not that of partners, agents, or joint venturers. This Agreement may be executed in one or more counterparts, all of which taken together will constitute one instrument. Digital signatures and electronically exchanged copies of signed documents will be sufficient to bind the parties to this Agreement.

9.12 Insurance. Lumen shall maintain technology/professional liability insurance, including coverage for:

- i. Network security/data protection liability insurance (also called "cyber liability") covering liabilities for financial loss resulting or arising from acts, errors, or omissions, in rendering technology/professional services;
- ii. Violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended;
- iii. Data theft, damage, unauthorized disclosure, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information in whatever form, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on third party computer systems;
- iv. Loss or denial of service;
- v. No cyber terrorism exclusion; and
- vi. Minimum limit of \$5,000,000 per claim and in the aggregate.

**CENTURYLINK COMMUNICATIONS, LLC D/B/A LUMEN
TECHNOLOGIES GROUP**



02/22/2021

CHRISTOPHER TAYLOR, MAYOR

Steve Arneson

Steve Arneson (Jan 14, 2021 10:07 CST)

Authorized Signature

Steve Arneson

Name Typed or Printed

Manager - Offer Management

Title

Jan 14, 2021

Date

Authorized Signature

Christopher Taylor

Name Typed or Printed

Mayor

Title

Date

Customer's Address for Notice:
Customer's facsimile number (if applicable):
Person designated for notices:

Jacqueline Beaudry

02/24/2021

MASTER SERVICE
EDUCATION GOV

Tom Crawford

02/21/2021

JACQUELINE BEAUDRY, CITY CLERK

TOM CRAWFORD, CITY ADMINISTRATOR

Authorized Signature

Authorized Signature

Jacqueline Beaudry
Name Typed or Printed

Tom Crawford
Name Typed or Printed

City Clerk

City Administrator

Title

Title

Date

Date

Tom Shewchuk

02/17/2021

TOM SHEWCHUK, INFORMATION TECHNOLOGY

Stephen K. Postema

02/19/2021

STEPHEN POSTEMA, CITY ATTORNEY

Authorized Signature

Authorized Signature

Tom Shewchuk
Name Typed or Printed

Stephen K. Postema
Name Typed or Printed

IT Director

City Attorney

Title

Title

**LUMEN MASTER SERVICE AGREEMENT
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LUMEN® CPE SERVICE SCHEDULE**

1. General. This Service Schedule for Products and Services is attached to and subject in all respects to the Lumen or CenturyLink Master Service Agreement, CenturyLink Total Advantage, or CenturyLink Loyal Advantage Agreement between Lumen and Customer. Capitalized terms not defined herein are defined in the Agreement. Lumen will provide Products and Services under the general terms of the Agreement, this Service Schedule, the CPE Service Guide, any Order, and any other applicable Service Attachment. This Service Schedule may not be used for the purchase of voice, video, data or IP services. In the event of a conflict in any term of any documents that govern the provision of Products and Services hereunder, the following order of precedence will apply in descending order of control: this Service Schedule, the CPE Service Guide, the general terms of the Agreement, any Order, and any other applicable Service Attachment.

1.1 Limitation of Liability. IN ADDITION TO THE LIMITATION OF LIABILITY UNDER THE AGREEMENT, LUMEN'S TOTAL AGGREGATE LIABILITY ARISING FROM OR RELATED TO PRODUCTS AND SERVICES PURCHASED UNDER THIS SERVICE SCHEDULE, UNLESS OTHERWISE STATED IN THE CPE SERVICE GUIDE OR ORDER, WILL IN NO EVENT EXCEED: (A) FOR CLAIMS ARISING OUT OF PRODUCTS, THE AMOUNT OF THE PRODUCT SET FORTH IN THE ORDER RELATING SOLELY TO THE AFFECTED PRODUCT; AND (B) FOR CLAIMS ARISING OUT OF NONRECURRING SERVICES, THE AMOUNT OF THE SERVICE SET FORTH IN THE ORDER.

1.2 Access to Emergency Response Services. *911 emergency services will not be available or may not function properly (e.g., they may not route to the correct public safety answering point or "PSAP") where the Service fails or degrades for any reason, such as failures resulting from power outages and CPE failure (e.g., Internet connectivity).*

TO THE EXTENT NOT LIMITED BY APPLICABLE LAW, CUSTOMER WILL DEFEND AND INDEMNIFY LUMEN, ITS AFFILIATES, AGENTS AND CONTRACTORS FROM ALL THIRD PARTY CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING FROM OR RELATED TO CUSTOMER'S OR CUSTOMER'S THIRD PARTY PROVIDER'S ACTS, OMISSIONS, OR FAILURES OF CONNECTIVITY THAT IMPEDE, PREVENT OR OTHERWISE MAKE INOPERABLE THE ABILITY OF CUSTOMER OR ITS END USERS TO DIRECTLY DIAL "911" IN THE UNITED STATES.

2. Lumen CPE Products and Services.

2.1 Purchase. Customer may purchase Products and Services by executing an Order to Lumen. "Order" means either (a) a written document issued by Customer for the procurement of Products and Services from Lumen; or (b) a Lumen quote or service order signed by Customer. The Order must include, as applicable, the (a) part numbers, (b) quantities, (c) descriptions, (d) manufacturer system identifiers and/or serial numbers, (e) maintenance prices, and (f) Maintenance Term. Customer's purchase of Products and Services is subject to and controlled by the CPE Service Guide. Customer will comply with the terms and conditions set forth in the CPE Service Guide, which is available at <https://www.lumen.com/service-guides>. By executing an Order with Lumen, Customer warrants that Customer has read and agrees to the terms and conditions of the CPE Service Guide. Lumen reserves the right to amend the CPE Service Guide at any time. Customer's continued use of Products and Services constitutes acceptance of those changes. If an Order issued by Customer contains any preprinted terms, those terms will not amend, modify or supplement this Service Schedule or the CPE Service Guide in any way whatsoever, notwithstanding any provisions in an Order to the contrary. Any Order must (a) reference and incorporate this Service Schedule, (b) contain the Customer's exact legal name, and (c) include any other requirements as may be further described in the CPE Service Guide.

2.2 Lease Option. Customer may lease certain Products and Services pursuant to a separate lease agreement with a third-party lease provider or with Lumen (the "Lessor"). Lumen will provide the Product to Customer and receive full payment for the Product from the Lessor. If Customer fails to comply with the Lease, including without limitation, any requirements for final acceptance of the Product, which results in the Lessor's refusal to pay Lumen in full for the Product, Customer agrees to pay Lumen in full for the Product. Until Lumen is paid in full for the Product, Customer will at its own expense, keep the Product free and clear of any claims, liens, and encumbrances of any kind. "Lease" means a separate agreement with a third-party lease provider or with Lumen used to finance Product.

3. Customer Responsibilities.

3.1 Acceptance. For Products, "Acceptance" means Customer agrees that Lumen has delivered the Products identified in the applicable Order. Customer agrees that Lumen has delivered the Products when either; (a) the Products ship from the manufacturer where Lumen does not install the Products; or (b) the Products are delivered to Customer where Lumen or Lumen's designated third party installs or configures the Product. Customer will notify Lumen in writing of any portion of Products that do not operate materially in accordance with the manufacturer's specifications. Failure to notify Lumen within 10 days of actual delivery date constitutes final Acceptance. Lumen will have the right to cure any rejected portion of the Products. Any portion that is not rejected and which is functionally divisible may be invoiced separately.

For Services, "Acceptance" means Customer agrees that Lumen has provided the applicable Services identified in the applicable Order. For maintenance Services, Customer agrees that Lumen has provided the Services when; (a) Customer Service Entitlement is established with Product manufacturer, and (b) Customer is notified of Entitlement by Lumen. "Entitlement" means Product manufacturer is obligated to provide Services to Customer. Customer will notify Lumen in writing of any portion of the Services that is unacceptable. Failure to notify Lumen within 10 days of Entitlement/job completion notification constitutes final Acceptance. Lumen has the right to cure any portion of the Services that has been rejected. Any portion that is not rejected and which is functionally divisible may be invoiced separately.

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3.2 Charges. Charges for Products and Services will be specified in each Order and are due upon Customer's receipt of the invoice or as otherwise stated in the applicable Order. Non-recurring charges will apply to the purchase of CPE, Installation and all Maintenance types. Monthly recurring charges will apply to the purchase of CPEaaS. Certain charges and fees, including but not limited to expedite fees, may be set forth in the CPE Service Guide. Any payment not received within 30 days after the invoice date may be subject to interest charges as permitted by applicable law. Charges are billed on an annual basis for non-standard part support and manufacturer-provided maintenance Services. The first annual payment is due upon Customer's receipt of Lumen invoice, and subsequent payments are due in full at the beginning of each subsequent year throughout the Service Term or for the full term. Lumen may cease providing the applicable Products and Services if payment is not made when due. Customer will not be eligible for any discounts or promotional offers other than those specifically set forth in an executed Order. The MRC for CPEaaS will be used to calculate Contributory Charges, if applicable.

3.3 Term; Termination; Termination Charges. This Section replaces the Cancellation and Termination Charges section in the Agreement. The Products and Services will continue for the term specified in the applicable Order or the period of time necessary to perform the Products and Services identified in the applicable Order is complete ("Service Term"), unless terminated by either party pursuant to the terms of this Schedule. Except as otherwise provided, either party may terminate an applicable Products and Services upon 30 days prior written notice. Customer cannot terminate Orders for Products provided on a drop ship basis without prior written authorization from Lumen and issuance of a return material authorization ("RMA") number pursuant to Lumen's RMA Policies set forth in the CPE Service Guide. Customer will remain liable for charges accrued for the applicable Products and Services but unpaid as of the termination date plus, if applicable, any Termination Charges. Termination Charges are waived if Customer and Lumen execute a new Order with a value equal to, or greater than, the balance of the terminated Order and specifically designed to offset the terminated Order. For Products, Termination Charges equal 25% of Product price to Customer ("Restocking Fees"). Customer is responsible for any damage to the Equipment while in Customer's possession or during return shipment to Lumen. If Customer breaches its obligations relating to an Order for Products after delivery, Lumen may, in addition to the Termination Charges and any other remedies: (a) declare all sums due and payable immediately; (b) discontinue discounts related to the Products; (c) cease installation or delivery or disconnect and deactivate Products until amounts due are paid; or (d) retake possession of Products and retain all sums paid by Customer as a setoff against expenses incurred.

For non-standard part maintenance Services, Termination Charges equal the (monthly rate of service(s) terminated) x (20%) x (months remaining in the term of the service). For manufacturer-provided maintenance Services, Termination Charges equal the unpaid balance for Service remaining in the Service Term. For Promet Maintenance and Centurion Maintenance Services, if Lumen has agreed to accept payment for Service in installments, Termination Charges equal 100% of any charges for Service that would have become due during the remainder of the Service Term.

The Service Term for CPE as a Service ("CPEaaS") commences upon Acceptance and will continue for the number of months set forth in the Order. Upon completion, the Service Term for CPEaaS will (a) expire for orders placed on or after December 17, 2018; or (b) automatically renew at the same rate for orders placed prior to December 17, 2018, and number of months (the "Renewal Service Term") unless, with at least 60 days' prior written notice, either party elects to terminate the Renewal Service Term. For orders placed prior to December 17, 2018, "Service Term" for CPEaaS means the first Service Term and each Renewal Service Term, as applicable. Termination Charges for CPEaaS equal (c) 100% of any charges for Service that would have become due during the remainder of the Service Term and (d) if notice of termination is received less than 60 days prior to expiration of the Service Term, and Lumen has already ordered the maintenance from its vendor for any applicable Renewal Service Term, Customer will also pay 100% of the amount paid by Lumen to the third party maintenance provider.

4. Definitions.

"Customer Premises Equipment" or "CPE" consists of hardware, software, and materials used in the transport and/or termination/storage of data, video and voice transmission.

"Products" means CPE and Software offerings from Lumen.

"Services" means offerings from Lumen that (a) CPE Maintenance and Software Maintenance, (b) install, maintain or manage CPE; (c) support Customer network management objectives, or (d) are consulting, professional, technical, development, and/or design services.





Agreement Document from Lumen

Final Audit Report

2021-01-14

Created:	2021-01-14
By:	Timothy Briggs (tim.briggs@lumen.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdZJdJp0-hb7bRneGmYjyHHwli2ITJmmX

"Agreement Document from Lumen" History

-  Document created by Timothy Briggs (tim.briggs@lumen.com)
2021-01-14 - 3:01:34 PM GMT- IP address: 13.108.238.8
-  Document emailed to Steve Arneson (pomdirectorsignature@lumen.com) for signature
2021-01-14 - 3:04:14 PM GMT
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