

Terms of Service for Remote Management Service (version 9.15.2019)

1. The Terms of Service for Remote Management Service (“Terms of Service”) are entered into between you and us. The term “you” means you and your employer (or such entity on whose behalf you are acting in obtaining the Remote Management Services).

2. **Defined Terms.** The term “we,” “us” or “Buffalo Americas” refers to Buffalo Americas, Inc., a Delaware corporation. For purposes of this Agreement, the term “Buffalo Inc.” shall mean (i) our affiliate, Buffalo Inc., a Japanese Corporation, and (ii) other Japanese entities that are affiliates of Buffalo Inc., including but not limited to DigiOn, Inc. The term “Buffalo” shall mean Buffalo Americas and Buffalo Inc. (including its affiliates), collectively.

3. **Please read these Terms of Service carefully before you use Remote Management Service (“RMS” or “Service”). Your use of this Service will be governed by the terms and conditions in this Terms of Service. Only use this Service, if you agree to the Terms of Service.**

Your submitting the Application in accordance with this Terms of Service shall constitute your consent to these terms. If you do not accept the Terms of Service, you may not use the RMS. If you do not wish to accept the Terms of Service, please cease using the RMS. If you continue using the RMS, you will be deemed to have accepted the Terms of Service.

4. Application and Registration

- a. In order to use this Service, you will have to submit an application to us and obtain login information including an ID. As a condition for us allowing you to use the Service, you must provide us with accurate and complete identification information. If you are a managed service provider, a value added distributor, or otherwise acting as a provider of services for third parties such that the devices you register are those of the third party, you represent and warrant that you have the authority of that third party.
- b. You will be eligible to start using this Service when you register the applicable devices in the administration screen after login, provided that, you have to acquire the prior customer’s approval regarding that register, if you are, for example, a Managed Service Provider or Value Added Distributor.

5. Features of this Service

Subject to the terms of the Terms of Service, we may offer the following functionalities for your TeraStation Series 3010 and 5010 and future Series products, including various of our family of products supporting those TeraStation Series, currently at no charge, which allows you to:

- a. remotely manage multiple network attached storage devices (“Device(s)”) from the same console;
- b. create a detailed list of managed systems, available at a glance by gathering device and usage information such as system status, used capacity, uptime; and
- c. share device information, such as debug logs to technical support or saving a device's settings as a file to easily configure a replacement device.

6. **Data We Gather.** By using this Service, you understand that we and Buffalo Inc., may collect data regarding the “registered devices,” as indicated on the chart 2 below, and data regarding business contacts with respect to the Terms of Service (collectively, “Data”.), as indicated on Chart 1:

Chart 1

Business Contact Data Collected	Purpose of use
Company Name Company Contact Person(s) Name Company Address Email Contact	Customer Information and ability to contact directly

We are also engaged in developing patches, bug fixes, error correction, upgrades and other updates to the firmware of RMS. If you continue to use this Service, you are required to download and install these updates.

You agree that Buffalo can access your devices as are registered with the Service for purposes of monitoring and servicing the devices in accordance with Section 6, Section 7, and Chart 2.

If you are the Managed Service Provider or Value Added Distributor or other provider of service, it is your responsibility to provide notice to, and obtain any necessary consents from your customer regarding our collection, processing, and storage of Customer Data, and you represent and warrant that you will provide such notice and obtain such consent in a legally compliant manner. You shall have reasonable safeguards and controls in place to prevent our access of further information.

Chart 2

	Purpose of use	
		Check device status

MIB	Received packet (Non-unicast)	✓	
	Received packet (Unicast)	✓	
	Send packet (Non-unicast)	✓	
	Send packet (Unicast)	✓	
	Representative MAC Address	✓	
	Port IP Address	✓	
	Port MAC Address	✓	
	Total capacity of NAS	✓	
	RAID configuration	✓	
	Usage rate of NAS array	✓	
	Back up result	✓	
	S.M.A.R.T. information for Pending sector	✓	✓
	S.M.A.R.T. information for Non-replaceable sectors	✓	✓
	S.M.A.R.T. information for replaced sectors	✓	✓
	Diagnosis from S.M.A.R.T. information	✓	✓
	Usage rate of HDD	✓	
	FW version (major)	✓	
	FW version (minor)	✓	
	Other device's IP address for failover	✓	
	Role of failover	✓	
	Usage rate of LVM volume	✓	
	Product name	✓	
	Power supply (normal/error)	✓	✓
	Bad sector in SSD	✓	✓
	Life time in SSD	✓	✓
	Serial number for NAS	✓	
	Remaining battery in UPS	✓	
	UPS device name	✓	

	Total capacity of USB drive	✓	
	Usage rate of USB drive	✓	
	Received packet	✓	
	Send packet	✓	
	NAS location	✓	
	NAS name (host name)	✓	
	Time of system running	✓	
Other	All notification log on NAS	✓	✓
	Device setting file (format : .nas_config)	✓	
	All logs except operation history	✓	
	Memo in event notification (share between MSPs)	✓	

7. Additional Uses of the Data We Collect. The services provided under this Terms of Service may be performed by Buffalo Inc. Neither we or Buffalo Inc. shall, retain, collect, use, distribute or disclose such Data for any purpose except as expressly required and permitted for performing the Services specified in the Agreement. Notwithstanding anything to the contrary, to the maximum extent permitted by law, nothing shall prohibit us from transferring any data collected as part of a transaction involving a change of control of Buffalo or a sale of all or substantially all of its assets or where we are, in our judgement, required by law to do so, or where we deem it necessary to do so to prevent harm or fraud, or to protect our rights in any legal dispute.

8. Prohibition. You agree not to engage in any of the following prohibited activities:

- a. Allowing your user/login credentials to be used by another person, or creating or using, or allowing the creation or use of, false or misleading credentials;
- b. interfering with or disrupting the Service;
- c. interfering with, violating, breaching, infringing, or misappropriating our or any third party's intellectual property rights, privacy or security;
- d. harming our or a third party's reputation or credit;
- e. violating rules of applicable national and international networks and carriers;
- f. violating the provisions of the Terms of Service or applicable law; and/or

- g. other acts determined by us to be harmful or inappropriate.

9. **Suspending Service.** We may suspend the Service without prior notice in connection with any of the following events:

- a. system maintenance related to this Service;
- b. fire, power outage, earthquake, volcanic eruption, flooding, tsunami; war, insurrection, riot, labor dispute, or similar event outside of our reasonable Contract;
- c. Internet communication, or other technical services on which the Service depends for delivery, are suspended or impaired rendering it impractical to perform Service;
- d. the registration is made under a name other than a person's or entity's real and complete, legal name, alias or by using or misappropriating the name of another person;
- e. there otherwise is a falsehood, inaccuracy, error or omission in the content of the registration;
- f. the registration information is deleted at the request of you;
- g. you breach the provisions of the Terms of Service; and/or
- h. we otherwise determine the registered user to be unsuitable.

10. **Modification of Terms of Service.** You agree that we may modify the Terms of Service and that each modification shall become effective immediately upon notice to you. If you do not accept the modification(s), then you must cease using the Service. The modified Terms of Service will contain the effective date at the top of its page. If you agree to these Terms of Service on behalf of an entity, you represent and warrant that you have the authority to act on behalf of that entity and are deemed to have the right and authority to bind that entity. If you do not have the right and/or authority, do not use this Service on behalf of that entity.

11. **Disclaimers.**

YOU AGREE AND ACKNOWLEDGE FOR OUR BENEFIT, AND FOR THE BENEFIT OF BUFFALO INC. AND OUR SUPPLIER AND LICENSORS, THAT USE OF THE SERVICE, INCLUDING BUT NOT LIMITED TO ANY AND ALL TECHNOLOGIES AND TOOLS, IS WITHOUT WARRANTY OF ANY KIND AND THAT THE ACCESS TO AND USE OF THE SERVICE, AS PROVIDED UNDER THE TERMS OF SERVICE, IS PROVIDED "AS IS AND WHERE IS." ALL WARRANTIES ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES BASED ON CUSTOM AND PRACTICE. APPLICABLE LAW MAY NOT ALLOW THE ABOVE EXCLUSION OF IMPLIED WARRANTIES, SO THE EXCLUSION MAY NOT APPLY TO YOU AND SHALL APPLY ONLY TO THE MAXIMUM EXTENT ALLOWED BY LAW.

WE DO NOT WARRANT THAT THE SERVICE WILL MEET YOUR REQUIREMENTS, THAT IT WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SITE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

NOTWITHSTANDING THE ABOVE, WE MAY RELY ON THE AUTHORITY OF ANYONE ACCESSING YOUR ACCOUNT OR USING YOUR CREDENTIALS (INCLUDING YOUR PASSWORD), AND IN NO EVENT, AND UNDER NO CIRCUMSTANCES SHALL WE BE HELD LIABLE TO YOU FOR ANY LIABILITIES OR DAMAGES ARISING OUT OF: (I) ANY ACTION OR INACTION OF BUFFALO UNDER THIS PROVISION; OR (II) ANY COMPROMISE OF THE CONFIDENTIALITY OF YOUR ACCOUNT OR PASSWORD OR ANY UNAUTHORIZED ACCESS TO YOUR ACCOUNT OR USE OF YOUR PASSWORD; PROVIDED THAT, THIS DISCLAIMER, IN THIS PARAGRAPH, SHALL NOT APPLY TO THE EXTENT SUCH COMPROMISE, ACCESS, OR USE IS CAUSED SOLELY BY OUR BREACH OF THE EXPRESS TERMS OF THIS TERMS OF SERVICE OR ITS VIOLATION OF LAW, AS PROVIDED BY CLEAR AND CONVINCING EVIDENCE. YOU MAY NOT USE ANYONE ELSE'S ACCOUNT AT ANY TIME.

Your login credentials and/or account information for the Service may be used only by you and only while the Terms of Service is in effect. Under no circumstances will you share your login credentials and/or account information with any other person or entity. You are responsible for all use of the Service that occurs under your account, and you agree to notify us of any unauthorized access of which you become aware. We reserve the right to take such action in our discretion to help ensure the security of the Service, including, without limitation, suspending or terminating an account. WITHOUT LIMITING THE FORCE OF ANY OTHER DISCLAIMERS HEREIN, YOU ARE RESPONSIBLE FOR ANY PERSON USING THE SERVICE UNDER YOUR LOGIN CREDENTIALS OR AUTHORITY, AND YOU ARE RESPONSIBLE TO AND FOR ANY PERSONS RELYING ON THE SERVICE.

YOU UNDERSTAND AND AGREE THAT THE ALL DISCLAIMERS ARE MADE FOR OUR BENEFIT AND THE BENEFIT OF BUFFALO INC., OUR SUPPLIERS AND LICENSORS.

12. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, BUFFALO, ITS SUPPLIERS AND LICENSORS, AND OUR SUPPLIERS' AND LICENSORS' AFFILIATES, EMPLOYEES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, AGENTS REPRESENTATIVES, SERVICE PROVIDERS, DIRECTORS, LICENSORS AND SUPPLIERS (BUFFALO AND SUCH OTHER INDIVIDUALS AND ENTITIES INDIVIDUALLY AND COLLECTIVELY REFERRED TO AS "BUFFALO-RELATED PARTIES") WILL NOT BE RESPONSIBLE OR LIABLE TO YOU OR ANY OTHER PARTY, INCLUDING BUT NOT LIMITED TO YOUR CUSTOMER, UNDER OR IN CONNECTION WITH THESE TERMS OF SERVICE OR FOR ANY ACTIVITY OR ACTIVITIES, IN THE AGGREGATE, RELATED TO THE SERVICE, WHETHER UNDER CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY, FOR ANY AMOUNT IN EXCESS OF \$150. ADDITIONALLY, BUFFALO-RELATED PARTIES WILL NOT BE LIABLE

FOR INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, LOST PROFITS OR ANTICIPATED SALES OR SAVINGS, DAMAGE TO GOODWILL, OR INTERRUPTION OR LOSS OF BUSINESS. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PERMIT THIS LIMITATION ON LIABILITY AND DAMAGES, OUR LIABILITY AND EXPOSURE TO DAMAGES WILL BE LIMITED TO THE MAXIMUM EXTENT ALLOWED BY LAW.

13. Indemnification. You will defend, indemnify and hold harmless Buffalo-Related Parties from and against all claims and all losses (including all damages and awards of monetary relief, and reasonable attorneys' fees) arising therefrom (all such claims and losses referred to as "Claims"), brought by a third party to the extent based upon any of the following: (i) your use of this Service; (ii) your breach of the Terms of Service; (iii) your breach of any third-party right, including without limitation any intellectual property right, publicity, confidentiality, property or privacy right; or (iv) any dispute or issue between you and a third party. We may assume the full and exclusive control of the defense and settlement of any Claim and any subsequent appeal, and in such case, you agree to promptly notify us in writing of the Claim and cooperate with our defense of such Claim; provided, however, such assumption of control shall be at our expense unless we do so because you have failed to honor your obligations under the Terms of Service and this Section.

14. Intellectual Property.

- a. You acknowledge that we own all right, title and interest, including all intellectual property rights, in and to the Service (as of the Effective Date of these Terms of Service and as the Service may be modified at any time in the future).
- b. Our trademarks may not be used in any manner (including in "meta-tags" or "hidden text") without our prior written approval by us. All content included in or with the Service, such as text, graphics, images, audio clips, video, data, music, software, and other material is owned or licensed property by us or our suppliers or licensors and is protected by copyright or other proprietary rights. Any unauthorized use of these materials violates trademark, copyright, patent, and other laws and is prohibited.
- c. You agree to keep and maintain all information about the Service and related technology and tools as confidential. Keeping such information confidential means that you will not disclose the information to any other persons, except to persons within the organization who need to know for the intended purpose and who are under similar confidentiality obligations. You represent and warrant that you will maintain administrative, contractual, technical, and physical controls and safeguards designed to keep and maintain all information available through the Service as strictly confidential.

15. Notice and Electronic Communications. Except as otherwise expressly specified in the Terms of Service, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given only upon: (a) personal delivery; (b) the fifth (5th) business day after mailing; (c) the first business day after sending by email; or (d) the second (2nd) business day after being sent by internationally-recognized overnight courier. Notices to us must be addressed as follows: 11100 Metric Blvd., Suite 200E, Austin, Texas 78758; and for notices permitted to be sent *via* email, to support@buffaloamericas.com; and, if to you, to the email address that you have provided us. It is agreed that all agreements, notices, disclosures, and other communications provided in accordance with the Terms of Service satisfy any legal requirement that such communications be in writing. It is agreed that a printed version of this Terms of Service and/or any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Terms of Service to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. **TO THE MAXIMUM EXTENT AUTHORIZED BY LAW, YOU IRREVOCABLY AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION.**

16. Limitations of Actions. WITHOUT LIMITING THE EFFECT OF ANY DISCLAIMER CONTAINED HEREIN, ANY CAUSE OF ACTION YOU MAY HAVE WITH RESPECT TO YOUR USE OF THE SITE MUST BE COMMENCED WITHIN TWO (2) YEARS AFTER THE CLAIM OR CAUSE OF ACTION ARISES.

17. Assignment. You may not assign the rights and obligations under Terms of Service without prior written consent by us. For the avoidance of doubt, an assignment includes an assignment by operation of law, including in connection with a merger or change of control. We may freely assign the Terms of Service, and the rights and obligations therein, without your consent, including but not limited to, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets. Subject to the foregoing, the Terms of Service shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

18. Language. The Terms of Service has been written in the English language, and you agree that this English language version will govern your use of the Website, dispute proceedings, and the other matters described in the Terms of Service.

19. Force Majeure. We shall be excused from performance hereunder to the extent that performance is prevented, delayed or obstructed by causes beyond our reasonable control such as strikes, riots, insurrection, fires, floods, explosions, war, governmental action, labor conditions, earthquakes, or natural disasters.

20. Severability. The Terms of Service will be enforced to the fullest extent permitted under applicable law. If any provision of the Terms of Service is held by a

court of proper/correct jurisdiction to be contrary to law, the provision will, to the extent authorized by law, be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of the Terms of Service will remain in effect. No delay or failure by us to enforce any provision of this Agreement shall be a waiver of any of our rights under this Agreement.

21. You agree that any matter arising under or in connection with the Terms of Service or the Service shall be governed by the laws of the State of Texas. The parties irrevocably agree to submit any dispute between them or with Buffalo Inc., arising under or in connection with the Terms of Service or the Service to the exclusive jurisdiction of a state court located in Travis County, Texas or the United States District Court for the Western District of Texas. The parties hereby waive, and agree not to assert, by way of motion, as a defense or otherwise, in any such suit, action or proceeding brought in such courts, any claim that such party is not subject personally to the jurisdiction of the above-named courts, that such party is exempt or immune from attachment or execution by such courts in the event that any of the above-named courts enters an order of attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum or that the venue of the suit, action or proceeding is improper.

22. **Entire Agreement.** The Terms of Service are the entire agreement between you and us regarding your use of this Service and supersede all prior agreements and understandings about your use of this Service.

23. **Termination.** We may terminate the Terms of Service and rights to the Service upon written notice to you. Any provision by its nature intended to survive, including but not limited to Sections_5, 7-10, 12-21, shall survive termination of the Terms of Service.