

AspenUC Service Agreement

This Agreement is entered into between Customer and LightSpeed Networks, Inc. ("LS Networks,") and is governed by and subject to the applicable Master Service Agreement ("MSA") between Customer and LS Networks. If Customer has not executed an MSA then this Agreement shall be governed by the terms and conditions of LS Network's standard MSA (as posted on LSNetworks.net/about/legal) incorporated herein by reference. Capitalized terms not defined will have the same meaning ascribed to them in the MSA.

This Agreement sets forth the terms and conditions that govern the purchase, provision and use of AspenUC and its related services (the "Services"), as purchased by Customer by way of an approved Service Order.

1. Service Use; Limitations, Customer Responsibilities

a. **Use of Service.** Customer agrees that the use of the Service is, without limitation, done at its sole responsibility, is at its own risk and is subject to all applicable local, state, national and international laws and regulations. Customer is liable for the use of the Service by others, with or without permission. Customer may not resell, assign or otherwise transfer Service under this Agreement to any other person for any purpose, or relocate or make any change for the use of the Service, without advance written permission from LS Networks. Customer may only use the Service for lawful and general business purposes and may not use the Service in any manner or purpose prohibited by this Agreement, regulation, law or LS Networks' Acceptable Use Policy (posted at LSNetworks.net/about/legal). Customer may not use the Service to operate a telemarketing or outbound call center, to broadcast mass faxes or communications, fax blasting, or continuous or extensive call forwarding. Customer may not use auto-dialers or similar devices to generate robocalls or other unsolicited or marketing calls or use the Service in a manner or extent beyond standard business usage as determined by LS Networks.

b. **E-911 Limitations.** Customer understands and acknowledges that electric power, a working and technically acceptable Internet connection, and compatible IP-based equipment are required for the Service to function and must be purchased and maintained by Customer. If any of the required components fail or are not functioning, Customer will not be able to receive calls or make calls, including calls to 911.

Customer represents and warrants that it will notify all Service end-users of the interaction and/or limitations of E911 with the Service and re-location of the Service. Customer is solely responsible for third-party claims and liability arising from failure to so notify end-users. LS Network's liability to Customer, anyone dialing 911 using the Service, or to any other person or party, for any loss or damage arising from errors, interruptions, omissions, delays, defects, or failures of 911 services whether caused by negligence or otherwise, shall not exceed the amount of charges for such services during the affected period of time. This limitation of liability is in addition to any other limitations contained in this Agreement or the MSA.

Pursuant to FCC requirements, LS Networks enables the routing of E-911 calls only in locations where such 911 calling is

available and only in the limited circumstances described below. An end-user's ability to access an appropriate public safety access point depends on the type, configuration and location of the phone used.

- i. **Electric Service.** A loss of electric service will interrupt the Service. The provided Equipment is compatible with battery or other backup power which Customer may purchase at its own expense.
- ii. **Equipment.** Malfunction or failure of equipment, software or hardware needed for end-to-end Internet functionality (e.g., routers, IP phones, and analog gateways) can limit access to E-911.
- iii. **Relocation of Equipment.** LS Networks is able to provide access to E-911 only at the registered Service location and if used elsewhere, E-911 will not be available.

Customer acknowledges these 911 limitations and is solely responsible for maintaining alternative arrangements for access to 911. A power failure or service disruption may also require a reset of equipment prior to using the Service. Customer agrees not to move equipment to a new service location until after contacting LS Networks to complete a move order of the Service and updated the registered service location as required by LS Networks to ensure that 911 dialed calls can be correctly routed to the appropriate emergency response personnel.

- c. **Dialing.** Customer is solely responsible for configuring any fax, security, alarm system or other system settings. Customer may place international calls only if subscribed to the International Call Plan, this plan includes calling to Mexico, Canada, Hawaii and Alaska.
- d. **Voicemail.** Voicemail is provided as part of the Service. LS Networks will provide information on establishing and managing individual voice mailboxes. Customer must provide notice to LS Networks to opt out of individual mailboxes.
- e. **Customer Facilities and Premises.** Electric power, a working and technically acceptable Internet connection, and compatible IP-based equipment are required for the Service to function and must be purchased and maintained by Customer. Except as otherwise expressly stated herein, Customer is responsible for all equipment (including, but

not limited to, routers, switches and firewalls), software, premises wiring, power sources, telephone connections and/or communications services necessary for access to and use of the Services ("Facilities"). Customer is responsible for ensuring the Facilities are compatible with LS Networks requirements and that they continue to be compatible with subsequent revision levels of the Services. Customer and will allow LS Networks access to the premises to perform necessary installation, inspection, repair or replacement services and if Customer is not the owner of the premises to be entered, will work with LS Networks to obtain the necessary permissions to allow work to be done on such premises.

2. Term and Termination; Changes to Service; and Equipment Return

- a. **Term.** The initial term of this Agreement shall commence and be effective when services are delivered at the Point of Demarcation, or at specified start date indicated in the applicable Service Order and continue for the term specified therein. Thereafter, the term of such Service shall automatically renew and be extended for successive one-month terms until terminated by either party subject to Section 4 of the MSA, or unless otherwise specified in the Service Order. In the event of any inconsistency between the terms contained in this Agreement and any specific provisions of the Service Order, the terms of the Service Order shall prevail.
- b. **Termination.** LS Networks may terminate Service under this Agreement or any Service Order, or suspend Services pursuant to Sections 10 and 11 of the MSA. Customer may terminate Service under this Agreement or any Service Order subject to Section 12 of the MSA.
- c. **Changes to Service.** LS Networks reserves the right to change the Services (or any part thereof), including but not limited to Hosted Voice Service, its features and functionalities, and related Software, Equipment, hardware or services, at any time with or without notice. If such a change materially and adversely affects use of the Service, and LS Networks cannot reasonably mitigate the impact, then, as Customer's sole and exclusive remedy, Customer may terminate the Service without further obligation.
- d. **Equipment Return.** Following termination, Customer has thirty (30) days to return all Equipment in good working condition. LS Networks may, in its sole discretion, charge Customer the full replacement value of all equipment not returned within thirty (30) days.

- 3. **Software and Equipment Provided** LS Networks may provide software or peripheral equipment owned by LS Networks, its third-party licensors, providers, or suppliers in connection with the Services. Customer may use the Software on the hardware on which it is installed only as part of or for use with the Service and for no other purpose. The Software may be accompanied by an end-user license agreement from LS Networks or a third party. Customer use of the Software is governed first by the terms of this Agreement and then that license agreement, where applicable. The Software is provided to Customer for the sole purpose of enabling Customer to

use the Service. Customer agrees that the Software is the confidential information of LS Networks or its third-party licensors, providers, or suppliers, which Customer shall not disclose to others to use except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents and proprietary information owned by LS Networks or its third-party licensors, providers, or suppliers. Customer may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms, modify, rent, lease, loan, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. Customer may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols or labels appearing on or in the Software. Customer is not granted any title or rights of ownership in the Software.

- a. CUSTOMER AGREES THAT IT'S SOLE RIGHT TO RECOURSE, IF ANY, INCLUDING BUT NOT LIMITED TO DAMAGES FOR FAILURE OF SUCH SOFTWARE TO PERFORM OR FOR PERSONAL INJURY OR DATA LOSS, IS AGAINST THE MANUFACTURER OF SUCH SOFTWARE.
- b. Unless otherwise provided, LS Networks provides limited technical assistance and support for third-party Software. Additional technical assistance or support with regard to programming needs for third-party software is provided by the software supplier in accordance with such third party's policies or other terms.
- c. Customer agrees to comply with the terms of licensing or service that apply to any Service features. Violations of such third party provider's terms of service may, in LS Network's sole discretion, result in termination of Service. Customer further agrees to indemnify, defend and hold LS Networks harmless from and against any claims or liabilities that may result from use of such third-party services.

- 4. **LIMITED WARRANTY.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR THE TERMS OF WARRANTY PROVIDED FOR OR WITH SPECIFIC EQUIPMENT, LS NETWORKS DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED WILL MEET CUSTOMER NEEDS, PERFORM AT A PARTICULAR RATE OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE FROM INTERFERENCE, DISABLING CODE OR CONDITIONS, OR THE LIKE. ADVICE OR INFORMATION GIVEN BY LS NETWORKS OR ITS REPRESENTATIVES SHALL NOT CREATE A WARRANTY. USE OF LS NETWORKS SERVICE AND TECHNICAL SUPPORT IS AT CUSTOMER'S OWN RISK AND IS NOT WARRANTED EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN. LS NETWORKS AND ITS THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS DISCLAIM, WITH RESPECT TO ALL SERVICES, INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT, SOFTWARE AND SUPPORT, ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR ARISING BY COURSE OF PERFORMANCE, DEALING, CUSTOM OR TRADE USAGE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. CUSTOMER AGREES THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND THAT ALL

DATA AND INFORMATION TRANSFERRED UNDER THE SOLUTION IS DONE AT CUSTOMER'S SOLE RISK.

IF ANY EQUIPMENT THAT CUSTOMER LEASES FROM LS NETWORKS AS PART OF THE SERVICE FAILS FOR REASONS OTHER THAN CUSTOMERS OWN NEGLIGENCE AND LS NETWORKS DETERMINES SUCH EQUIPMENT TO BE DEFECTIVE, LS NETWORKS MAY ELECT TO REPAIR IT OR REPLACE THE EQUIPMENT WITH EQUIPMENT OF SIMILAR CAPABILITIES. IF CUSTOMER DOES NOT RETURN THE DEFECTIVE EQUIPMENT WITHIN 14 DAYS AFTER RECEIPT OF ANY REPLACEMENT EQUIPMENT, CUSTOMER SHALL BE LIABLE FOR PAYMENT OF THE PURCHASE PRICE OF THE REPLACEMENT EQUIPMENT.

5. **Changes to this Agreement.** Customer understands and agrees that LS Networks may, from time to time, revise the terms and conditions of this Agreement. LS Networks will provide notice of any material revisions by (i) posting such revisions to the LS Networks website; (ii) by including notice of the revision with or on Customer's monthly bill. Customer agrees to visit the specified website periodically to be aware of and review any such revisions. Revisions to the Agreement are effective upon posting to the Terms website or as otherwise specified in the Agreement or notice. By continuing to use any of the Service after the date the revision(s) are posted to the website, Customer accepts and agrees to the revisions. If Customer does not agree to the revision(s), Customer must terminate Service immediately and such termination may be subject to any applicable early termination fees.
6. **Indemnification.** Customer shall indemnify LS Networks and hold harmless for any damages, costs, liabilities and attorneys' fees incurred from any claim arising from Customer's use of the Services, or the use of Customer's Service by others, including without limitation, violation of the copyrights, trademarks or other intellectual property rights of others, a combination of the Services with other products or services not provided by LS Networks, any modification of the Services or any breach of this Agreement by Customer. Customer agrees not to acquiesce to any judgment or enter into any settlement that adversely affects LS Network's rights or interests without LS Network's prior written consent. LS Networks agrees to give prompt notice of all claims and to cooperate in defending against the claim. The indemnifying party may not settle any claim under this section which includes an admission of criminal liability or the payment of a settlement amount without the prior written permission of the indemnified party. THE PARTIES DISCLAIM ANY IMPLIED WARRANTY OF NONINFRINGEMENT, RELYING INSTEAD ON THE TERMS OF THIS SECTION.
7. **Compliance with Laws.** Customer agrees not to use, or permit others to use, the Service in ways that (i) violate any law or applicable regulation, this Agreement, the AUP, or other LS Networks policies, (ii) infringe the rights of others, or (iii) interfere with the users, services, or equipment and software of LS Network's network or networks of its suppliers or other third parties; or (iv) request or cause LS Networks to create, receive, maintain, or transmit "protected health information" (as defined in 45 C.F.R. § 160.103) for or on behalf of Customer in connection with the Service

or in any manner that would make LS Networks a "business associate" (as defined at 45 C.F.R. § 160.103) to Customer. In the event Customer acts or uses the Service in a manner not permitted under this Section, Customer shall (i) be in material breach of this Agreement; (ii) indemnify, defend and hold LS Networks harmless against any losses, expenses, costs, liabilities, damages, penalties, investigations or enforcement proceedings (including attorneys' fees) arising from or relating to Customer's breach of this Section; (iii) take, at Customer's expense, prompt action to correct and/or mitigate the effects of Customer's breach of this Section; and (iv) provide LS Networks with reasonable cooperation and support in connection with LS Network's response to Customer's breach of this Section. Customer shall assume and be solely responsible for any reporting requirements under law or contract arising from Customer's breach of this Section. In the event of a violation of this Section LS Networks may, in its sole discretion, terminate this Agreement as provided in Sections 11 and 12 of the MSA and seize all equipment.

8. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL LS NETWORKS OR ITS THIRD-PARTY LICENSORS, PROVIDERS OR SUPPLIERS (collectively "THE PARTIES") BE LIABLE TO CUSTOMER FOR (A) ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OR DAMAGE TO DATA ARISING OUT OF THE USE OR INABILITY TO USE SERVICES, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) ANY CLAIMS AGAINST CUSTOMER BY ANY THIRD PARTY. THE PARTIES AGGREGATE LIABILITY TO CUSTOMER FOR ANY CAUSE OF ACTION OR CLAIM WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, FAILURE OR DISRUPTION OF SERVICES PROVIDED UNDER THIS AGREEMENT, SECURITY BREACH REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL NOT EXCEED A PRO RATA CREDIT FOR THE MONTHLY FEES (EXCLUDING ALL TAXES) CUSTOMER HAS PAID TO LS NETWORKS FOR THE SERVICE DURING THE SIX (6) MONTH PERIOD PRECEDING THE FILING OF SUCH CLAIM.
9. **Force Majeure.** If the performance of any obligation hereunder is interfered with by reason of any circumstance beyond LS Network's reasonable control, including but not limited to acts of God, labor strikes and other labor disturbances, power surges or failures, third party network outages, or the act or omission of any third party, LS Networks shall be excused from such performance to the extent necessary, provided that LS Networks shall use reasonable efforts to remove such causes of nonperformance.
10. **Miscellaneous.**
 - a. The terms and conditions of this Agreement supersede all previous agreements, proposals or representations related to the Service.
 - b. Customer may not assign this Agreement without our prior written consent. LS Networks may freely assign this Agreement.
 - c. Any changes to this Agreement, or any additional or different terms in purchase orders, acknowledgments or other

documents, will not be effective unless expressly agreed to in writing by LS Networks.

- d. Any notices or demands or other communications alleging breach or seeking enforcement of the terms of this Agreement or under any statute must be communicated in writing. Unless otherwise specified in this Agreement, notices to LS Networks must be made in accordance with Section 25 of the MSA.
- e. If any of the terms or conditions in this agreement are duly found to be invalid or unenforceable by a court or government body of competent jurisdiction, the remaining terms or conditions of this agreement shall not be affected by the finding and shall continue to apply as necessary to reflect the original intention of the parties.
- f. LS Network's failure at any time to enforce any provision of this Agreement or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided shall in no way be construed to be a waiver of such provision or in any other way affect the validity of this Agreement. The exercise by LS Networks of any rights, remedies or options provided in this Agreement or at law or equity shall not preclude or prejudice LS Networks from exercising thereafter the same or any other rights or remedies or options.