



LS NETWORKS

MASTER SERVICES AGREEMENT

This Master Services Agreement is made and entered into by and between LightSpeed Networks, Inc. (dba LS Networks, dba LSN, dba Quantum Communications hereinafter referred to as "LS Networks") and the individual or organization identified in a signed order for services ("Customer"), sets forth the terms and conditions that govern the purchase, provision and use of communication, data, voice, transport, wavelength and other such services commonly referred to as "Telecommunications Services" which LS Networks offers to sell (collectively the "Services"). In consideration of mutual conditions and covenants hereinafter described, Customer and LS Networks agree as follows:

1. **Purchase of Service:** This Agreement states the general terms and conditions by which LS Networks will deliver and Customer will receive products or services specifically defined in a signed order ("Service Order"). This Agreement governs any and all Services ordered by Customer and provided by LS Networks. Customer's payment for, acceptance of, or use of the Services constitutes an acceptance of these terms and an agreement to use Services only for authorized and lawful purposes and in compliance with LS Networks' Acceptable Use Policy (AUP).
2. **Delivery of Services:** Upon receipt of a fully executed Service Order, LS Networks will contact Customer to schedule any necessary installation or pre-installation appointments, collect additional service site information, and provide Customer an estimated completion date.
3. **Equipment Installation and Interconnection of Services:**
 - a. Other than the facilities, termination equipment or other devices provided by Customer, and unless otherwise provided herein, LS Networks will pay for, provide, install, maintain, operate, control, and own all equipment, cable, and facilities connected to LS Networks owned or controlled network ("System Equipment").
 - b. System Equipment will remain LS Networks' exclusive property, regardless of where located or how attached within a Customer premise, property, or common area. System Equipment shall not be considered a fixture without express written consent of LS Networks.
 - c. Customer may not rearrange, move, or disconnect the System Equipment, or allow unauthorized access to the System Equipment without prior consent of LS Networks. Customer is responsible for any damage to or loss of System Equipment caused by Customer's negligence or willful misconduct, or that of its end users.
 - d. LS Networks has no obligation to install, maintain or repair any equipment owned or provided by Customer, except as may be specifically provided herein. Customer is responsible for all special interface equipment or facilities necessary to ensure compatibility and must ensure its equipment does not interfere with the provision or functionality of services to Customer or other parties with whom LS Networks serves.
 - e. Customer initiated service calls reasonably determined to be caused by a failure, malfunction or inadequacy of Customer-provided equipment or software will incur a fee for such service call at LS Networks' then prevailing support rates.
- f. Customer agrees to provide adequate information and assistance necessary for LS Networks to obtain authorization for and access to Customer Premises and common areas. Customer agrees to provide entrance facilities from the Premise property line to the Point of Demarcation that meet prevailing industry and safety standards. Customer agrees to grant LS Networks permission to enter Service location(s) at any time during the course Service. If LS Networks and Customer are unable to obtain the access and facilities described in this Section, then LS Networks' obligations with respect to such Service location and Services terminated without any further liability to LS Networks.
4. **Maintenance:** From time-to-time LS Networks may change, reprogram, reconfigure, substitute, rearrange, replace, remove, or otherwise modify any part of the System Equipment and network, regardless of location. LS Networks will not alter technical parameters that may affect Customer's Service without prior notice and consent of Customer. With the exception of emergencies and Force Majeure events, LS Networks will use its best efforts to notify and coordinate the planned timing of such Maintenance activities with Customer.
5. **Term:** The term of this Agreement shall continue until the last date any Service is provided under a Service Order. Subject to the provisions of Sections 7 and 8, the initial term for each subscribed Service will commence on the first date a Service is available for the period indicated in the subject Service Order. Following the initial term, the Service Order shall automatically renew as successive one-year terms, until terminated by either party upon not less than 30 days written notice preceding the end of the applicable term. Residential Customers shall renew on successive one-month terms following the initial term until terminated by either party by not less than 30 days written notice. In the event of any inconsistency between the terms contained in this Agreement, the Unified Communications Services Agreement (if applicable) and any specific provisions of the Service Order, the terms of the Service Order shall be interpreted first, followed by the Master Services Agreement and then the Unified Communications Services Agreement.
6. **Fees and Payment Terms:**
 - a. Billing will commence on the date LS Networks notifies Customer that Services are available for Customer's use ("Service Order Completion notice") and may be subject to applicable pro-rata to account for partial-month services.
 - i. Customer must notify LS Networks within five (5) business days of a Service Order Completion notice of any non-conformance of the Service requiring attention. LS Networks will promptly undertake appropriate corrective action and provide a pro-rata of the subject billing to reflect unavailable Services.
 - b. Customer agrees to remit all undisputed amounts invoiced for Services according to the prices and terms set forth in the Service Order within 30 days of the invoice date.
 - i. Payments made after 30 days will accrue interest at a rate of 1½% per month, or the highest rate allowed by applicable law, whichever is less.



MASTER SERVICES AGREEMENT

- ii. Installation or other non-refundable non-recurring charges shall be billed to Customer on a monthly invoice. LS Networks may require advance payment of certain non-recurring charges as progress payments for Service Orders on an as-needed basis.
 - iii. Partial payment by reason of dispute must include a written explanation detailing the dispute within 30 days of the invoice date. The Parties will cooperate in good faith to resolve any such disputes within a 60-day period after the due date of the original invoice. Unresolved disputes are subject to the requirements of Section 17.
 - iv. Disputed amounts determined to be owed to LS Networks may be subject to the lesser of a finance charge of 1½% per month, or the maximum allowable by law calculated from the original due date until the full amount is paid.
 - v. Failure to remit payment subject to these terms may result in an impact to the availability of present or future Services.
 - c. The Monthly Recurring Cost provided on each Service Order does not include any governmental taxes or tax-related charges, fees, surcharges or other amounts assessed by any government, which may be incurred in connection with the Services and will be assessed as part of each invoice for Services.
 - d. LS Networks may adjust the MRC for the Services at any time after the initial term of a Service Order has ended upon 25 days prior written notice to Customer.
7. **Termination for Cause:** Either Party may terminate this Agreement for Cause. "Cause" shall mean a breach by a Party of any material provision of this Agreement, provided that written notice of the breach has been given to the breaching party by the non-breaching party, and the breach has not been cured within 30 days after delivery of such notice.
8. **Termination of Service by LS Networks:** LS Networks may terminate or suspend a Service or Service Order with prior written notice, upon the occurrence of:
 - a. The failure of Customer to pay any amounts due as provided within 31 days of invoice date;
 - b. Customer's breach of any provision of this Agreement or any policy, law, rule or regulation governing the Services;
 - c. Customer has provided false information to LS Networks regarding Customer's identity, creditworthiness, or its planned use of the Services; or
 - d. If LS Networks deems it necessary to take any reasonable and lawful action to protect the property and rights of LS Networks, and existing and potential customers of LS Networks' Services.
 - i. Notwithstanding any provision otherwise, a termination pursuant to clause (d) of this Section 8 may occur without notice as circumstances may require, in any event LS Networks will provide notice to Customer as soon as practicable.
9. **Early Termination Charges:** If Customer terminates any Service Order for reasons other than Cause, or LS Networks terminates any Service Order pursuant to Sections 7 and 8, then Customer will pay subject to the following:
 - a. If the Service has been delivered by LS Networks Customer will pay:
 - i. All accrued but unpaid charges incurred through the date of such termination; plus
 - ii. An amount equal to 100% of the MRC for the months remaining in each Service or Service Order term.
 - b. If Customer cancels a Service Order prior to receiving Services:
 - i. Customer will reimburse LS Networks for costs incurred for the subject pre-installation work including design, permitting, materials which cannot be re-used or repurposed, and breakage fees charged by third party vendors engaged for the sole purpose of providing Services to Customer as of the date Customer provides such cancellation notice; or
 - ii. If Customer desires to cancel a Service or Service Order at any time during installation, such cancellation will be treated as an early termination of that Service or Service Order, and all monthly charges thereunder shall become due.
 - c. Customer acknowledges and agrees that LS Networks' damages in the event of early termination will be difficult or impossible to ascertain. The charges identified in this Section 9 are intended, therefore, to establish liquidated damages in the event of termination and are not intended as a penalty.
 - d. Customer initiated terminations of Services will always occur on the 30th day following the receipt of Customer's 30 day written notice. Customer may request a Service termination date later than 30 days from written notice, but not sooner. Upon termination, Customer will deliver or allow LS Networks to recover all Equipment within 15 days, a failure to make reasonable effort to return LS Networks provided Equipment may result in an assessment for the market value of such Equipment.
10. **Resale of Services:** Services may be resold to or shared with other persons or entities at the option of Customer, subject to compliance with any applicable laws, rules, regulations, and LS Networks Policies governing such resale or sharing. Customer is solely responsible for the use of all Services ordered by it or billed to its account. LS Networks has no obligation to provide notice to or otherwise communicate with the users or customers of Customer. By reselling Services purchased under this Agreement Customer agrees to manage the use of the Services it resells, require its users or customers to adhere to an acceptable use policy at least as restrictive as the LS Networks Acceptable Use Policy, to take appropriate actions to enforce its policies, and to immediately notify LS Networks of any unauthorized use.
11. **Taxes:** With the exception of taxes, surcharges and other fees lawfully included as part of an invoice for Services to Customer, each party shall be responsible for its own federal, state and local taxes, assessments, fees, surcharges and other financial impositions. Notwithstanding the foregoing, Customer agrees



MASTER SERVICES AGREEMENT

that if there is any tax payable by it, but which is to be collected by LS Networks, which LS Networks does not collect for any reason, upon assessment thereof by the applicable taxing agency, and demand by LS Networks, Customer shall immediately remit the same to LS Networks or the agency, as directed by LS Networks, even if such assessment arises after the termination of this Agreement.

12. **Representations and Warranties:** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, 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 ON AN "AS AVAILABLE" BASIS AND THAT ALL DATA AND INFORMATION TRANSFERRED UNDER THE SOLUTION IS DONE AT CUSTOMER'S SOLE RISK.
13. **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.
14. **Force Majeure:** Neither party is liable for any failure of performance if such failure is due to any cause or causes beyond a party's reasonable control, including without limitation, acts of God, fire, explosion, vandalism, cable cut, adverse weather conditions, governmental action, labor difficulties and supplier failures. Customer's invocation of this clause shall not relieve Customer of its obligation to pay for any services actually received. In the event such failure continues for 60 days, either party may terminate the affected portion of the Services without further liability to the other.
15. **Indemnity:** Customer agrees to indemnify, defend and hold harmless LS Networks and its partners, officers, directors, employees, agents and other representatives of LS Networks from all losses or damages arising from Customer's breach of this Agreement, violation of any third party intellectual property right, all claims of any kind by Customer's end users, or any act or omission of Customer in connection with any Services-provided hereunder. Customer agrees not to acquiesce to any judgment or enter into any settlement that adversely affects LS Networks' rights or interests without LS Networks' prior written consent. LS Networks agrees to indemnify, defend and hold harmless Customer from all losses or damages arising from or related to personal injury or property damages caused by the negligence or willful misconduct of LS Networks.
16. **Choice of Law, Venue:** This Agreement shall be governed by the laws of the State of Oregon and the state and federal courts of Multnomah County, without giving effect to any principles of conflicts of law. Customer agrees not to raise, and hereby waives, any objections or defenses based upon venue or forum non-conveniens. Prior to initiating any legal action arising under or relating to this Agreement, a party shall provide the other party written notice of a dispute and the parties shall actively and in good faith negotiate a resolution within 30 days of such notice.
17. **Arbitration/Small Claims:** Any dispute or claim brought by Customer arising out of or relating to this Agreement with claimed damages exceeding \$20,000, shall be resolved by arbitration in accordance with the then effective arbitration rules of, and by filing a claim with, the Arbitration Service of Portland, Inc., and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. Small Claims: If the amount in dispute is less than the \$10,000 jurisdictional maximum of a small claims court, and if arbitration has not been initiated, then the claimant shall have the option (in lieu of arbitration) of bringing a small claims court action.
18. **Attorney Fees:** In the event of any dispute at arbitration or in litigation under this Agreement, the prevailing party is entitled to reimbursement of its costs and attorneys' fees (whether incurred at arbitration, at trial or on appeal) from the other party.
19. **Waivers:** No waiver of any provision, failure to enforce, or unenforced breach of this Agreement by LS Networks shall be effective unless such waiver is given in a signed writing. Any such waiver shall not be construed to be a waiver of any other provision of this Agreement.
20. **Use of Name and Trademarks:** Neither party shall use the logo, trademark, or service mark of the other party without the express written consent of the other party. Notwithstanding the limitations provided in Section 21 of this Agreement, LS Networks may use Customer's name, a general description of purchased Services, and the relevant use-case for such Services (if applicable) as part of standard sales and marketing activities. LS Networks' use of such information shall not create any



LS NETWORKS

MASTER SERVICES AGREEMENT

representation of product or service endorsement by Customer, and shall not exceed direct sales and marketing activities, service recipient examples, use-case examples, and subject matter blog posts or white papers without prior written consent from Customer. Customer may revoke or limit this Section 20 at any time without affect to any other terms or conditions provided in this Agreement by providing notice to LS Networks pursuant to Section 22.

21. **Confidentiality:** Each party hereto shall treat all information made available or disclosed to, or developed or obtained by, the other party as the result of or related to this Agreement (“Confidential Information”) as confidential, and shall not disclose or use Confidential Information for the benefit of any person other than Customer and LS Networks, as the case may be; provided the following information shall not be treated as Confidential Information: (a) information that a party can demonstrate was rightfully in that party’s possession prior to the date of disclosure by the other party, (b) information that a party received from a third party that had a right to make such information available, and (c) information that a party can demonstrate was independently developed by or on behalf of said party, provided further, that Customer and LS Networks shall have no obligation with respect to that portion of Confidential Information which is in or enters the public domain through no wrongful act of either party, or which must be disclosed to others by order of a governmental agency, legislative body, or a court of competent jurisdiction. If either party receives a request for Confidential Information from a third party, the party receiving such notice shall promptly notify the other party in writing of such request, and if the party receiving such notice in good faith believes it is obligated to disclose the requested Confidential Information, the other party shall be given the opportunity to seek judicial or other protection of such Confidential Information, with the cooperation of the party receiving such notice.
22. **Notices:** All notices, requests, demands or other communications which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery if ; (i) personally delivered by hand or; (ii) sent by e-mail to the appropriate contact of record; or (iii) in the case of notices not specific to a Customer account, when posted to the LS Networks website; or (b) upon the third day after such notice is (i) deposited in the United States mail, if mailed by registered or certified mail, postage prepaid, return receipt requested, or (ii) sent by a nationally recognized overnight express courier, or (iii) by facsimile upon written confirmation. Customer is responsible for providing a current mailing address, contact phone, e-mail and facsimile number (if applicable) to LS Networks throughout the term of service. If to LS Networks, notices should be sent to:

LS Networks	921 SW Washington Street
Attn: Legal	Suite 370
	Portland, OR 97205
	Suite 370
	Portland, OR 97205
Email:	Legal@LSNetworks.net
Telephone No.:	503.294.5300
Facsimile No.:	503.227.8585