

## Lightstream Master Services Agreement

### Standard Terms and Conditions

These Standard Terms and Conditions are incorporated into the Lightstream Master Services Agreement entered into by and between Lightstream and Customer. These Terms and Conditions are deemed accepted by, and binding upon, Customer upon Customer's execution of the Master Services Agreement.

The Service Exhibits (as defined below) attached hereto as of the Effective Date are:

#### CLOUD MANAGED SERVICES (AWS):

**STANDARD TIER**

**PLATINUM / FINANCIAL TIER**

**PLATINUM TIER**

#### CLOUD MANAGED SERVICES (MICROSOFT AZURE):

**STANDARD TIER (CSP)**

**STANDARD TIER (PAL)**

**PLATINUM / FINANCIAL TIER**

**PLATINUM TIER**

#### NETWORK AND SECURITY MANAGED SERVICES:

**PROFESSIONAL SERVICES / FIELD SERVICES**

**NETWORK MANAGED SERVICES**

**SECURITY MANAGED SERVICES**

**VMWARE SD-WAN SERVICES**

**MEGAPORT SERVICES**

**HARDWARE AND SOFTWARE PRODUCTS AND SERVICES**

#### 1. DEFINITIONS. The capitalized terms not defined elsewhere herein have the following meanings:

“**Affiliate**” means either Party and any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with that Party.

“**Agreement**” means collectively the MSA, these Terms and Conditions as a part of the MSA, all Service Exhibits, Statements of Work, Service Orders, or Purchase Orders entered into by and between the Parties, and any attachments, supplements, or schedules attached to any of the foregoing.

“**Confidential Information**” means any information relating to the disclosing Party's technology, business affairs, customers, private data, third-party data, software or software code, marketing or sales plans, as well as the pricing and terms of any Product, Service, Order, Statement of Work, Service Exhibit, or the Agreement.

“**Customer**” means the customer identified on the MSA signature page.

“**Deliverable**” means any material that is created solely for a Customer. All Deliverables hereunder shall exclude any Developed Work unless specifically so stated in a Statement of Work.

“**Developed Work**” means any and all technology that Lightstream may solely, or with Customer, develop or reduce to practice in the process of developing and delivering a Service or providing any Products or Services hereunder, expressly excluding any and all Customer-provided technology, Customer work or technology or Intellectual Property, third-party work or technology or Intellectual Property, or Deliverable.

“**Effective Date**” means (a) the date Customer electronically executes the Agreement, if executed electronically, or (b) the later of the two dates in the signature block on the MSA page.

“**Initial Term**” means the period of time from the Effective Date until the expiration of the time period specified in Section 3 herein.

“**Late Payment**” means a payment not received by Lightstream by the due date specified on the invoice, or within 30 days of the date of the invoice if no due date is specified on the invoice.

“**Lightstream**” means Lightstream Managed Services, LLC, a Utah limited liability company, or any of its Affiliates.

“**Monthly Minimum Commitment,**” if applicable, means a minimum monthly commitment for Services as set forth in a Service Exhibit or Service Order.

“**MSA**” means the Master Services Agreement and includes these Terms and Conditions.

“**Order**” means either a Service Order or Purchase Order

“**Party**” or “**Parties**” means individually or collectively, as applicable, Customer and/or Lightstream.

“**Purchase Order**” means an order executed by Customer that sets forth Products to be provided by Lightstream to Customer

“**Product**” or “**Products**” means products to be provided by Lightstream to Customer, generally under the Terms of a Service Order or Purchase Order.

“**Renewal Term**” means successive one-year terms commencing on the expiration of the previous Term.

“**Statement of Work**” or “**SOW**” means a proposal for work to be performed by Lightstream for Customer under the terms of the Agreement and a Service Exhibit which enumerates tasks to be performed, amount to be invoiced to Customer, and other terms and conditions specific to the work.

“**Service**” or “**Services**” means services or deliverables to be provided by Lightstream to Customer, generally under the terms of a Service Order.

“**Service Exhibit**” means a schedule attached hereto that contains terms for (a) specific Product(s) or Service(s).

“**Service Order**” means an order executed by Customer that sets forth Services to be provided by Lightstream to Customer. A Service Order may include one or more attached service schedules or may be or include one or more “Statement(s) of Work” (“SOW(s)”). These Terms and Conditions apply to each Service Order and/or SOW. A Service Order for Products or Services specified or defined in a Service Exhibit shall be subject to the terms and conditions of described in that Service Exhibit.

“**Term**” means the then-current term of this Agreement (whether Initial Term or Renewal Term as defined in this section).

“**Terms and Conditions**” means these Lightstream Master Services Agreement Standard Terms and Conditions.

**2. Products and Services.** Subject to the terms hereof, Lightstream may provide, and Customer may purchase, Products and/or Services set forth in one or more Service Exhibits selected above and attached hereto. Customer agrees that it will not resell Products or Services to any third party and that its use of the Services and Products will comply with all applicable laws and regulations. Lightstream will provide the Product or Service if: (a) there is a valid, accurate, and complete Order form executed by Customer; and (b) Lightstream accepts the Order. Lightstream or third-party providers, may change features or functions of the Products or Services; for material changes, Lightstream will provide 30 days’ prior written notice, but may provide a shorter notice period if the change is based upon regulatory or legal requirement or modification of a third-party provider, provided, however, that if Lightstream makes any such material change in the features, functions, or rates of the Product, Customer may at any time thereafter terminate this Agreement with no liability, other than with respect to Products or Services that have been provided to and used by Customer prior to termination.

**3. Term.** The Initial Term of this Agreement is thirty-six (36) months. The term of Products and Services under this Agreement, if applicable, shall be specified in an Order or SOW. If the term of any Order/SOW is longer than the current Term of the Agreement, then the current Term of the Agreement shall automatically extend to encompass the term of such Order/SOW. At the end of the Initial Term, this Agreement will automatically renew for consecutive Renewal Terms of one (1) year, if not terminated earlier as provided herein. Unless specified otherwise in an Order/SOW, all Products and Services will receive the applicable rates specified in the applicable Order/SOW for the duration of any Term.

**4. Credit Approval.** Approval of all Products and Services provided under this Agreement will be contingent upon Lightstream satisfactorily completing a review of the Customer for purposes of evaluating the extension of credit. Customer hereby authorizes Lightstream to gather information to assess payment and credit history of Customer and agrees to assist Lightstream with this review by providing information that is reasonably requested and agrees to assist Lightstream with periodic updates to such review during the term of this Agreement.

**5. Rates and Charges; Payment.** Rates and charges for Services will be set forth in one or more Orders or SOWs. Customer agrees to pay Lightstream for all Products or Services within thirty (30) days of receipt of an undisputed invoice (“**Due Date**”). Payments must be made by check addressed to the address designated on the invoice or other such place as Lightstream may designate or via ACH. “**Late Payments**” include any payment received after the Due Date and shall be considered past due. Customer agrees to pay a Late Payment charge equal to the lesser of: (a) one and one-half percent (1.5%) per month, compounded monthly, or (b) the maximum amount allowed by law, as applied against the undisputed past due amounts. Customer will be liable for the payment of all fees and expenses, including attorney’s fees, reasonably incurred by Lightstream in collecting, or attempting to collect, any charges owed under the Agreement. Customer will not place any condition or restrictive legend, such as “paid in full,” on any check or instrument used to make a payment. The Parties agree that the

negotiation of any such check or instrument so inscribed will not constitute an accord and satisfaction or novation, and Customer waives its right to assert any such defense.

**6. Billing Disputes.** Customer must give Lightstream written notice of a dispute with respect to Lightstream charges or application of taxes within thirty (30) days (the “**Dispute Deadline**”) of the date of the invoice. After the Dispute Deadline, all invoices will be deemed to be correct and binding on Customer. Notwithstanding the foregoing, amounts reasonably disputed by Customer will not be due and payable for a period of thirty (30) days following the Due Date thereof, provided Customer: (i) pays all undisputed charges on or before the respective Due Date; (ii) presents to Lightstream, prior to the Dispute Deadline, a written statement disputing (in reasonable detail) such amounts, which statement shall include sufficient documentation, including, but not limited to, documentation of any billing discrepancies; and (iii) negotiates in good faith with Lightstream for the purpose of resolving such dispute within said thirty (30) day period. Lightstream will have the right to exercise its remedies as described herein with respect to any amounts not paid or disputed as described above. Each Party agrees to negotiate in good faith for the purpose of resolving any properly raised disputes subject to the following:

- (a) In the event such dispute is mutually agreed upon and resolved in favor of Lightstream, Customer agrees to pay Lightstream the disputed amounts together with any applicable late fees within ten (10) days of resolution.
- (b) In the event such dispute is mutually agreed upon and resolved in favor of Customer, Customer will receive a credit for the disputed charges in question and any applicable assessed late fees.
- (c) In the event Lightstream has responded to Customer’s dispute in writing and the parties fail to mutually resolve or settle the dispute within the prescribed thirty (30) day period (unless Lightstream has agreed in writing to extend such period), all disputed amounts together with late fees shall become due and payable. This provision shall not be construed to prevent Customer from pursuing any available legal remedies.

**7. Taxes and Governmental Charges.** Lightstream may adjust its rates and charges or impose additional rates and charges in order to recover amounts, without mark-up or additional charge, that it is required by governmental or quasi-governmental authorities to collect from or pay to others in support of statutory or regulatory programs. With the exception of taxes based on Lightstream’s income, Customer shall be responsible for all taxes and fees arising in any jurisdiction, including, but not limited to, consumption, sales, use, value added, gross receipts, foreign withholding, excess, bypass, access, franchise, or other taxes, fees, surcharges or duties imposed on or incident to the provision, sale or use of the Products or Services. Customer may present to Lightstream a valid tax-exemption certificate and Lightstream will give effect thereto prospectively. If Lightstream does not collect such amounts because Customer has provided Lightstream with evidence of exemption, which is later determined to be inadequate, then, as between Lightstream and Customer, Customer shall be liable for such uncollected amounts and for all interest, penalties, and fees which are determined to be due with respect to such uncollected amounts.

## **8. Termination.**

8.1 Either Party may terminate a Service or Service Order for “**Cause**.” Except for failure to pay as specifically provided below, Cause shall mean a material breach by the other Party of any material provision of the Agreement, provided that in the case of a curable breach, written notice of the breach has been given to the breaching Party and the breach has not been cured within thirty (30) days after delivery of such notice. In addition, Lightstream may terminate for Cause in its discretion the Agreement, a Service, or a Service Order under the following circumstances: (a) Customer violates applicable law, (b) Customer exposes or threatens to expose Lightstream to any material liability, (c) Customer ceases to operate in the ordinary course, makes an assignment for the benefit of creditors or similar disposition of assets, or becomes insolvent; (d) as necessary to comply with applicable law or requests of governmental entities; or (d) if there is a material change in Customer’s management, ownership, control, or business operations. In addition, in the event Customer fails to pay an undisputed invoice by the Due Date, Lightstream may issue a notice of default. If Customer fails to pay any amount required under the Agreement and such failure continues for ten (10) days after such notice, Lightstream may elect to terminate in whole or in part the Agreement and all associated Services, declare all charges immediately due and payable, and pursue any other remedies it may have at law or equity.

8.2 If any change in applicable law, regulation, rule or order materially affects delivery of a Service, the Parties will negotiate appropriate changes to the Agreement. If the Parties are unable to reach agreement within thirty (30) days after Lightstream’s delivery of notice requesting renegotiation, Lightstream may pass any increased cost related to delivery of the affected Service through to Customer or Customer may terminate the affected Service by delivering written notice to Lightstream within thirty (30) days.

8.3 Either party may terminate a Service or Service Order without cause during the Term upon sixty (60) days’ prior written notice, subject to the restrictions of this Section.

**9. Confidential Information.** Each Party shall protect as confidential, and shall not disclose to any third party, any Confidential Information received from the disclosing Party or otherwise discovered by the receiving Party during the Agreement. The Parties will use Confidential Information only for the purpose of the Agreement. The foregoing restrictions on use and disclosure of Confidential Information do not apply to information that: (a) is in the possession of the receiving

Party at the time of its disclosure and is not otherwise subject to obligations of confidentiality; (b) is or becomes publicly known through no wrongful act or omission of the receiving Party; (c) is received, without restriction, from a third party free to disclose it without obligation to the disclosing party; (d) is developed, independently, by the receiving Party without reference to the Confidential Information, or (e) is required to be disclosed by law, regulation, or court or governmental order.

**10. Customer Data.** Customer represents that it will not provide to Lightstream any private customer data, including but not limited to industry-regulated data such as PCI, PHI, etc. belonging to itself, its employees, or any other third party (“**Customer Data**”). Lightstream does not require access to any Customer Data to provide Products or Services hereunder. As such, Lightstream makes no warranty with respect to Customer Data, non-disclosure of Customer Data, or the security of Customer Data in conjunction with Products or Services provided hereunder.

**11. Service Marks; Trademarks; Publicity.** Customer shall not: (a) use any Lightstream service mark or trademark; or (b) refer to Lightstream in connection with any advertising, promotion, press release or publication without Lightstream’s prior written approval. Nothing herein shall be construed so as to grant a license of or transfer of any right, title, or interest in or to the other Party’s service marks, trademarks, or intellectual property rights.

**12. Acceptable Use Policy; End User License Agreement.** Management, monitoring, and reporting of Products and Services hereunder may be provided by Lightstream utilizing web-based software, including Lightstream Connect™. Customer agrees that its use of the web-based software will comply with Lightstream’s acceptable use policy, located at <https://www.lightstream.tech/legal/agreements/aup/> (“**AUP**”). Customer also agrees to the terms of the Connect™ End User License Agreement, located at <https://www.lightstream.tech/legal/agreements/connect-eula/> (“**EULA**”). Lightstream reserves the right to modify both the AUP and the EULA in its sole discretion from time to time, provided that such modifications shall be limited in scope to web-based software, including Lightstream Connect™. Such changes will be effective upon posting to the website at the applicable URL denoted in this subsection.

**13. Intellectual Property.** Customer acknowledges that Lightstream may be disclosing confidential and/or proprietary intellectual property in the course of performance of services under this Agreement, including but not limited to, use of internal and third-party systems; sales and/or operation strategies, models, and/or processes; software; compilations of generally available (non-confidential) source material in a manner that is proprietary and confidential in furtherance of sales or operations proposals, strategies, or activities; etc. (“**Intellectual Property**”). Lightstream shall own all Intellectual Property which shall include any Developed Work created as part of providing any Services or contained in any Deliverable. Customer agrees that it shall not reverse-engineer, copy, disassemble, modify, decompile, or make any other attempt to ascertain the composition or the properties and characteristics of any Lightstream process, software, or other Intellectual Property which are or may be provided or developed prior to or pursuant to this Agreement. In the event any such actions nevertheless occur, and without limiting in any way any remedy available to Lightstream at law or in equity, all data and results and/or any inventions, discoveries, or works arising therefrom shall be solely owned by Lightstream, and Customer shall, at its expense, assign any such inventions or discoveries to Lightstream and transfer to Lightstream all copies or instances of such material.

**14. Warranties; Disclaimer of Warranties.** Except as specifically set forth in the agreement, Lightstream makes no warranties, express or implied, as to any Lightstream web-based software, Services, Products, equipment, or documentation. Lightstream specifically disclaims any and all implied warranties, including without limitation any implied warranties of merchantability or fitness for a particular purpose.

**15. Indemnification.**

15.1 Customer shall at its expense indemnify, defend, and hold Lightstream harmless from and against any and all claims, losses, liabilities, and damages including all costs and attorney fees incurred by Lightstream as a result of (a) Customer’s breach of its obligations under this Agreement, (b) Customer’s violation of any software license, (c) Customer’s willful misconduct, gross negligence, or fraudulent or unethical activity, (d) the failure of Customer to comply with the laws, rules, regulations, ordinances, statutes, codes and orders of any governmental or quasi-governmental or regulatory or administrative authority nonpayment of taxes for any Product or Service hereunder.

15.2 Lightstream will indemnify, defend, and hold Customer harmless from and against any and all claims, losses, liabilities, and damages including all costs and attorney fees incurred by Customer as a result of (a) Lightstream’s material breach of any material provision of this Agreement, (b) infringement of any patent, copyright, trademark, trade secret, or other third-party intellectual property rights by any Lightstream Software, Product, or Service, (c) Lightstream’s willful misconduct, gross negligence, or fraudulent or unethical activity, (d) the failure of Lightstream to comply with the laws, rules, regulations, ordinances, statutes, codes and orders of any governmental or quasi-governmental or regulatory or administrative authority. This Section 15.2 states the entire liability of Lightstream for indemnity claims and actions.

15.3 Each Party’s indemnification obligations under this section are conditioned upon the indemnified Party: (i) promptly notifying the indemnifying Party of any claim in writing, no later than thirty (30) days after actual knowledge of the claim; and (ii) cooperating with the indemnifying Party in the defense of the claim. The failure to give prompt written notice shall

not, however, relieve the indemnifying Party of its indemnification obligations, except and only to the extent that the indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the indemnified Party shall describe the claim in reasonable detail, shall include copies of all material written evidence thereof, and shall indicate the estimated amount, if reasonably practicable, of the loss that has been or may be sustained by the indemnified party. In the event that a claim is brought, the indemnifying Party shall have the right and option to control the defense of such claim with counsel of its choice, provided however that the indemnified Party at its own expense may participate and appear on an equal footing with the indemnifying Party in the defense of any such claims. Customer shall not consent to judgment or concede or settle or compromise any such claim without the prior written approval of Lightstream, which approval shall not be unreasonably withheld.

**16. Limitation of Liability.** Neither party shall be liable to the other or to any third party for any indirect, consequential, exemplary, special, incidental or punitive damages, including without limitation loss of use or lost business, revenue, profits or goodwill, arising in connection with the agreement, under any legal theory or cause of action, including without limitation, tort, contract, indemnity, warranty, strict liability or negligence, even if the party knew or should have known of the possibility of such damages. In addition, Lightstream shall not be liable for any claims made against, or liabilities incurred by, Customer as a result of Customer's performance under the Agreement. The total liability of either Party in connection with the Agreement, for any and all causes of actions and claims, including, without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts, shall not exceed the amount paid by Customer to Lightstream under the Agreement for the twelve (12) month period prior to accrual of the most recent cause of action. Each Party acknowledges that these allocations of liability were an essential element in the Parties entering into the Agreement and agree that such allocation of liability is reasonable and appropriate given the nature of the agreement.

**17. Miscellaneous Provisions.**

**17.1. Assignment.** Customer may not assign its rights or obligations under the Agreement without prior written permission from Lightstream. The Agreement will inure to and apply to any permitted transferees or assignees.

**17.2. Force Majeure.** If either Party's performance of the Agreement or any obligation thereunder (excluding the obligation of payment to Lightstream) is prevented, restricted or interfered with by causes beyond its reasonable control including, but not limited to, acts of God, fire, explosion, vandalism, cable cut by a third party, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government, or state or local governments, or of any department, agency, commission, court, bureau, corporation or other instrumentality of anyone or more such governments, or of any civil or military authority, or by national emergency, insurrection, riot, war, strike, lockout or work stoppage or other labor difficulties, or supplier failure, shortage, breach or delay, then the affected party shall be excused from such performance on a day-to-day basis to the extent of such restriction or interference. The affected Party shall use reasonable efforts under the circumstances to avoid or remove such causes of nonperformance and shall proceed to perform with reasonable dispatch whenever such causes are removed or cease.

**17.3. Non-Solicitation; Non-Interference.** Customer promises, covenants and agrees that during the Term of this Agreement and for a period of one (1) year following the Agreement Term, Customer shall not directly or indirectly (a) recruit, solicit or encourage, on Customer's own behalf or on behalf of any other person or entity, any person who is employed by Lightstream or was employed by Lightstream within six (6) months of the termination of Employee's employment with Lightstream ("**Restricted Employee**") to become an employee or independent contractor of, or perform other work for, Customer, or any affiliated company, or any other person or entity; (b) employ or hire, offer to employ or hire, or facilitate or assist in the employing or hiring of, any Restricted Employee, to work for customer, or any affiliated company, or any other person or entity; (c) ask, invite, induce or encourage any Restricted Employee to terminate his or her employment relationship with Lightstream or seek employment with another person or entity; or (d) otherwise interfere with or disrupt the employment or business relationship between Lightstream and any of its employees. Customer agrees that the Restricted Period set forth herein shall be extended for a period equal to the duration of any breach of this covenant by Customer.

**17.4. Entire Agreement; Modification; Conflict of Terms.** The documents constituting the Agreement (and any attachments and other documents incorporated therein by reference) constitute the entire agreement between the Parties and supersede all other representations, understandings or agreements that are not expressed therein, whether oral or written. Except as otherwise provided herein, the Agreement may be modified, superseded, or voided only upon written and signed agreement of the Parties. In the event of a conflict in any term of any documents contained in the Agreement, the following order of precedence will apply in descending order of control with respect to such term: (a) any applicable Order or SOW, (b) any applicable Service Exhibit, (c) these Terms and Conditions.

**17.5. Governing Law; Venue.** The Agreement shall be governed by the laws of the State of Utah without regard to its choice of law principles. Any action that is or may be commenced by any Party pertaining to the Agreement and the subject matter of any part of the Agreement, shall be commenced in federal or state court located in Salt Lake County, Utah. The Parties hereby consent to the exclusive jurisdiction of such courts.

17.6. **Notice.** All notices (including Customer's notice of discontinuance of a Service), requests, or other communications (excluding invoices) hereunder shall be in writing and either transmitted via overnight courier, electronic mail, facsimile, hand delivery or certified or registered mail, postage prepaid and return receipt requested to the Parties at the following address in the case of Lightstream and at the addresses set forth at the beginning of the MSA in the case of Customer. Notices will be deemed to have been given when received.

To:       ATTN: Contract Administration  
          Lightstream Managed Services, LLC  
          208 North 2100 West, 2nd Floor  
          Salt Lake City, UT 84116

17.7 **Headings; Construction.** Headings used in these Terms and Conditions are for purpose of reference only and have no meaning. Each party acknowledges that it has received and has had an adequate opportunity to read and study the Agreement, to consider it, to consult with attorneys if so desired. No provision of this Agreement will be construed against any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision.

17.8. **Survival.** All obligations related to payments, confidentiality, intellectual property rights, liability, indemnification, governing law, and notice shall survive termination or expiration of the Agreement.

17.9. **Waiver.** Except for time requirements as specifically stated in a Service Exhibit or Service Order or SOW, neither party's failure to insist upon strict performance of any provision of this Agreement will be construed as a waiver of any of its rights hereunder.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Standard Tier (AWS)

The terms of this Service Exhibit (this “**Exhibit**”) for Cloud Managed Services and the resell of AWS Services govern the fees, payment, pricing, and tax terms for use of any AWS Services (as defined below) provided by Amazon Web Services, Inc. and/or its affiliates or subsidiaries (“**AWS**”) through Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

1. **Services.** Lightstream is an authorized reseller of the services offered by AWS (“**AWS Service(s)**”). All AWS Services that are linked to a Lightstream MPA (as defined below) are subject to the terms and conditions of this Agreement and this Exhibit. Lightstream is also an authorized reseller of AWS Marketplace Products (“**MP Products**”) which are provided by one or more third-party AWS Marketplace Sellers (“**MP Seller(s)**”). MP Products purchased by Customer under this Agreement are subject to the Terms and Conditions in this Agreement as well as to any applicable terms and conditions of the MP Seller. Except as expressly noted herein, any Customer obligations or authorizations with reference to AWS Services in this Agreement shall also apply to third-party MP Products, as applicable.

2. **AWS Customer Agreement; Governing Terms.** Customer represents and warrants that it has previously executed the AWS customer agreement found at <https://aws.amazon.com/agreement/> or other custom agreement with AWS, as applicable (“**AWS Customer Agreement**”). With respect to fees, payment, pricing, and tax terms associated with the AWS Services provided under this Agreement, this Agreement (and not the AWS Customer Agreement) governs access to and use of the AWS Services; any such terms herein supersede any similar terms in the AWS Customer Agreement. With respect to all other terms and conditions of the AWS Services, the AWS Customer Agreement (and not this Agreement) governs access to and use of the AWS Services provided under this Agreement; any such terms of the AWS Customer Agreement supersede all other terms herein.

3. **Authorizations.** Customer acknowledges that in order for Lightstream to provide AWS Services under this Agreement, Customer’s AWS account(s) must be unlinked from any existing Consolidated Billing Account (“**CBA**”) and then linked to Lightstream’s AWS Master Program Account (“**MPA**”). Customer hereby authorizes Lightstream to migrate existing Customer AWS accounts to the Lightstream MPA or transfer and assign Customer’s CBA to Lightstream, as applicable. Subject to data privacy restrictions below, Customer consents (a) to allow Lightstream to collect, process, and use any necessary data regarding the AWS Services for the purpose of migrating Customer AWS accounts to the MPA, and (b) to allow Lightstream to disclose this data to AWS in order to collect, process, and use such data for the same purposes. With respect to MP Products, Lightstream may disclose to AWS and AWS may disclose to the applicable third-party MP Seller information associated with the Customer’s use of the MP Product, as required to provide the MP Product. Customer may maintain or create AWS accounts outside of Lightstream’s MPA (“**Non-Lightstream AWS Services**”); Non-Lightstream AWS Services are not the responsibility of Lightstream, are not subject to this Agreement, and are the sole and exclusive responsibility of Customer.

#### 4. **Fees; Payment; Taxes.**

- a. **Fees.** Lightstream shall bill Customer directly for all Services provisioned through the Master Billing Account during the term of this Agreement. Lightstream shall bill Customer in accordance with AWS standard rates as published at <http://aws.amazon.com>, as amended in the sole discretion of AWS from time to time, or for MP Products, as published on the AWS Marketplace website as amended in the sole discretion of the respective MP Seller from time to time; such fees being incorporated herein by this reference. Any increase in AWS or MP Seller fees will cause an immediate proportional increase in the fees under this Agreement (e.g. if AWS increases its fees by 5% on a particular AWS Service, the fees hereunder for such service will increase by 5%), effective as of the date of the AWS or MP Seller fee increase.
- b. **Billing.** Lightstream calculates and bills fees and charges at least monthly. Lightstream may bill Customer more frequently for fees and charges accrued if it suspects Customer’s account is fraudulent or at risk of nonpayment.
- c. **Deposit.** Lightstream may require a deposit as security for the AWS Services provided under this Agreement. A deposit may be required upon the execution of this Agreement or at some time during the term of this Agreement in the event Lightstream has reason to believe that a deposit is necessary to secure full and prompt payment for fees and charges that become due hereunder. In the event a deposit is so required, Lightstream may use such deposit to cover all fees and charges incurred and unpaid by Customer. Upon the termination of this Agreement any unused deposit will be refunded to Customer. Deposits will not accrue interest and will not be maintained in a separate or trust account.

## 5. Responsibilities and Obligations of the Parties.

- a. Prior to executing this Agreement, Customer shall execute the AWS Customer Agreement. By executing this Agreement, Customer warrants that it has previously executed the AWS Customer Agreement.
- b. Prior to executing this Agreement, Customer shall review the “AWS Solution Provider Program: AWS Distribution Program: Program Guide for End Customers.” This document is information available at <https://s3-us-west-2.amazonaws.com/solution-provider-program-legal-documents/AWS+Solution+Provider+Program+-+Program+Guide+for+End+Customers.pdf>.
- c. For the term of this Agreement, Customer is required to subscribe to a minimum of the “Business” tier of Premium support as described at: <https://aws.amazon.com/premiumsupport>. Lightstream shall provide tier-1 support and technical services for Services under Customer Accounts; however, Customer may also request support directly from AWS at any time during the term of this Agreement so long as AWS permits such.
- d. Customer shall not prevent AWS or Lightstream from exercising their rights and performing their obligations under the AWS Solutions Provider Addendum.
- e. Customer shall not resell AWS Services provided under this Agreement to any third party.

## 6. Termination.

- a. Termination for Cause by Lightstream or AWS. In addition to termination provisions specified in the Agreement, Lightstream may terminate this Exhibit and all AWS Services hereunder if Customer exposes or threatens to expose AWS to any material liability.
- b. Termination for Convenience. Notwithstanding anything to the contrary in the Agreement, unless specified otherwise in a separate SOW for professional services to be provided by Lightstream to Customer, (a) either Party may terminate for convenience this Exhibit only after ninety (90) days’ prior written notice, and (b) Customer may unlink any AWS Services from Lightstream’s MPA hereunder only after ninety (90) days’ prior written notice.

**7. Representations; Data Privacy.** Lightstream (a) makes no representations, warranties, or guarantees to Customer with respect to the AWS Services or MP Products; and (b) does not hold itself out as an agent or representative of AWS. While Lightstream will have access to Customer meta-data (e.g., size and number of AWS EC2 instances, amount of DRAM, number of TB of storage space, etc.), Lightstream does not at any time have any access whatsoever to Customer data housed within the AWS Services. Accordingly, security and data privacy is between Customer and AWS or MP Seller. Lightstream makes no representations or warranties, nor can it, regarding Customer’s data security and privacy as these are in the sole control of, and solely accessible by, Customer and/or AWS and/or MP Seller.

**8. Cloud Managed Services – Standard Tier; Professional Services.** Upon linking of Customer AWS accounts, Lightstream shall provide, at no additional cost, Cloud Managed Services – Standard Tier in the form of (a) an initial financial and technical best practices assessment, (b) a designated Cloud Engagement Manager to assist with coordinating miscellaneous support activities, and (c) access to Lightstream-proprietary analytics tools accessible through Lightstream Connect™. Additionally, Lightstream may provide remote professional services work at an additional charge on an ad-hoc, time-and-materials basis at Lightstream’s professional services rate of \$295/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Platinum / Financial Tier (AWS)

This terms of this Service Exhibit (this “**Exhibit**”) for Cloud Managed Services associated with Customer’s AWS environment govern the Cloud Managed Services provided by Lightstream to Customer under this Exhibit. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) previously executed between the parties and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

**1. Services.** Lightstream shall provide Cloud Managed Services (“**Services**”) to assist in the analysis and procurement of AWS “**Savings Plans**” (as defined by AWS) and/or “**Reserved Instance**” (as defined by AWS) contracts (both the analysis and/or procurement of AWS Reserved Instance contracts and AWS Savings Plans herein defined as “**AWS Contract(s)**”).

**2. Platinum Tier–Financial Service Pillar Service Description.** Lightstream will provide Customer with the following Services:

- a. Lightstream Reserved Instance Analytics Tool. Customer will have access to and use of Lightstream’s Reserved Instance Analytics Toolset (the “**RI Tool**”) that will be provided by Lightstream. Through the RI Tool, Customer will be able view and manipulate their AWS data to analyze their AWS Elastic Compute Cloud (“**EC2**”) and Relational Database Service (“**RDS**”) services. The purpose of the RI Tool is to provide Customer with a means to be able to analyze its data and identify opportunities to enter into AWS Contracts.
- b. Reserved Instance Consulting Services. Lightstream will provide consulting services to assist Customer in using the RI Tool and in analyzing their EC2 and RDS environments, these services include:
  - i. Periodically analyzing Customer’s EC2 and RDS environments to identify AWS Contract candidates;
  - ii. Provide Customer with contracting options for AWS Contract candidates;
  - iii. Periodically review Customer’s EC2 and RDS environments based on changes to the Customer’s EC2 and RDS environments for the purpose of identifying AWS Contract opportunities;
  - iv. Assisting Customer in generating reports and information from the RI Tool;
  - v. Assisting Customer in procuring AWS Contracts with AWS upon receipt of written approval or direction (email is acceptable) from an individual authorized by Customer to provide such approval but only to the extent that Lightstream has access to the Customer’s AWS environment to be able to do so; and
  - vi. Providing support to answer questions and assist Customer in the use of the RI Tool and the analysis of their EC2 and RDS environments.
- c. Technical Cost Optimization Services. Lightstream will provide Customer with the following technical cost optimization products and services (the “**Technical Optimization Services**”).
 

Technical Optimization Consulting Services. Lightstream will provide consulting services to assist Customer in analyzing their AWS platform, these services include:

  - i. Periodically analyzing Customer’s AWS platform to identify cost optimization opportunities;
  - ii. Provide Customer with specific recommendations to financially optimize its AWS platform;
  - iii. Assisting Customer in implementing the recommendations by providing instruction and direction to implement such recommendations. In no case will Lightstream implement any such recommendations unless written approval (email is acceptable) is provided by an individual authorized by Customer to provide such approval, but only to the extent that Lightstream has access to the Customer’s AWS environment to be able to do so; and
  - iv. Providing support to answer questions and assist Customer in the analysis of their AWS platform.

**3. Scope.** The Services offered under this Exhibit are applicable only to Customer’s AWS EC2 and RDS environments, as well as any additional AWS services for which Lightstream has an optimization practice. Any other products or services not set forth in this Exhibit are not included and are outside the scope hereof.

**4. Pricing; Payment.** Customer will pay to Lightstream an amount equal to a calculated percentage (“**Percentage**”) of the AWS Savings (as defined below) that Customer will be projected to receive during the AWS Contract term by entering into an AWS Contract for Customer’s EC2 and RDS services, as applicable (the “**Lightstream Payment**”). For as long as Customer maintains all of its AWS accounts linked to Lightstream’s Master Payer Account, the Percentage shall be 25%; otherwise the percentage shall be 35%. For avoidance of doubt, Customer shall be obligated to pay the Lightstream Payment associated with the Technical Cost Optimization for as long as the associated AWS Savings are specifically identifiable, but in no case less than a one (1) year period.

For purposes hereof the amount of savings for each AWS Contract will be calculated as the sum of the savings realized as a result of all Technical Cost Optimization Services and (a) in the case of Reserved Instances, by subtracting the Reserved Instance contract price from the AWS on-demand price for the same instance type, and/or (b) in the case of Savings Plans, by subtracting the discounted rate from the on-demand rate multiplied by the usage commitment (collectively “**AWS Savings**”). The AWS Savings amount associated with AWS Contracts, and accordingly the portion of the Lightstream Payment amount associated therewith, will be calculated as a set amount at the time the AWS Contract is entered by Customer and will be considered earned by Lightstream notwithstanding the fact that payments may be made on the Lightstream Payment over a period of time as provided below.

No discount or reduction in the Lightstream Payment will be taken in the event Customer makes changes to its EC2 and RDS environments that reduce or eliminate their savings under an AWS Contract, or for any other reason. Subject to an acceleration of payment as provided below in Section 5, payment of the Lightstream Payment for each AWS Contract entered into by Customer will be paid to Lightstream, on a monthly basis, by calculating the total AWS Savings and amortizing such amount over the life of the AWS Contract. Such amounts will be included with the Customers invoice each month.

**5. Termination.** Notwithstanding anything to the contrary in the Agreement, either Party may only terminate for convenience this Exhibit and/or any Services provided under this Exhibit by providing written notice to the other Party ninety (90) days prior written notice.

**6. Acceleration of Lightstream Payments.** Notwithstanding anything herein to the contrary, upon the termination of the Agreement, or of this Exhibit, or of any instance to which an AWS Contract is applied, all associated unpaid Lightstream Payments will be accelerated and will become due and owing within thirty (30) days of the date of termination. In the event Customer elects to sell an AWS Contract, as permitted by AWS, then any unpaid Lightstream Payment for the sold AWS Contract will be accelerated and will become due and owing within thirty (30) days of the date of sale of the AWS Contract.

**7. Disclaimer and Limitation of Liability.** Customer understands and acknowledges that the financial tools and recommendations are meant to provide data and assistance to Customer in determining how best to optimize its cloud environment, including the contracting of reserved instances or similar cost-containment mechanisms (“**Reserved Instance(s)**,” as defined by the cloud service provider). Lightstream makes no representations or warranties that the tools and recommendations will identify all financial considerations, including all situations in which a Reserved Instance should be entered into. Lightstream will not be responsible or liable for Customer having entered into, or not entered into, any given AWS Contract.

Lightstream will place all AWS Contracts on a designated Customer cloud account(s). All costs and commitments of RI Contacts entered into by Customer are Customer’s sole responsibility. Under no circumstance will Lightstream be liable to any cloud provider or any other third party for Customer’s AWS Contracts and Customer agrees to defend, indemnify, and hold Lightstream harmless for the same.

**8. Out-of-scope Professional Services.** Lightstream may provide remote professional services work on an ad-hoc, time-and-materials basis at Lightstream’s discounted professional services rate of \$265/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Platinum Tier (AWS)

The terms of this Service Exhibit (this “**Exhibit**”) for Cloud Managed Services associated with Customer’s AWS environment govern the Cloud Managed Services provided by Lightstream to Customer under this Exhibit. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

**1. Services.** Lightstream shall provide Cloud Managed Services at the Platinum Tier (“**Services**”) to include financial, technical, and security optimization of Customer’s AWS environment as described below. Customer agrees a minimum commitment of a one- (1) year term for the Cloud Managed Services provided hereunder.

**2. Scope and Description.** A brief overview of the scope of the Services is provided below.

- Designated Lightstream Cloud Engagement Manager (CEM)
- Designated Lightstream certified cloud engineer
- Subscription to and training on Lightstream Connect
- Subscription to and training on cloud optimization platform
- Periodic cloud product updates, training, and events
- Ad-hoc technical support
- Research miscellaneous technical infrastructure requests
- Cloud strategy reviews to facilitate business and technology alignment
- Monthly business review and general review of cloud environment
- Monthly analysis and review of Customer’s cloud environment with detailed technical best practices recommendations
- Monthly analysis and review of Customer’s cloud environment with detailed security best-practices recommendations
- Monthly analysis and review of Customer’s cloud environment with detailed financial optimization recommendations
- Assist Customer with the implementation of security, best practices, and technical and financial optimization recommendations\*
- Create customized cloud reports that align with Customer’s business and technology objectives\*
- Fully managed Reserved Instance (as defined by cloud service provider) solution, including Reserved Instance strategy creation, assessment of Customer’s cloud environment to identify Reserved Instance contracting candidates, procurement of such candidates, and performance reporting of Reserved Instance strategy.\*\*

\* - Lightstream shall provide to Customer on a monthly basis up to [FIELD] included hours of cloud architect/engineering support. Monthly hours do not roll over.

**3. Pricing; Payment.** Lightstream shall invoice Customer in advance each month for Cloud Managed Services provided in the following month. Pricing is based on the number of included engineering hours as specified in section 2 above, whether Customer’s AWS accounts are linked to Lightstream’s MPA under a Cloud Managed Services – Standard Tier Exhibit, and on the total spend associated with Customer’s AWS services as described in the table below. For the Services hereunder, Lightstream shall invoice Customer the amount of [FIELD x \$265] per month plus the appropriate monthly amount according to the following table:

**CLOUD MANAGED SERVICES PRICING – PLATINUM TIER**

Monthly AWS Spend	Monthly Cloud Managed Services Pricing (accounts linked)	Monthly Cloud Managed Services Pricing (accounts not linked)
<\$5,000	\$1,200	\$1,320
<\$10,000	\$1,800	\$1,980
<\$20,000	\$3,200	\$3,520
<\$30,000	\$4,900	\$5,390
<\$40,000	\$7,000	\$7,700
<\$50,000	\$9,000	\$9,900
>\$50,000	Custom	Custom

**4. Term; Termination.**

- a. Minimum Term; Renewal Terms. Notwithstanding anything to the contrary in the Agreement, Customer agrees to maintain the Cloud Managed Services for a minimum of one (1) year from the Effective date. Following the initial one- (1) year term, the Cloud Managed Services shall automatically renew for successive one- (1) year terms.
- b. Termination for Convenience Within Initial 90 Days. Notwithstanding anything to the contrary in the Agreement or in this Exhibit, either Party may terminate this Service Exhibit and/or all Cloud Managed Services hereunder for any reason within ninety (90) days following the Effective Date by providing written notice to the other Party.
- c. Termination for Convenience. Notwithstanding anything to the contrary in the Agreement, either Party may only terminate for convenience this Exhibit and/or any Services provided under this Exhibit upon the expiration of any annual term by providing written notice to the other Party thirty (30) days prior to the expiration of the then-current term.

**5. Disclaimer and Limitation of Liability.** Customer understands and acknowledges that the technical, security, and financial tools and recommendations are meant to provide data and assistance to Customer in determining how best to optimize its cloud environment, including the contracting of reserved instances or similar cost-containment mechanisms (“**Reserved Instance(s)**,” as defined by the cloud service provider). Lightstream makes no representations or warranties that the tools and recommendations will identify all technical optimizations, security vulnerabilities, and/or financial considerations, including all situations in which a Reserved Instance should be entered into. Lightstream will not be responsible or liable for Customer having entered into, or not entered into, any given Reserved Instance contract (“**RI Contract**”) or for any technical or security non-compliance of Customer’s cloud environment.

Lightstream will place all RI contracts on a designated Customer cloud account(s). All costs and commitments of RI Contracts entered into by Customer are Customer’s sole responsibility. Under no circumstance will Lightstream be liable to any cloud provider or any other third party for Customer’s RI Contracts and Customer agrees to defend, indemnify, and hold Lightstream harmless for the same.

**6. Out-of-scope Professional Services.** Lightstream may provide remote professional services work at an additional charge on an ad-hoc, time-and-materials basis at Lightstream’s discounted professional services rate of \$265/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Standard Tier (Azure CSP)

The terms of this Service Exhibit (this “**Exhibit**”) for Cloud Managed Services and the resell of Microsoft Azure Services govern the access to and use of any Microsoft Services (as defined below) provided by Microsoft Corporation and/or its affiliates or subsidiaries (“**Microsoft**”) through Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

1. **Services.** Lightstream is an authorized Cloud Solution Provider (“**CSP**”) of the cloud (i.e., Microsoft Azure) services offered by Microsoft (“**Microsoft Cloud Services**”). Microsoft may make available, and Lightstream may provide under this Agreement, third-party products (“**Non-Microsoft Product(s)**”) in connection with the Microsoft Cloud Services. Microsoft and Lightstream assume no responsibility or liability for any Non-Microsoft Product. Microsoft may change prices for Non-Microsoft Products and may add or remove Non-Microsoft Products from the price lists at any time. Non-Microsoft Products purchased by Customer under this Agreement are subject to the terms of this Agreement as well as to any licensing or other agreement, including without limitation, an EULA or AUP or other licensing agreement of the third-party providing the Non-Microsoft Product (“**Third-party Seller**”). Except as expressly noted herein, any Customer obligations or authorizations with reference to Microsoft Cloud Services in this agreement shall also apply to Non-Microsoft Products. Any Customer subscriptions to Microsoft Cloud Services provisioned by Customer directly through Microsoft that have NOT been provisioned by Lightstream within Lightstream’s CSP account are not the responsibility of Lightstream and are not subject to this Agreement.

2. **Microsoft Agreements; Customer Acceptance and Incorporation.** Microsoft maintains several agreements with respect to the provisioning and/or use of Microsoft Cloud Services to end users (collectively the “**Microsoft Agreements**”), which include the “**Microsoft Customer Agreement**” for the region in which Customer is located (published at <https://www.microsoft.com/licensing/docs/customeragreement/>) and the “**Microsoft Online Subscription Agreement**” and “**Online Services Terms**” as well as any other applicable agreements, published at <https://azure.microsoft.com/en-us/support/legal/>. By executing this Agreement, Customer hereby accepts all terms and conditions of all applicable Microsoft Agreements; specifically, Customer hereby executes and accepts the terms and conditions of the following Microsoft Agreements: (a) the Microsoft Customer Agreement(s) for the region(s) in which Customer is located, published at <https://www.microsoft.com/licensing/docs/customeragreement/> as may be modified by Microsoft from time to time; (b) the Microsoft Online Subscription Agreement and Online Services Terms, both of which are published at <https://azure.microsoft.com/en-us/support/legal/> as may be modified by Microsoft from time to time, and (c) any other applicable Microsoft Agreement(s) published at <https://www.microsoft.com/licensing/docs/customeragreement/> or <https://azure.microsoft.com/en-us/support/legal/> as may be modified by Microsoft from time to time. If any Microsoft Agreement is updated or modified by Microsoft following execution of this Agreement, Customer agrees that it accepts the terms and conditions of the updated Microsoft Agreement upon renewal of its Subscription (as defined by Microsoft in the Microsoft Agreements). The Microsoft Agreements are between Customer and Microsoft; however because execution by Customer of the Microsoft Agreements is a material condition of this Agreement, all Microsoft Agreements and their terms and conditions are incorporated herein by this reference, including any future updates or additions thereto. To the extent one or more Non-Microsoft Product is used under this Agreement, all applicable agreements for the Non-Microsoft Products (“**Third-party Seller Agreements**”) so used are incorporated herein by this reference. Further, Customer’s compliance with the Microsoft Agreements and Third-party Seller Agreements (collectively the “**Cloud Agreements**”) is a material condition of this Agreement and of the Services. Specifically, without limiting the generality of the foregoing, by entering into this Agreement, Customer acknowledges that its use of the Services is subject to the applicable Cloud Agreements and as such Microsoft and/or Third-party Sellers, as applicable, are intended third-party beneficiaries of this Agreement.

3. **Authorization.** Customer acknowledges that for Lightstream to provide Microsoft Cloud Services under this Agreement, the Microsoft Cloud Services must be provisioned within the Lightstream CSP account. Customer hereby authorizes Lightstream to take all acts necessary to provision or migrate Microsoft Cloud Services to Lightstream’s CSP account. This authorization will continue for the term of this Agreement and for the term of any transition period after the termination of this Agreement. Subject to the data privacy provisions below, Customer specifically authorizes Lightstream to disclose to Microsoft the following information: the nature and existence of this Agreement with Customer, the name and contact information (including contact name, telephone number, email address, city, state/region, county, and zip/postal code) of Customer, and the Microsoft account ID associated with Customer (collectively the “**Microsoft Disclosures**”). Microsoft will use the Microsoft Disclosures to enforce any terms of the Microsoft Agreements and in connection with misuse or suspected misuse of the Microsoft Cloud Services by Customer, account monitoring, and any account transitions. Customer irrevocably authorizes and

grants Lightstream the right to make the Microsoft Disclosures to Microsoft as described in the Microsoft Agreements or at such time or times as may be requested or desired by Microsoft or Lightstream, in their sole and absolute discretion. Non-Microsoft Products are not provided by Microsoft but are sold through the Microsoft environment and are provided by one or more Third-party Sellers. If Customer purchases Non-Microsoft Products pursuant to this Agreement, Customer understands that Lightstream and/or Microsoft may disclose to the Third-party Seller the following information: (1) Customer's name, city, state/region, country, and zip/postal code, and (2) fees associated with Customer's use of Non-Microsoft Products. By executing these terms and by purchasing Non-Microsoft Products, Customer expressly authorizes Lightstream and/or Microsoft to disclose the information herein described to any applicable Third-party Seller(s) as described in this paragraph.

#### 4. Fees and Payment.

- a. **Fees.** The fees for the Services are charged as "Pay-As-You" go or "list" rates determined by Microsoft. Fees for Non-Microsoft Products are those fees as published by Microsoft on the Azure Marketplace website, such fees being incorporated herein by this reference. Microsoft and Third-party Sellers, each in their sole discretion, may change their respective fees to Lightstream at any time. Any increase in Microsoft or Third-party Seller fees will cause an immediate proportional increase in the fees under this Agreement (e.g. if Microsoft increases its fees by 5% on a particular Microsoft Cloud Service, the fees hereunder for such service will increase by 5%), effective as of the date of the Microsoft or Third-party Seller fee increase.
- b. **Billing.** Lightstream calculates and bills fees and charges at least monthly. Lightstream may bill Customer more frequently for fees and charges accrued if it suspects Customer's account is fraudulent or at risk of nonpayment.
- c. **Deposit.** Lightstream may require a deposit as security for the Services provided under this Agreement. A deposit may be required upon the execution of this Agreement or at some time during the term of this Agreement in the event Lightstream has reason to believe that a deposit is necessary to secure full and prompt payment for fees and charges that become due hereunder. In the event a deposit is so required, Lightstream may use such deposit to cover all fees and charges incurred and unpaid by Customer. Upon the termination of this Agreement any unused deposit will be refunded to Customer. Deposits will not accrue interest and will not be maintained in a separate or trust account.

#### 5. Customer Responsibilities.

- a. Customer is solely responsible for properly configuring and using the Cloud Services and taking its own steps to maintain appropriate security, protection, and backup of its materials and data, including using encryption technology to protect its materials and data from unauthorized access and routinely archiving its materials and data. Customer is solely responsible for the development, content, operation, maintenance, and use of its content.
- b. Customer will adhere to all laws, rules, and regulations applicable to its use of the Cloud Services, including all terms and conditions in the Cloud Agreements.
- c. In addition to the indemnification provisions of the Agreement, Customer will defend, indemnify, and hold harmless Lightstream and its affiliates, including their respective agents, employees, officers, directors, and representatives, from and against any liabilities, damages, losses, costs, attorney fees arising out of or relating to any claim from Microsoft as a result of any action or inaction of Customer in violation of, or arising out of, this Agreement (including any breach of any representation or warranty contained herein), the Microsoft Agreements, or Customer's use or misuse of the Cloud Services.

6. **Termination.** In addition to the termination provisions of the Terms and Conditions of the Agreement, the following terms also apply to Cloud Services provided hereunder:

- a. **Termination for Convenience.** Notwithstanding anything to the contrary in the Agreement, unless specified otherwise in a separate SOW for professional services to be provided by Lightstream to Customer, either Party may terminate for convenience this Exhibit and/or unlink any Microsoft Cloud Services from Lightstream's CSP hereunder only after ninety (90) days' prior written notice to the other Party.
- b. Notwithstanding anything to the contrary herein, Microsoft may at any time specify a minimum term for any Microsoft Cloud Services, in which case the term of those Services hereunder shall be the term specified by Microsoft, and the term of this Exhibit shall automatically extend to encompass the longest term associated with the Microsoft Cloud Services.
- c. Lightstream may terminate this Agreement immediately upon written notice if: (i) Microsoft terminates its relationship with Lightstream or otherwise terminates Lightstream's authority to carry out its obligations under this Agreement; (ii) Customer's actions expose or threaten to expose Lightstream or Microsoft to any liability, obligation, or violation of law; (iii) Customer breaches the Microsoft Agreements; (iv) Lightstream or Microsoft determines use of the Services by Customer, or Microsoft's provision of the Cloud Services has become impractical or unfeasible for any legal or regulatory reason; (v) Customer fails to make a payment in full to Lightstream when due; or (vi) Microsoft terminates Customer's status as a Customer.

7. **Data Privacy.** While Lightstream will have access to Customer meta-data (e.g., size and number of virtual machines, amount of DRAM, number of TB of storage space, etc.), Lightstream does not at any time have any access whatsoever to

Customer data housed within the Microsoft Cloud Services. Accordingly, security and data privacy is between Customer and Microsoft or Third-party Seller. Lightstream makes no representations or warranties, nor can it, regarding Customer's data security and privacy as these are in the sole control of, and solely accessible by, Customer and/or Microsoft and/or Third-party Seller.

**8. Customer Representations and Warranties.** Customer represents and warrants to Lightstream and Microsoft that it, or its licensors own all right, title, and interest in and to the materials and data to be stored and provided to Microsoft through the Cloud Services. Customer further represents and warrants that none of its materials or data, or any of its users' use of its materials or data, will violate the Cloud Agreements.

**9. Service Limitations.** Customer acknowledges that Microsoft Cloud Services are provided exclusively by Microsoft and that Non-Microsoft Products are provide exclusively by Third-party Sellers. Lightstream does not, and cannot, provide Microsoft Cloud Services or Non-Microsoft Products (collectively "**Cloud Services**") other than as a reseller thereof. Accordingly, all Cloud Services are the sole and exclusive responsibility of Microsoft and Third-party Sellers, respectively. Lightstream has no control over Microsoft or Third-party Sellers, the availability of Cloud Services (Microsoft or Third-party Seller may change, discontinue, or deprecate any of the Cloud Services, respectively, or change or remove features or functionality of the Cloud Services from time to time), the security of Microsoft accounts or Cloud Services, or the maintenance of Cloud Services. Microsoft or Third-party Sellers may, each in its sole discretion refrain from providing Cloud Services to any customer, state, country or region. Further, Microsoft or Third-party Sellers may, each in its sole discretion, limit the scope or availability of Services provided with respect to Cloud Services.

**10. Proprietary Rights.** Customer owns all right, title, and interest in and to its content. Lightstream will obtain no rights under this Agreement from Customer to its content, including any related intellectual property rights. Customer consents to Lightstream's use of its content to the extent necessary to provide the Services hereunder. Lightstream may disclose Customer's content only to the extent necessary to provide the Services or to comply with any request of a governmental or regulatory body. To the extent required by law, Customer shall notify the individual users of the Services that their data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities as directed by Lightstream, shall obtain the users' consent to the same, and hereby represents and warrants that it has obtained such consent.

**11. Service Suspensions.** Microsoft has the right to suspend Customer's Cloud Services if they determine: (a) Customer or any of its users are in breach of any of the Cloud Agreements; or (b) Customer or any of its users (i) pose a security risk to the Cloud Services or to any other Microsoft Customers, (ii) may harm Microsoft systems or the systems, materials, or data of another Microsoft customer, or (iii) may subject Microsoft or any Third-party Seller to any third party liability.

**12. Support for Microsoft Cloud Services.** Lightstream shall provide support services to Customers for all Microsoft Cloud Services it resells. Lightstream will be the point of contact for Customer for all operational or technical support questions related to the Microsoft Cloud Services. If Customer contacts Microsoft directly for support, Microsoft at its sole discretion may offer Customer support or redirect Customer to Lightstream.

**13. Cloud Managed Services – Standard Tier; Professional Services.** By purchasing Microsoft Azure Services from Lightstream, Lightstream shall provide, at no additional cost, Cloud Managed Services – Standard Tier in the form of (a) an initial financial and technical best practices assessment, (b) a designated Cloud Engagement Manager to be the point of contact for operational or technical support questions, and (c) access to Lightstream-proprietary analytics tools accessible through Lightstream Connect™. Additionally, Lightstream may provide remote professional services work on an ad-hoc, time-and-materials basis at Lightstream's professional services rate of \$295/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Standard Tier (Azure PAL/DPOR)

The terms of this Service Exhibit (this “**Exhibit**”) for Cloud Managed Services (“**Services**”) associated with Customer’s Microsoft Azure environment (“**Microsoft Cloud Services**”) govern the Cloud Managed Services provided by Lightstream to Customer under this Exhibit. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

#### 1. **Customer Responsibilities.**

- a. Customer is solely responsible for properly configuring and using the Cloud Services and taking its own steps to maintain appropriate security, protection, and backup of its materials and data, including using encryption technology to protect its materials and data from unauthorized access and routinely archiving its materials and data. Customer is solely responsible for the development, content, operation, maintenance, and use of its content.
- b. Customer will adhere to all laws, rules, and regulations applicable to its use of the Cloud Services, including all terms and conditions in the Cloud Agreements.
- c. In addition to the indemnification provisions of the Agreement, Customer will defend, indemnify, and hold harmless Lightstream and its affiliates, including their respective agents, employees, officers, directors, and representatives, from and against any liabilities, damages, losses, costs, attorney fees arising out of or relating to any claim from Microsoft as a result of any action or inaction of Customer in violation of, or arising out of, this Agreement (including any breach of any representation or warranty contained herein), the Microsoft Agreements, or Customer’s use or misuse of the Cloud Services.
- d. Customer agrees to designate Lightstream’s Microsoft Partner Network number (“**MPN**”) as Partner Admin Link (“**PAL**”) and/or Digital Partner of Record (“**DPOR**”) on all of the Customer’s Microsoft Azure subscriptions during the term of this Exhibit.

2. **Representations.** While Lightstream will have access to Customer meta-data (e.g., size and number of virtual machines, number of CPUs, amount of DRAM, size of storage space, etc.), Lightstream does not at any time have any access whatsoever to Customer data housed within the Microsoft Cloud Services. Accordingly, security and data privacy is between Customer and Microsoft. Lightstream makes no representations or warranties, nor can it, regarding Customer’s data security and privacy as these are in the sole control of, and solely accessible by, Customer and/or Microsoft.

3. **Termination for Convenience.** Notwithstanding anything to the contrary in the Agreement, unless specified otherwise in a separate SOW for professional services to be provided by Lightstream to Customer, either Party may terminate for convenience this Exhibit and/or disassociate any Azure subscriptions from Lightstream’s MPN ID hereunder only after ninety (90) days’ prior written notice to the other Party.

4. **Cloud Managed Services – Standard Tier; Professional Services.** Upon designation of Lightstream’s MPN as PAL and/or DPOR on all of the Customer’s Microsoft Azure subscriptions, Lightstream shall provide, at no additional cost, Cloud Managed Services – Standard Tier in the form of (a) an initial financial and technical best practices assessment, (b) a designated Cloud Engagement Manager to assist with coordinating miscellaneous support activities related to Customer’s Azure environment, and (c) access to Lightstream-proprietary analytics tools accessible through Lightstream Connect™. Additionally, Lightstream may provide remote professional services work on an ad-hoc, time-and-materials basis at Lightstream’s professional services rate of \$295/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Platinum / Financial Tier (Azure)

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**1. Services.** Lightstream shall provide Cloud Managed Services (“**Services**”) to assist in the analysis and procurement of Azure “**Reserved Instance**” (as defined by Microsoft) contracts (both the analysis and/or procurement of Azure Reserved Instance contracts herein defined as “**Azure Contract(s)**”). Customer agrees to purchase from Lightstream the Services described herein for a minimum of one (1) year.

**2. Platinum Tier–Financial Service Pillar Service Description.** Lightstream will provide Customer with the following Services:

- a. Lightstream Connect™. Customer will have access to Lightstream’s Azure reporting platform, Lightstream Connect™, “Cloud Platform”
- b. Reserved Instance Consulting Services. Lightstream will provide consulting services to assist Customer in using the Cloud Platform and in analyzing Customer’s Azure services. These services include:
  - i. Periodically analyzing Customer’s eligible Azure services to identify Azure Contract candidates;
  - ii. Provide Customer with contracting options for Azure Contract candidates;
  - iii. Periodically review Customer’s Azure environment based on changes to the Customer’s eligible Azure services for the purpose of identifying Azure Contract opportunities;
  - iv. Assisting Customer in generating reports and information from the Cloud Platform;
  - v. Assisting Customer in procuring Azure Contracts with Microsoft upon receipt of written approval or direction (email is acceptable) from an individual authorized by Customer to provide such approval, but only to the extent that Lightstream has access to the Customer’s Azure environment to be able to do so; and
  - vi. Providing support to answer questions and assist Customer in the use of the Cloud Platform and the analysis of eligible Azure services.
- c. Technical Cost Optimization Services. Lightstream will provide Customer with the following technical cost optimization products and services (the “**Technical Optimization Services**”).  
Technical Optimization Consulting Services. Lightstream will provide consulting services to assist Customer in analyzing their Azure platform, these services include:
  - i. Periodically analyzing Customer’s Azure platform to identify cost optimization opportunities;
  - ii. Provide Customer with specific recommendations to financially optimize its Azure platform;
  - iii. Assisting Customer in implementing the recommendations by providing instruction and direction to implement such recommendations. In no case will Lightstream implement any such recommendations unless written approval (email is acceptable) is provided by an individual authorized by Customer to provide such approval, but only to the extent that Lightstream has access to the Customer’s Azure environment to be able to do so; and
  - iv. Providing support to answer questions and assist Customer in the analysis of their Azure platform.

**3. Scope.** The Services offered under this Exhibit are applicable only to Customer’s eligible Azure services for which Lightstream procures Azure Contracts within its Services practice. Any other services not set forth in this Exhibit are not included and are outside the scope hereof.

**4. Pricing; Payment.** Customer will pay to Lightstream an amount equal to a calculated percentage (“**Percentage**”) of the Azure Savings (as defined below) that Customer will be projected to receive during the Azure Contract term by entering into an Azure Contract for Customer’s Azure services, as applicable (the “**Lightstream Payment**”). For as long as Customer maintains all its Azure subscriptions (a) linked to Lightstream’s CSP agreement, or (b) linked to Lightstream’s MPN Partner ID via Partner Admin Link (or equivalent mechanism), the Percentage shall be 25%; otherwise the percentage shall be 35%. For avoidance of doubt, Customer shall be obligated to pay the Lightstream Payment associated with the Technical Cost Optimization for as long as the associated Azure Savings are specifically identifiable, but in no case less than a one (1) year period.

For purposes hereof the amount of savings for each Azure Contract will be calculated as the sum of (a) the savings realized as a result of all Technical Cost Optimizations Services and (b) by subtracting each Reserved Instance contract price from the Microsoft on-demand price for the same instance type (“**Azure Savings**”). The Azure Savings amount associated with Azure Contracts, and accordingly the portion of the Lightstream Payment amount associated therewith, will be calculated as a set amount at the time the Azure Contract is entered by Customer and will be considered earned by Lightstream notwithstanding the fact that payments may be made on the Lightstream Payment over a period of time as provided below.

No discount or reduction in the Lightstream Payment will be taken in the event Customer makes changes to its Azure environment that reduce or eliminate savings under an Azure Contract, or for any other reason. Subject to an acceleration of payment as provided below in Section 5, payment of the Lightstream Payment for each Azure Contract entered into by Customer will be paid to Lightstream, on a monthly basis, by calculating the total Azure Savings and amortizing such amount over the life of the Azure Contract. Such amounts will be included with the Customers invoice each month.

**5. Termination.** Notwithstanding anything to the contrary in the Agreement, either Party may only terminate for convenience this Exhibit and/or any Services provided under this Exhibit by providing ninety (90) days prior written notice.

**6. Acceleration of Lightstream Payments.** Notwithstanding anything herein to the contrary, upon the termination of the Agreement, or of this Addendum, or of any instance to which an Azure Contract is applied, all associated unpaid Lightstream Payments will be accelerated and will become due and owing within thirty (30) days of the date of termination. In the event Customer elects to sell an Azure Contract, as permitted by Microsoft, then any unpaid Lightstream Payment for the sold Azure Contract will be accelerated and will become due and owing within thirty (30) days of the date of sale of the Azure Contract.

**7. Disclaimer and Limitation of Liability.** Customer understands and acknowledges that the financial tools and recommendations are meant to provide data and assistance to Customer in determining how best to optimize its cloud environment, including the contracting of reserved instances or similar cost-containment mechanisms (“**Reserved Instance(s)**,” as defined by the cloud service provider). Lightstream makes no representations or warranties that the tools and recommendations will identify all financial considerations, including all situations in which a Reserved Instance should be entered into. Lightstream will not be responsible or liable for Customer having entered into, or not entered into, any given Azure Contract.

Lightstream will place all Azure Contracts on a designated Customer cloud account(s). All costs and commitments of RI Contracts entered into by Customer are Customer’s sole responsibility. Under no circumstance will Lightstream be liable to any cloud provider or any other third party for Customer’s Azure Contracts and Customer agrees to defend, indemnify, and hold Lightstream harmless for the same.

**8. Out-of-scope Professional Services.** Lightstream may provide remote professional services work on an ad-hoc, time-and-materials basis at Lightstream’s discounted professional services rate of \$265/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged.

## Lightstream MSA Service Exhibit

### Cloud Managed Services – Platinum Tier (Azure)

The terms of this Service Exhibit (this “**Exhibit**”) for the Cloud Managed Services associated with Customer’s Microsoft Azure environment govern the Cloud Managed Services provided by Lightstream to Customer under this Exhibit. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

**1. Services.** Lightstream shall provide Cloud Managed Services at the Platinum Tier (“**Services**”) to include financial, technical, and security optimization of Customer’s Azure environment as described below. Customer agrees a minimum commitment of a one- (1) year term for the Cloud Managed Services provided hereunder.

**2. Scope and Description.** A brief overview of the scope of the Services is provided below.

- Designated Lightstream Cloud Engagement Manager (CEM)
- Designated Lightstream certified cloud engineer
- Subscription to and training on Lightstream Connect
- Subscription to and training on cloud optimization platform
- Periodic cloud product updates, training, and events
- Ad-hoc technical support
- Research miscellaneous technical infrastructure requests
- Cloud strategy reviews to facilitate business and technology alignment
- Monthly business review and general review of cloud environment
- Monthly analysis and review of Customer’s cloud environment with detailed technical best practices recommendations
- Monthly analysis and review of Customer’s cloud environment with detailed security best-practices recommendations
- Monthly analysis and review of Customer’s cloud environment with detailed financial optimization recommendations
- Assist Customer with the implementation of security, best practices, and technical and financial optimization recommendations\*
- Create customized cloud reports that align with Customer’s business and technology objectives\*
- Fully managed Reserved Instance (as defined by cloud service provider) solution, including Reserved Instance strategy creation, assessment of Customer’s cloud environment to identify Reserved Instance contracting candidates, procurement of such candidates, and performance reporting of Reserved Instance strategy.

\* - Lightstream shall provide to Customer on a monthly basis up to [FIELD] included hours of cloud architect/engineering support. Monthly hours do not roll over.

**3. Pricing; Payment.** Lightstream shall invoice Customer in advance each month for Cloud Managed Services provided in the following month. Pricing is based on the number of included hours as specified in section 2 above, on whether or not Customer’s Azure subscriptions are resold under a Lightstream CSP Exhibit or linked to Lightstream’s Partner Admin Link (or equivalent mechanism), and on the total spend associated with Customer’s Azure services as described in the table below. For the Services hereunder, Lightstream shall invoice Customer the amount of [FIELD x \$265] per month plus the appropriate monthly amount according to the table below:

**CLOUD MANAGED SERVICES PRICING – PLATINUM TIER**

Monthly Azure Spend	Monthly Cloud Managed Services Pricing (accounts linked)	Monthly Cloud Managed Services Pricing (accounts not linked)
<\$5,000	\$1,200	\$1,320
<\$10,000	\$1,800	\$1,980
<\$20,000	\$3,200	\$3,520
<\$30,000	\$4,900	\$5,390
<\$40,000	\$7,000	\$7,700
<\$50,000	\$9,000	\$9,900
>\$50,000	Custom	Custom

**4. Term; Termination.**

- a. Minimum Term; Renewal Terms. Notwithstanding anything to the contrary in the Agreement, Customer agrees to maintain the Cloud Managed Services for a minimum of one (1) year from the Effective date. Following the initial one- (1) year term, the Cloud Managed Services shall automatically renew for successive one- (1) year terms.
- b. Termination for Convenience Within Initial 90 Days. Notwithstanding anything to the contrary in the Agreement or in this Exhibit, either Party may terminate this Service Exhibit and/or all Cloud Managed Services hereunder for any reason within ninety (90) days following the Effective Date by providing written notice to the other Party.
- c. Termination for Convenience. Notwithstanding anything to the contrary in the Agreement, either Party may only terminate for convenience this Exhibit and/or any Services provided under this Exhibit upon the expiration of any annual term by providing written notice to the other Party thirty (30) days prior to the expiration of the then-current term.

**5. Disclaimer and Limitation of Liability.** Customer understands and acknowledges that the technical, security, and financial tools and recommendations are meant to provide data and assistance to Customer in determining how best to optimize its cloud environment, including the contracting of reserved instances or similar cost-containment mechanisms (“**Reserved Instance(s)**,” as defined by the cloud service provider). Lightstream makes no representations or warranties that the tools and recommendations will identify all technical optimizations, security vulnerabilities, and/or financial considerations, including all situations in which a Reserved Instance should be entered into. Lightstream will not be responsible or liable for Customer having entered into, or not entered into, any given Reserved Instance contract (“**RI Contract**”) or for any technical or security non-compliance of Customer’s cloud environment.

Lightstream will place all RI contracts on a designated Customer cloud account(s). All costs and commitments of RI Contracts entered into by Customer are Customer’s sole responsibility. Under no circumstance will Lightstream be liable to any cloud provider or any other third party for Customer’s RI Contracts and Customer agrees to defend, indemnify, and hold Lightstream harmless for the same.

**6. Out-of-scope Professional Services.** Lightstream may provide remote professional services work at an additional charge on an ad-hoc, time-and-materials basis at Lightstream’s discounted professional services rate of \$265/hr. Such services may be engaged via email from Customer-authorized personnel to the Lightstream account team approving such work and specifying the scope of that work. Customer hereby consents to being invoiced for and commits to pay for professional services so engaged and pre-approved by Customer.

## Lightstream MSA Service Exhibit

### Professional Services; Field Services

The terms of this Service Exhibit for Professional Services and/or Field Services (this “**Exhibit**”) govern any professional services, such as on-site/field services or advanced engineering services (each a “**Service**,” collectively the “**Services**”) to be provided by Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by this reference.

1. **Services.** Lightstream will provide either remote or on-site Professional Services work or on-site Field Services work at the rates described in a separate Statement of Work (SOW) attached hereto. This Exhibit does not include any hardware, software, or other products, or any ongoing management. Hardware, software, and/or management that is provided by Lightstream, if any, shall be governed by a separate Service Exhibit specific to that hardware vendor. In addition, this Exhibit also provides for on-demand/ad-hoc on-site field services and/or remote advanced engineering services typically provided on a time-and-material basis as may be specified in a separate SOW.

2. **Services Description.** A description of Services to be provided under this Service Exhibit shall be contained in and pursuant to an executed SOW:

3. **Pricing.** Lightstream will charge Customer, and Customer will pay, rates set forth in a separate SOW for each service.

4. **Acceptance of Services.** Lightstream will deliver each Service at the time and in the matter specified under the applicable SOW. Each Service comprised of or containing a Deliverable will be subject to acceptance testing by Customer to verify that the Deliverable satisfies the criteria for acceptance mutually agreed to in the SOW, with such criteria to include descriptions of functionality, as well as quantitative and qualitative criteria (the “**Acceptance Criteria**”). Customer will have thirty (30) days from the date the applicable Deliverable is first offered by Lightstream for acceptance (“**Acceptance Period**”), to conduct acceptance testing of the Deliverable (“**Acceptance Testing**”) to determine whether the applicable Deliverable materially conforms to the Acceptance Criteria and to accept the Deliverable (“**Acceptance**”). If Customer (i) begins use of the Deliverable prior to the end of the Acceptance Period (other than for testing), or (ii) delays Acceptance beyond the Acceptance Period, then the deliverable will be deemed automatically accepted by Customer as of the date of such use or upon expiration of the Acceptance Period. If Customer determines during Acceptance Testing that any such Deliverable does not materially conform to the Acceptance Criteria, then Customer will give Lightstream written notice thereof within the Acceptance Period. Customer will specifically identify in what respects the deliverable has failed to materially conform to the Acceptance Criteria. Lightstream will then have forty-five (45) days, from the date of receipt of Customer’s written notice to correct any material deficiencies in such Deliverable.

## Lightstream MSA Service Exhibit

### Network Managed Services

The terms of this Network Managed Services Service Exhibit (this “**Exhibit**”) govern the use of all network management services (the “**Services**”) provided to Customer. This is an Exhibit to the Lightstream Master Services Agreement (“**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by reference.

1. **Services.** Lightstream will provide Network Managed Services (“**Services**”) to Customer under the terms of this Exhibit. The Services does not include any hardware but is for the management and monitoring only of network and infrastructure devices on Customer’s network. All hardware that is provided by Lightstream, if any, shall be governed by a separate Service Exhibit specific to that hardware vendor.
2. **Service Descriptions.** Description of the network management services provided hereunder is provided at <https://www.lightstream.tech/legal/service-descriptions/networkmanagement/> as modified by Lightstream in its sole discretion from time to time.
3. **Term and Commitment.** The term of this Service Exhibit shall coincide with the Term of the Agreement unless specified in a Service Order or SOW, in which case the term of the Service Order/SOW shall govern. For each location at which Customer orders Services, Customer commits to maintain that service for the term specified in the previous sentence.
4. **Pricing.** Lightstream will charge Customer, and Customer will pay, in advance on a monthly basis, the monthly rates set forth in the Service Order or SOW.
5. **Cancellation and Early Termination Charges.** Early termination of the Agreement, of this Service Exhibit, or of an individual Service under this Service Exhibit, shall incur early termination charges equal to the monthly charge for each Service so terminated, multiplied by the number of months remaining in the current Term (“**Early Termination Charges**”).
6. **Waiver of Early Termination Charges.**
  - a. **Upgrades.** When Customer upgrades a Service at the same service address, Lightstream will waive the Early Termination Charge for the Service at that address.
  - b. **Moves.** When Customer moves a Service from one location to another location, and when Customer’s level of Service and bandwidth remain the same, Lightstream will waive the Early Termination Charge for that Service.

## Lightstream MSA Service Exhibit

### Security Managed Services

The terms of this Service Exhibit for the resell of Security Managed Services (this “**Exhibit**”) govern fees, payment, pricing, and tax terms for use of any Security Managed Services provided by Lightstream to Customer and its Affiliates. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Products and Services hereunder and are incorporated herein by this reference.

1. **General.** Customer may purchase security services (“**Services**” or “**Security Services**”) hereunder through an Order. The terms and conditions in this Agreement shall govern and, where in conflict, supersede all Orders regarding Customer’s access and use of the Security Services. Lightstream will provide Security Services following receipt of a valid Order. This Agreement shall continue from the Effective Date and the term for which the Security Services are provided (“**Subscription Period**”).

2. **Licenses.** During the Subscription Period, (a) the Customer is hereby granted a nonexclusive, nontransferable license to access and use the purchased number of copies of Security Services; and (b) Lightstream is hereby granted worldwide, royalty-free, non-exclusive licenses to use, copy, modify, host, distribute and publish Customer Data as necessary to provide the Security Service. No rights are granted to the Customer other than as expressly set forth in this Agreement.

3. **No Other Licenses; Restrictions.** Lightstream’s execution of this Exhibit and its performance hereunder will not be deemed to assign or license (except the licenses expressly set forth above) any Intellectual Property rights of Lightstream or any third party to Customer or to any third party. Customer agrees not to, and will not allow any third party to: (i) publish any results of any benchmark tests run on the Security Services or any components thereof; (ii) perform any penetration or load testing without prior written consent; (iii) use the Security Services to build a competitive product or service, or copy any ideas, features, functions, or graphics; (iv) use the products contrary to the intended purpose, including to send spam or violate any applicable Laws; (v) attempt to gain unauthorized access to the Security Services or its related systems or networks; and (vi) use the Security Services to send or store viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs.

4. **Customer Responsibilities.** Customer will comply with all applicable laws in using the Security Services. Customer warrants that the Customer Data will not give rise to any claims by a third-party, including claims relating to infringement, obscenity, libel, slander, defamation or violations of rights privacy, publicity or other third-party rights. Lightstream will have no duty to monitor Customer Data. If any Customer Data fails to comply with the terms of this Agreement, in addition to any other available remedies, Lightstream may, at its sole reasonable discretion and without liability to Customer, without judicial order and without prior notice to Customer, terminate or suspend the Security Services or delete or refuse to include the relevant Customer Data. As between Lightstream and Customer, Customer will, at its expense, be solely responsible and liable for its use of the Security Services, including obtaining any necessary broadcast, rebroadcast or retransmission rights or permissions, and other third-party consents, required for such use. Customer will (i) implement and maintain policies and practices relating to the retention, backup, data restoration, purging, wiping, disposal, security and confidentiality of any Customer Data it stores, processes or possesses in connection with the Security Services that are adequate and appropriate in light of the nature of the use of the Security Services and consistent with best practices in the market in which Customer conducts its business, (ii) upon request, promptly provide copies of such to Lightstream, and (iii) promptly notify Lightstream of any changes to such policies.

5. **Lightstream Responsibilities.** Lightstream will provide certain support for the Security Services, as further described in the “**Service Level Objectives.**” Lightstream may process and store Customer Data in the United States, the European Economic Area, or in other countries and territories and may transfer and access Customer Data from other countries, including where Lightstream or its providers have operations. Lightstream reserves the right to manage bandwidth or route traffic across the Internet in a commercially optimal way, provided such actions do not compromise Lightstream’s obligations under this Agreement.

6. **Minimum Commitment; Early Termination Charges.** The term specified in each Order represents the minimum term for which the Services will be provided (“**Minimum Term**”). Unless otherwise specified in an Order, the Service may be terminated, subject to providing written notice of such termination to the other Party at least sixty (60) days prior to the then-current term of Service, such termination to be effective at the end of the then current Term. If: (a) Customer terminates any Service during the Minimum Term for reasons other than for Cause; or (b) Lightstream terminates a Service or the Agreement and all Services provided hereunder for Cause, Lightstream will invoice and Customer will pay within thirty (30) days of such invoice: (i) all accrued but unpaid charges for such Services incurred through the date of such termination; plus (ii) an amount equal to one-hundred percent (100%) of the remaining charges for the terminated Services that would have been incurred in the six (6) months following termination (or pro rata for any partial month) and an amount equal to fifty percent (50%) of the remaining charges for the terminated services that would have been incurred in months seven (7) through twelve (12) following

termination (or pro rata for any partial month) ; plus (iii) a refund of any and all installation waiver credits, sign-up credits, or up-front credits and discounts provided to Customer under the applicable Service Order; plus (iv) any additional amounts charged by provider to Lightstream for early termination of the Services. Notwithstanding the foregoing or anything else in the Agreement or this Exhibit, Customer may terminate Services as to specific locations without incurring the foregoing early termination charges so long as such terminations (in the aggregate) account for ten percent (10%) or less of the total fees payable for the Services within a given calendar year. Notwithstanding anything to the contrary in this section and subject to approval by the underlying service provider for the affected Service, in the event Customer terminates a Service for the purpose of either (x) moving such Service to another location or system, or (y) upgrading the Service to another Service equal to or greater in cost than the terminated Service, the early termination charges specified herein shall not apply to the terminated Service. Notwithstanding the foregoing or anything else in the Agreement or in this Exhibit, in no event shall the Customer's liability for early termination of Service(s) for reasons other than for Cause be less than the amount actually assessed from underlying provider to Lightstream.

**7. Termination for Cause by Lightstream.** Lightstream shall be authorized, without serving notice of default and without requirement to initiate legal processing, to terminate for cause this Exhibit and the Service(s) hereunder with immediate effect if:

- a. Customer has been declared bankrupt or has petitioned for bankruptcy;
- b. Customer and/or its Affiliates fail to pay any amount owed under this Exhibit to Lightstream within fifteen (15) days after receipt of written notice requesting the same.

**8. Suspending Services.** Lightstream shall be entitled forthwith and without prior notice to suspend the provision of part or all of the Services and (where applicable) to disconnect, switch off, block access to and/or remove provided CPE, including its data and / or cables, in the following occasions:

- a. if and in so far as Lightstream or the underlying provider is required to do so by a governmental or regulatory authority, is required to do so to comply with a change in statutory or regulatory requirements (or enforcement thereof) or is required to do so pursuant to an order of a court;
- b. if the quality or availability of Service(s) provided by Lightstream to other customers is, or is threatened to be, adversely affected by the wrongful conduct of Customer or its personnel or by its equipment or cables;
- c. if the safety of persons or property is (or is threatened to be) adversely affected by the conduct of Customer or its personnel;
- d. if Customer or its personnel breach any AUP of Lightstream or of any provider;
- e. in case of an emergency as deemed by any underlying provider.
- f. Customer shall be obliged to pay all fees payable throughout the period of suspension as referred to this section (except for subsections (a and e)).

**9. Customer Data; Customer Representation of Proprietary Rights Therein; Limited License.** Notwithstanding anything to the contrary in the Agreement, Customer represents and warrants that it has the necessary rights, power, and authority to transmit Customer Data (which, for purposes of this Exhibit is defined below) to Lightstream as solely for the purpose of Lightstream providing Services under this Exhibit. As between Customer and Lightstream, Customer will own all right, title, and interest in and to (a) "Customer Data," which for purposes of this Exhibit shall consist of (i) any data provided or transmitted by Customer and/or its Affiliate(s) to Lightstream or Lightstream systems in connection with Lightstream's provision of the Services, (ii) Customer and/or its Affiliate(s)' data accessed or used by Lightstream or Lightstream systems in connection with Lightstream's provision of the Services, or (iii) Customer and/or its Affiliate(s)' data included in any written or printed summaries, analyses or reports generated in connection with the Services; (b) any "Customer IP," which for purposes of this Exhibit, shall consist of all Customer intellectual property, including patents, copyrights, trademarks, trade secrets and other proprietary information of Customer that may be made available to Lightstream in the course of providing Services under this Agreement, and (c) all Confidential Information of Customer or its Affiliates, including, but not limited to, Customer Data, Customer Reports (as defined below), and other Customer files, documentation and related materials, in each case under this clause (c), obtained by Lightstream in connection with this Agreement. During the term of the Services, Customer grants to Lightstream a limited, non-exclusive license to use the Customer Data solely for the purposes contemplated by this Agreement and for Lightstream to perform the Services hereunder. This Exhibit does not transfer or convey to Lightstream or any third party any right, title or interest in or to the Customer Data or any associated Customer IP rights, but only a limited right of use as granted in and revocable in accordance with this Exhibit.

**10. Customer Reports.** Customer shall own all right, title and interest in and to any written summaries, reports, analyses, and findings or other information or documentation prepared uniquely and exclusively for Customer in connection with the Services and as specified in an Order ("Customer Reports"). The provision by Customer of any Customer Report or any information therein to any unaffiliated third party shall not entitle such unaffiliated third party to rely on the Customer Report or the contents thereof in any manner or for any purpose whatsoever, and Lightstream specifically disclaims all liability for any damages whatsoever (whether foreseen or unforeseen, direct, indirect, consequential, incidental, special, exemplary or punitive) to such

unaffiliated third party arising from or related to reliance by such unaffiliated third party on any Customer Report or any contents thereof. This Section 7 shall survive any expiration or termination of this Exhibit or of the Agreement.

**11. Implementation; Customer Cooperation.** Lightstream is not responsible for any services related to the implementation, configuration or use of the Security Services by Customer, unless otherwise agreed upon by Lightstream and Customer in an Order. Customer acknowledges that Lightstream's performance and delivery of the Services are contingent upon: (a) Customer providing safe and hazard-free access to its personnel, facilities, equipment, hardware, network and information, and (b) Customer's timely decision-making, providing the requested information and granting of approvals or permissions. Customer acknowledges that requirements listed in these clauses (a) and (b) are deemed reasonably necessary and reasonably requested for Lightstream to perform, deliver, and/or implement the Services. Customer will promptly obtain and provide to Lightstream any required licenses, approvals, or consents necessary for Lightstream's performance of the Services. Lightstream will be excused from its failure to perform its obligations under this Agreement to the extent such failure is caused solely by Customer's delay in performing or failure to perform its responsibilities under this Agreement and/or any Order for Services hereunder.

**12. Other Materials.** Any and all specifications, descriptions, photographs, measurements, capacities or illustrations contained in any price lists, brochures, leaflets, proposals, advertising matter, publications of Lightstream or a third-party supplier are intended to be illustrative and approximate only and shall not form part of the Agreement or constitute a representation, warranty or condition regarding any Security Services, unless specifically agreed by written agreement between Lightstream and Customer. No employee or agent of Lightstream has any authority to make any representation regarding the Security Services beyond what is enumerated in this Exhibit or an Order.

## Lightstream MSA Service Exhibit

### VMware SD-WAN Services

The terms of this VMware SD-WAN Services Service Exhibit (this “**Exhibit**”) govern the use of VMware SD-WAN by VeloCloud services (the “**Services**”) resold by Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Products and Services hereunder and are incorporated herein by reference.

- 1. Products and Services.** Lightstream will provide VMware hardware (“**Hardware**”) and subscription service (“**Service**”) to Customer. The Products and Services in this Service Exhibit do not include managed services, which are provided under the Network Managed Services Service Exhibit, and Customer commits to the purchase of such for each Hardware and Service purchased under this Exhibit. Customer support for the Services will be provided by Lightstream, not VMware. Accordingly, Customer will contact Lightstream, not VMware, for all support-related issues.
- 2. VMware Services.** Lightstream is a reseller of the Services provided by VMware and is subject to service restrictions and service levels imposed by VMware. Customer’s use of the Services is subject to, and Customer agrees to comply with, the VMware Subscription Purchase Agreement (the “**Service Terms**”) as may be revised by VMware from time to time in VMware’s sole discretion and available at <https://www.vmware.com/download/eula/vmware-sd-wan-by-velocloud.html>. The Service Terms are incorporated into this Exhibit by this reference.
- 3. Term; Commitment; Pricing.** The pricing and term of each Hardware and Service purchased under this Exhibit shall be specified in an Order. For each location at which Customer orders Hardware and Service, Customer commits to maintain that service for such term. Customer shall be invoiced for Hardware and Service upon date of shipment, and the Service term shall be effective from that date.
- 4. Cancellation and Early Termination Charges.** Customer agrees that all executed Orders are non-cancellable, and in the event of early termination of any Service for any reason, any annual fees paid hereunder shall be non-refundable. Early termination of the Agreement, of this Service Exhibit, or of an individual Service under this Service Exhibit, shall incur early termination charges equal to the greater of (a) the monthly or annual charge for each Service so terminated, multiplied by the number of months or years (as applicable) remaining in the current Term, or (b) the Cancellation Charges assessed by VMware to Lightstream as a result of Customer’s early termination.
- 5. Hardware; Return.** Customer assumes the entire risk of loss, damage, theft, or destruction of the Hardware while in Customer’s possession and during transportation to and from Customer’s premises. Upon expiration or termination of Customer’s subscription for the VMware Service, and without limiting remedies in Section 5 above, Customer shall ensure the prompt return to Lightstream of all Hardware not purchased by Customer in the same condition as when delivered by Lightstream, reasonable wear and tear excepted. If any Hardware is not received by Lightstream in the condition set forth above within forty-five (45) days thereafter, Customer agrees to pay Lightstream, promptly upon Lightstream’s invoice therefor, Lightstream’s replacement cost of the Hardware.
- 6. Software Licensing; Proprietary Rights.** Any software provided by VMware to Customer or made available for its use, including any software embedded in the Hardware or used in any Service (the “**Software**”) is licensed only and is subject to any license agreement provided therewith. Software that is embedded in Hardware may only be operated on the equipment on which it is provided. VMware retains title and all patent rights, copyrights and all other intellectual property and proprietary rights in the Hardware, the Software, and the VMware Service. Customer shall not acquire any rights in or license to the Hardware, the Software, or the VMware Service or any VMware or Lightstream intellectual property rights. VMware and Lightstream reserve all rights not expressly granted by this Agreement.
- 7. Disclaimer.** The Hardware and Services are provided “as is” and “as available,” and Lightstream disclaims any warranty that the functions or features contained within the Hardware or Service will meet Customer requirements, that operation of the Service will be uninterrupted or error-free, that all defects that may exist in the Service will be corrected, and all other warranties and conditions, express or implied or statutory, including, without limitation, warranties or conditions of merchantability, fitness for a particular purpose, and non-infringement. Notwithstanding any failure of the purpose of any limited remedy, Lightstream’s entire liability for breach of warranty and failure to cure as provided herein shall be limited to the remedies set forth with such warranty.

## Lightstream MSA Service Exhibit

### Megaport Services

The terms of this Megaport Service Exhibit (this “**Exhibit**”) govern the use of all Megaport services (“**Services**”) resold by Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Services hereunder and are incorporated herein by reference.

1. **Services.** Lightstream is a reseller of the Services provided by Megaport which are subject to service restrictions and service levels imposed by Megaport. If an order for Services is in a jurisdiction other than a jurisdiction where Megaport operates, a Megaport affiliate may provide those Services in that jurisdiction. Megaport has the right, at its sole discretion to replace or vary an existing Service at any time provided that the variation does not result in any material deterioration in the quality of the Service.

2. **Use.** Customer may only use the Services in accordance with this Exhibit, the Agreement, and all applicable laws and regulations. Customer will not damage any equipment, network, or sites Megaport uses to provide the Services and is responsible for all information and data transmitted or accessed using the Services. Customer is further responsible for any of its agents, employees, contractors, or other service providers who have access to the Service.

3. **Term and Commitment.** The term of this Service Exhibit and the Services provided hereunder shall coincide with services requested by Customer from Lightstream. Upon such request, Lightstream shall provision the Service and tag such Service to Customer. For each Service ordered hereunder, Customer commits to maintain Service for the term specified on the Service that is ordered from Megaport, and Customer shall be liable to Lightstream for all charges related any such Service.

4. **Pricing.** Pricing shall be specified by the Lightstream account team to the Customer. Megaport may vary the charges at any time; subsequently, Lightstream may correspondingly vary the charges: (i) on thirty (30) days’ notice, if the Service does not have a minimum term; or (ii) on thirty (30) days’ notice, if Megaport continues to provide a Service after a minimum term for that Service has expired and the Service is being provided on a month-to-month basis. Any increase in charges by Megaport will result in equally proportional increase to Customer.

5. **Cancellation and Early Termination Charges.** Early termination of the Agreement, of this Service Exhibit, or of an individual Service under this Service Exhibit, shall incur early termination charges equal to the greater of (a) the monthly charge for each Service so terminated, multiplied by the number of months remaining in the current Term, or (b) the Cancellation Charges assessed by Megaport to Lightstream as a result of Customer’s early termination.

6. **Service Suspension.** Megaport and/or Lightstream have the right temporarily to suspend or restrict Services:

- i. if Customer does not pay an invoice that is overdue;
- ii. on 5 days’ written notice, if Customer fails to comply with the Megaport Acceptable Use Policy (“**AUP**”), located at [www.megaport.com/legal/](http://www.megaport.com/legal/), as modified by Megaport in its sole discretion from time to time.
- iii. if Megaport believes it is necessary to do so to comply with any law or order of any government or regulatory body;
- iv. if Megaport believes it is necessary to protect any person, equipment, network or to attend to any emergency; or
- v. on 14 days’ notice, where there are technical problems with the Service or maintenance is required, provided that Megaport may immediately suspend service without notice if emergency repairs are required.

If Service is suspended or restricted, Lightstream will only continue to charge Customer for the Service if the suspension or restriction is due to Customer’s failure to comply with the Agreement, this Exhibit, or AUP. Services may immediately be suspended without notice if Customer engages in criminal conduct that constitutes a material failure to comply with AUP.

7. **Support.** Customer support for the services will be provided by Lightstream, not Megaport. Accordingly, Customer shall contact Lightstream, not Megaport for all support-related issues.

8. **Limitation of Liability.** Megaport disclaims any direct liability to Customer, and Customer waives any right of claim against Megaport.

## Lightstream MSA Service Exhibit

### Hardware and Software Products and Services

The terms of this Hardware and Software Products and Services Service Exhibit (this “**Exhibit**”) govern the use of all hardware or software products or services (the “**Products**”) resold by Lightstream to Customer. This is an Exhibit to the Lightstream Master Services Agreement (the “**Agreement**”) and is incorporated therein by this reference. Any capitalized terms not defined herein have the meaning set forth in the Agreement. All terms and conditions of the Agreement apply to Products hereunder and are incorporated herein by this reference.

**1. Hardware/Software Sales Agreement; Quote.** By making a purchase, placing an order, or otherwise placing any order for quoted hardware, the Customer accepts the terms of this Exhibit. Relating to the purchase or sale of Products, this Exhibit constitutes the entire agreement between the Customer and Lightstream. Lightstream shall in each case provide a price quote for Products as requested by Customer (“**Quote**”). Customer consents to receiving electronic records for Quotes and other correspondence related to any order of Products, which records may be provided via a web browser or e-mail or as a document attached to an email. Unless otherwise specified in a Quote, quoted pricing is valid for no more than 30 days from the date of the Quote.

**2. Pricing and Information Disclaimer.** All pricing is subject to change without notice. For all prices, products and offers, Lightstream reserves the right to make adjustments due to changing market conditions, product discontinuation, manufacturer price changes, errors in advertisements and other extenuating circumstances.

**3. Orders; Payment Terms; Taxes.** Orders are not binding upon Lightstream until accepted by Lightstream. The terms of payment are thirty days from invoice date, unless otherwise specified in a quote. Customer is responsible for any applicable sales taxes and any other taxes associated with the order, whether such taxes are collected at the time of sale or not. Lightstream shall invoice Customer for all hardware provided hereunder upon shipment of hardware and for all software provided hereunder upon providing access to software to Customer.

**4. Product Return Policy.** Lightstream offers a limited 30-day return policy on selected items, subject to the return policies of the manufacturers we represent. The interpretation of the actual manufacturer return policies is at the sole discretion of Lightstream. Customer must contact the Lightstream account team to obtain a Return Merchandise Authorization (RMA) number before shipping any return product. NO returns of any type will be accepted without an RMA number. Further, Lightstream assumes no risk or responsibility for products returned without an RMA number. For faster service, please have the following information available when calling for an RMA number: customer name, product part number(s), invoice number, serial number, and nature of the problem. All products returned must be completely intact, defined as all items being returned with all of the original boxes and packing materials, having their original UPC codes intact on the manufacturers’ boxes, containing all manuals, blank warranty cards, and other accessories and documentation provided by the manufacturer. Due to some manufacturers’ return policies, only inoperable products may be returned from certain manufacturers. This list of manufacturers with restrictive return manufacturers may change from time to time at the sole discretion of Lightstream and without notice to Customer. Most defective products may be returned for repair or replacement only, at Lightstream’s discretion, within 30 days of the invoice date. All non-defective returns for credit or exchange are subject to a 15% return-processing fee and must be completed within 30 days of the invoice date. Minimum return-processing fee for any refund or credit is \$25.00. Software licenses and product upgrades cannot be returned for refund or exchange unless first authorized by the manufacturer and may not be returned beyond 30 days for any reason. Customer is responsible for shipping charges on returned items and is responsible for any damage incurred to returned item before it is actually received by Lightstream. Discontinued or end of life products can only be returned for repair. No refunds or exchanges can be made.

**5. Title and Risk of Loss.** Title to hardware herein being purchased is retained by the Lightstream until hardware is paid for by the Customer and at that time title passes to the Customer. If loss or damage occurs during shipping from Lightstream (or from manufacturer) to Customer via a carrier selected by Lightstream, the loss or damage will be the responsibility of Lightstream. If loss or damage occurs during shipping from Customer to Lightstream or by a carrier selected by the Customer, the loss or damage will be the responsibility of the Customer. The title to software will remain with the applicable licensor(s).

**6. Shipping Damage Policy.** If merchandise arrives damaged to Customer, it is best to refuse it back to the carrier attempting delivery. Customer must contact Lightstream within three (3) business days if an order is being refused back to the carrier due to damage. All unauthorized refusals are subject to a 15% return processing fee and no credit for the freight charges. If Customer accepts a damaged package, Customer must ensure any externally visible damage is noted on the carrier’s delivery record. In the event of shipping damage, Customer must save the merchandise AND the original box and packing it arrived in. If Customer does not notify Lightstream of damaged goods within the first three (3) business days of arrival, Lightstream’s return policy in Section 4 herein will override any claim of damage and will fall under all current manufacturer restrictions. Customer must call Lightstream account team to arrange for carrier inspection and a pick-up of damaged merchandise.

**7. Product Legal Disclaimer; Limitation of Liability.** Lightstream hereby expressly disclaims all ties either expressed or implied, including, without limitation, any warranty of merchantability or fitness for a particular purpose. This disclaimer in no way affects the terms of the manufacturer's warranty, if any. All products sold by Lightstream are third-party products and are subject to the warranties and representations of the applicable manufacturers. Customer agrees that any liability related to the purchase of Product, Lightstream's maximum liability shall not exceed the aggregate dollar amount paid by Customer for the purchase(s) under this Exhibit.

**8. Export of Product Outside of U.S.** For any goods being purchased for purposes of export, Customer must obtain from the appropriate government authority any export documentation before shipping to a foreign country. Customer acknowledges that manufacturers' warranties for exported Products vary and may even be null and void if Product is exported outside the United States. Customer is solely responsible for compliance with all laws regarding export of Product.

**9. Acceptable Use Policy and End User License Agreements; License.** The use of the Products is governed by the Acceptable Use Policy ("AUP") and End User License Agreement ("EULA") of the respective hardware manufacturer or software provider. Customer hereby agrees to the terms and conditions of the AUP and EULA, as applicable, of each manufacturer or provider associated with all Products purchased hereunder. To the extent allowed under the reseller agreement between Lightstream and the software or hardware provider associated with Products provided to Customer hereunder, Lightstream hereby grants to Customer a limited, non-exclusive, non-transferable, and non-assignable license to download, install, and use each Product as specified by the provider.

**10. Software.** In the event Lightstream provides software or third-party software, including any software embedded in any hardware, web portal, or API, or used in any Product or Service (collectively "**Software**") to Customer under the Agreement, Customer acknowledges and agrees as follows with respect to the Software: (a) all intellectual property rights associated with the Software, other than the license rights expressly granted for the Customer's use of the Software, as communicated to Customer from time to time (the "**License**"), belong to Lightstream or the original third-party licensor, as the case may be, and Customer will not acquire any intellectual property rights in or to the Software other than as may be expressly provided under the License; and (b) Lightstream and third-party providers (as applicable) each reserve all rights not expressly granted by it.