

<b>CUSTOMER Legal Name ("Customer") and Address:</b>	<b>LightEdge Solutions, Inc. ("LightEdge"):</b>
	LightEdge Solutions, Inc. 215 10 <sup>th</sup> Street, Suite 1220 Des Moines, Iowa 50309
<b>Customer Signature Contact</b>	<b>LightEdge Legal Contact</b>
Name: _____ Signature Initials: _____	LightEdge Contract Management
Title: _____	Phone: 515-471-1000 Fax: 515-471-1112
Telephone: _____ Fax: _____	E-mail: legal@lightedge.com
E-mail: _____	

### General Terms and Conditions

This Agreement is entered into by and between **LightEdge** and **Customer** for the provision of managed services under the terms and conditions set forth herein.

#### 1. Definitions.

**1.1 "Agreement"** shall mean this Master Service Agreement and any and all attachment(s), addendum(s), Purchase Agreement(s), work order(s), or exhibit(s) attached thereto and also any Service Agreement(s) applicable to the Services contracted for by Customer, and any and all other applicable terms and conditions and policies referenced in any of the preceding or set forth at <http://www.lightedge.com/legal>.

**1.2 "Service Agreement(s)"** shall mean those agreements which relate to and more particularly set forth the Services that Customer contracts to receive from LightEdge, and the terms and conditions for such Services, as may be amended from time to time by LightEdge in its sole discretion, and as are available for review at <http://www.lightedge.com/legal>.

**1.3 "Purchase Agreement(s)"** shall mean the Purchase Agreement(s) entered into, from time to time, between LightEdge and Customer which detail, among other things, the Services to be provided by LightEdge and the prices paid by Customer for those Services. Each Purchase Agreement shall contain a reference to the applicable Service Agreement(s).

**1.4 "We", "us", and "you"**. In this Agreement, use of the words "we" and "us" shall refer to **LightEdge**, and use of the word "you" shall refer to **Customer**.

**1.5 "LightEdge Services" or "Service(s)"** means those certain communication, data and other business and consumer continuity services, including but not limited to, managed IT, data, and communication services, as may be modified, upgraded, or revised from time to time, and as more particularly described in the Service Agreements.

**1.6 "On Network Services"** shall mean those Services that are provided by LightEdge on a network system operated by LightEdge.

**1.7 "Off Network Services"** shall mean those Services that are either provided solely by a third-party or provided either partially or wholly off of LightEdge's operated network.

**2. Provision of Services.** LightEdge will provide those Services selected by Customer and set forth, from time to time, on Purchase Agreements, in accordance with the specific terms and conditions set forth on the applicable Service Agreement(s) and the general terms and conditions of this Agreement.

**3. Term.** This Master Service Agreement shall become effective on the date that Customer first executes this written contract. This Master Service Agreement shall remain in effect until the last of any Services received by Customer from LightEdge is terminated. The initial term for each of the Services shall be as set forth in the Purchase Agreement and applicable Service Agreement (the "Initial Term"). Customer shall receive a SOSN (as defined in Section 7) from LightEdge for each Service. The SOSN shall set forth the date upon which the Initial Term commenced for that Service. This shall be the same as the Actual Start Date (as defined in Section 7).

**3.1 Automatic Renewal.** Contracted services shall automatically renew for successive terms equal in length to the original contracted term and at the original contracted rate, (the "Renewal Term(s)") (collectively, with the Initial Term, the "Term"), unless either LightEdge or Customer provides written notice of its intent not to renew at least sixty (60) days prior to the end of the Initial Term or any Renewal Term. If, for any reason, the Term for any Services shifts to a month-to-month basis, then the fees for these Services shall be billed on a monthly basis at the then-current monthly rates.

Notwithstanding the foregoing, LightEdge and Customer shall have the right to terminate this Master Service Agreement and any of the Services provided through this Agreement, as provided herein. However, it is understood that, in the event of a partial cancellation or termination, the terms and conditions of this Agreement, including the Master Service Agreement, any applicable Service Agreement, and all applicable policies, terms and provisions, shall continue to govern the remainder of the parties' relationship.

**4. Billing and Fees.** In consideration of the Services provided, Customer shall pay LightEdge those fees itemized on the Purchase Agreements plus any applicable excise, sales, use, or other taxes and regulatory fees at the rate in effect at the time the Service is provided. Customer shall also pay LightEdge for any supplemental charges applicable to the Services, such as charges for incremental usage, design changes, Service relocation, maintenance and expedites requested by Customer. It is understood that changes to these rates and supplemental charges may be made from time to time, under the terms of the applicable Service Agreement. For any adjustments resulting in material additional or material increased charges or a material reduction in Service for any Service, excluding changes set forth in Section 5 ("Regulatory-related Rate Adjustments"), Customer shall have the right to cancel the affected Service(s), without penalty, by sending notification to [terminations@lightedge.com](mailto:terminations@lightedge.com) from an authorized representative of Customer. Once email notification has been received, LightEdge will then acknowledge Customer's request with a return receipt of the notification. At that time, LightEdge will, at its option, continue the Service under the prior charging arrangement or prior level of service, which would result in no termination of the Service, or cancel the Service. Failure to provide written notification of cancellation within this time period shall be deemed acceptance of the changed terms.

**4.1 Payments.** Customer shall pay the initial set up fees itemized on a Purchase Agreement in full prior to the scheduled installation date of the Service and shall pay all other fees itemized on the Purchase Agreement prior to LightEdge initially providing the Service. Thereafter, Customer shall pay, in advance of the Service, those fees as stated on a monthly invoice from LightEdge within thirty (30) days of the date of such invoice ("Due Date"). The parties acknowledge that LightEdge shall not be extending credit to Customer.

**4.2 Late Fees and Collections Costs.** In the event Customer fails to make full payment by the Due Date, Customer also shall pay a late fee in the amount of the lesser of one and one-half percent (1 1/2%) of the unpaid balance per month or the maximum lawful rate under applicable state law that shall accrue from the Due Date. Customer shall pay any amounts incurred by LightEdge in the collection of past-due amounts owed, including, but not limited to, reasonable attorneys' fees and costs.

**4.3 Service Suspension for Non-payment.** Further, in the event Customer fails to make full payment by the Due Date, LightEdge may suspend any or all of the Service(s) with no additional notice. Such suspension may be rescinded by LightEdge upon payment in full of Customer's account and payment of a service reconnection charge ("Service Reconnection Charge") equal to the Monthly Recurring Charges set forth on the applicable Purchase Agreement. All returned checks are subject to a \$35.00 processing fee, or the maximum allowed by law.

**4.4 Disputes.** Notwithstanding statements to the contrary herein, Customer has the right to withhold payment of fees related to the Service(s) being provided by LightEdge hereunder that Customer disputes in good faith; provided that, should this occur, Customer agrees to provide written notice to LightEdge at [disputes@lightedge.com](mailto:disputes@lightedge.com) within thirty (30) days of Customer's receipt of the invoice. Customer shall not have the right to dispute any invoice after the expiration of this thirty (30) day time period. During the period of time that there is a reasonable dispute pending and Customer is withholding monies on account of such reasonable dispute, LightEdge shall not invoke any additional charges on account of the unpaid disputed amount, take any action against Customer on account of such good faith dispute, or withhold the Services otherwise due to Customer hereunder, as a result of said withholding. **Customer will not withhold payments that are not subject to good faith dispute and the provisions and penalties of this Section 4 shall apply to any payments which are not in dispute.**

In the case where this Agreement includes the delivery of Services to multiple locations and Service delivery is delayed definitely or indefinitely due to circumstances beyond the immediate control of LightEdge, as determined by LightEdge in its sole, reasonable discretion, Customer shall pay such partial fees for those portions of the Service which are not so delayed. Partial delivery of Service, in this manner, shall not constitute a failure to fulfill the Agreement or cause for Termination as described in Section 12.

**5. Regulatory-related Rate Adjustments.** In the event that Customer contracts for Services subject to federal, state, or local regulation, and notwithstanding any other provision herein to the contrary, LightEdge may, upon prior email or written notice to Customer when practicable, modify, change or add to: (a) the rates, (b) the regulated Service(s), and/or (c) the other terms and conditions contained in the Agreement, including without limitation, surcharges and other charges, to reflect the impact of, or to effect, such regulatory activity.

**6. Use of Services.**

6.1 Any use of LightEdge's systems that is in violation of LightEdge's Acceptable Use Policy, as such policy is set forth at <http://www.lightedge.com/legal> and may be amended from time to time, in LightEdge's sole discretion, or disrupts the normal use of the system for other LightEdge customers, shall be considered abuse of the system. LightEdge may monitor customer communications as necessary to comply with applicable laws, regulations or judicial requests; or to protect the LightEdge network and its customers. LightEdge reserves the right to remove and/or block all communications if it suspects a violation of these policies, terms, or conditions if, in its sole, reasonable discretion, it deems such action necessary to protect the system, LightEdge, or its affiliates, directors, officers, agents, employees, or other customers, from harm.

6.2 Customer shall be the end-user of the Service. The Service is not to be resold or distributed without the prior express, written consent of LightEdge.

6.3 Customer may be required to maintain a secure password for use of a Service. Password requirements shall be established by LightEdge. Customer is solely responsible for maintaining the security and integrity of his, her or its password.

6.4 Customer shall not use any process, program or tool via LightEdge's system for guessing the passwords or circumventing any security measures of LightEdge customers or other systems. Customer shall not use LightEdge's system to make unauthorized attempts to access the systems and networks of others.

6.5 Customer shall not copy or alter, or cause a third party to copy or alter, any firmware or software related to the Services. Customer is solely responsible for any costs, liabilities, or charges incurred as a result of such actions. Customer shall not attempt to hack or otherwise disrupt the Services or make any use of a Service that is inconsistent with its intended purpose.

6.6 Customer shall use the Service in accordance with all applicable local, state and federal laws, including but not limited to, obscenity laws. Customer shall not use the Service to conduct any business or activity or solicit the performance of any activity that is prohibited by law, nor shall Customer's use of the Service impinge upon the use of LightEdge's system by other customers.

6.7 LightEdge has not granted to customer any license to use any firmware or software provided to Customer in connection with the Services, other than a nontransferable, revocable license to use the firmware or software in object code, strictly according strictly for the uses contemplated by this Agreement.

6.8 Customer is responsible for maintaining the integrity of the Services it receives from LightEdge that are under the control of Customer. This includes, without limitation, guarding against fraudulent usage of voice and data services. Customer shall be responsible to LightEdge and shall indemnify LightEdge for any and all costs, including Service charges incurred through fraudulent, improper, or other use stemming from activities that are under Customer's control. By way of example and not limitation, this would include long-distance voice charges for calls made using Customer's handset and line.

6.9 Violations of any of the LightEdge conditions of use are unethical and may be deemed criminal offenses. Customer shall report to LightEdge any information Customer may have concerning instances in which the conditions of use have been or are being violated. When LightEdge becomes aware of any possible violations, LightEdge will initiate an investigation. In the event that LightEdge determines that Customer has violated or will violate any of these policies, LightEdge may take such action as deemed to be appropriate under the circumstances as known to LightEdge at the time such action was taken to eliminate or preclude such violation. LightEdge shall not be liable for any damages of any nature suffered by any Customer, Client, or third party resulting in whole or in part from its exercise of its rights under these policies. Customer is responsible for any charges resulting from the violation of these policies including but not limited to charges resulting from the compromise of any Customer secure password or Service under the control of Customer.

6.10 Notwithstanding anything herein which may indicate or require otherwise, including, without limitation, any requirements that LightEdge provide certain notices to Customer, Customer's use of any Service is an absolute acknowledgement by Customer that Customer has received delivery of such Service.

**7. Start of Service.** LightEdge shall make reasonable efforts to provide Services within its Standard Service Installation Interval. It is understood that failure of LightEdge to deliver by such date shall not constitute a default under this Agreement and LightEdge shall not be liable to pay Company any penalties or damages stemming from its failure to meet such Standard Service Installation Intervals. If Customer requests to either delay or otherwise replace its confirmed start date, additional charges and fees may apply. Additional charges will also apply if Customer cancels an installation appointment without proper notice or otherwise fails to make proper arrangements for its installation, which results in LightEdge having to reschedule to complete installation.

Once a Service is on line, LightEdge will issue a notice to Customer (the "Start of Service Notice" or "SOSN"). Prior to the SOSN, LightEdge shall test the Service to verify that it meets the service level commitments as defined in the applicable Service Agreement. The SOSN shall not be more than 48 hours from the time that LightEdge has completed testing and the Service is available for use. The date of the SOSN shall be deemed to be the date upon which that Service commenced (the "Actual Start Date"). Customer will be billed applicable usage charges beginning on the Actual Start Date, regardless of when Customer actually begins using the Service. Customer shall be able to view the Actual Start Dates for the Services by accessing its account page at "My LightEdge" (accessible from [www.lightedge.com](http://www.lightedge.com)). If Customer fails to give written notice that the Service is in material non-compliance with the applicable service level commitments contained in the applicable Service Agreement within two (2) business days after LightEdge issues the SOSN, Customer shall be deemed to have accepted such Service.

As stated above, LightEdge shall test the Services to verify that they meet the applicable specifications and service level commitments set forth in the applicable Service Agreement. Unless otherwise stated in this Agreement, this shall be the extent of the testing performed by LightEdge. Customer has sole responsibility for installation, testing and operations of its facilities, services and equipment. Customer is also responsible for ensuring that the Services are compatible with its existing systems and devices. LightEdge shall only be responsible for the installation of the Services.

**8. Equipment.**

8.1 LightEdge may sell to Customer certain devices, including, but not limited to phones, routers, switches, and modems, etc. ("Purchased Devices") for Customer's use in conjunction with the Services. Full payment for Devices shall be due at the time of purchase. Purchased Devices shall be listed on a Purchase Agreement. Ownership of, and title to, the Purchased Devices shall transfer from LightEdge to Customer at the time of sale. Customer will own and bear all risk of loss, theft, or damage.

8.2 LightEdge may rent to Customer certain devices, including, but not limited to phones, routers, switches and modems, etc. ("Rented Devices") for Customer's use in conjunction with the Services. Rentals will be structured as follows.

The term of the equipment rental for the rented Device(s) shall commence on the Actual Start Date(s) and continue up and through the end of the Term for the Service to which that Rented Device related, including extensions. Rental payments shall be payable monthly, under the same terms as the other charges and fees as set forth in this Agreement. Customer shall pay a monthly rental fee for each month during the Term. The amount of the monthly rental fee for each rented Device shall be set forth on a Purchase Agreement. In the event that Customer ceases to be a customer of LightEdge for any reason (voluntarily or involuntarily) or if all or a portion of this Agreement or the Service(s) to which the Rented Device relates is disconnected, canceled, or terminated, for any reason, then Customer shall contact LightEdge within seven (7) days after such event and make arrangements for the Rented Device(s) to be returned to LightEdge at the customer's expense. Customer must return all Rented Devices in the event Customer ceases to be a customer of LightEdge. Customer need only return those Rented Device(s) related to the canceled or non-renewed Service(s) if Customer, after such termination or non-renewal of such Service(s), remains a customer of good standing with LightEdge and is contracting for other Services and Rented Devices.

Rented Devices returned to LightEdge, must be full, complete, and in good working order, normal wear and tear excepted. In the event that a Rented Device is not returned to LightEdge within thirty (30) days of termination, cancellation, or non-renewal or if it is damaged, Customer agrees to pay to LightEdge a fee, as liquidated damages, as compensation for a portion of the expenses by LightEdge in establishing Customer's account, Services, and providing the Rented Devices for Customer's use. Such fee(s) shall be listed on the applicable Purchase Agreement(s) at the time of contract signing.

Customer is solely responsible for loss or damage to any Rented Devices. Furthermore, Customer shall keep and maintain the Rented Devices during the term of the service at its own cost or expense. Rented Devices shall be delivered to Customer and returned to LightEdge at the Customer's risk, cost and expense. No allowances will be made for any Rented Device or portion thereof which is claimed not to have been used. Acceptance of returned Rented Devices by LightEdge does not constitute a waiver of any of the rights LightEdge has under this Agreement. Customer shall have no right to sell, give away, transfer, pledge, mortgage, remove, relocate, alter or tamper with the Rented Devices at any time. Customer acknowledges that at all times. LightEdge shall own and retain title to the Rented Device.

Failure to activate Services and/or Service downtime does not relieve Customer of its obligation to make rental payments for the Rented Devices.

Customer shall allow LightEdge to enter its premises where the Rented Device(s) are stored or used at all reasonable times to locate and inspect the state and condition of the Rented Devices. If Customer is in default on any of the terms and conditions of this Agreement, or any other agreement or relationship that Customer has with LightEdge, LightEdge or its agent, at the Customer's risk, cost and expense, subject to applicable law, may at any time enter the Customer's premises where the Rented Device is located and recover any and all Rented Devices.

8.3 As set forth in Section 9, LightEdge makes no warranty as to the Devices ("Devices" includes both Purchased Devices and Rented Devices) either expressed or implied. All such warranties, including without limitation, the implied warranties of merchantability and fitness for a particular purpose, are expressly excluded. For devices that fail to operate in a manner to support the associated LightEdge Service, LightEdge will make all reasonable attempts in a timely fashion to provide assistance with repair or replacement with a like device., Expedited delivery services (E.g. Next Business Day Delivery) when available can be provided to a customer location for an additional charge when equipment is in stock either at LightEdge or the equipment manufacturer. LightEdge may also offer certain types of support pursuant to certain service plans if Customer elects to pay for and receive this additional Service, the terms and conditions for which are set forth in the applicable Service Agreement. Non-expedited shipping charges will be the responsibility of LightEdge for equipment that is determined to be

non-operational due to equipment failure. If it is determined the cause of failure is related to customer damage outside of normal wear and tear, then the customer will be responsible for all shipping and delivery charges.

8.4 Customer may elect to use its own equipment instead of purchasing or renting equipment direct from LightEdge. LightEdge shall not be responsible in any way for the compatibility or fitness for use of any Customer-supplied equipment.

8.5 Customer acknowledges that the performance of equipment, including the Purchased Devices, the Rented Devices, and equipment supplied by Customer, can be affected, and thus the corresponding Services can be directly impacted, by environmental conditions, which are out of the control of LightEdge. It is the responsibility of Customer to ensure that such equipment is receiving proper care, such as proper cooling, a clean power supply, being housed in proper facilities, etc. Customer will be responsible to LightEdge for any damage caused to the Rented Equipment stemming from these factors. In addition, LightEdge will in no way be responsible to Customer for any damage caused by these factors to the Purchased Equipment, customer's supplied equipment, or any degradation in Service levels resulting therefrom.

**9. Representations, Warranties, and Acknowledgements.**

**Representations and Warranties of LightEdge.** LightEdge hereby represents, warrants, and covenants that:

- (i) It has the requisite power and authority to execute, deliver and perform its obligations under this Agreement;
- (ii) The Services will conform to the specifications set out in the applicable Service Agreements;
- (iii) Its provision of the Services does not and will not violate, infringe, or misappropriate the intellectual property rights of any third party.
- (iv) It will adhere to the terms and conditions of this Agreement;

**Representations and Warranties of Customer.** Customer hereby represents, warrants, and covenants that:

- (i) It has the requisite power and authority to execute, deliver and perform its obligations under this Agreement; and
- (ii) It will make all payments on time;
- (iii) It will abide by this Agreement, including all applicable terms of use; and also abide by all applicable laws.
- (iv) It will not introduce to any LightEdge system, any code, device, criteria, mechanism or function which may be used to restrict, damage, disable, destroy or otherwise shut down or alter any portion of the LightEdge system;
- (v) It will not introduce into any LightEdge system, any malicious code, commands, instructions, programs or other internal components (e.g., a computer "virus," computer "worm," computer "time bomb," "Trojan horse," "back door," or malware);
- (vi) It will take reasonable steps to protect the LightEdge system, and assist with troubleshooting;
- (vii) It will not use the Services to violate, infringe, or misappropriate the intellectual property rights of LightEdge or any third party.

*Disclaimer of Warranties*

Customer acknowledges that the information available via LightEdge's system and/or through the interconnecting networks may not be accurate and that LightEdge makes no representation or warranty of any kind, either express or implied, regarding the quality, accuracy, or validity of the data and/or information available from or through such networks. Use of information obtained from or through LightEdge's system is at the Customer's risk.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THE PARTIES DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.

IN SOME INSTANCES, LIGHTEDGE IS SUPPLYING DEVICES (BOTH PURCHASED DEVICES AND RENTED DEVICES) TO CUSTOMER NECESSARY FOR CUSTOMER TO RECEIVE THE SERVICES, LIGHTEDGE IS NOT THE MANUFACTURER OF THE PURCHASED DEVICES OR THE RENTED DEVICES AND MAKES NO REPRESENTATIONS OR WARRANTIES

WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE, OR NON-INFRINGEMENT OF THE PURCHASED DEVICES AND RENTED DEVICES. WITH RESPECT TO LIGHTEDGE, CUSTOMER'S PURCHASE OR RENT OF THESE DEVICES IS "AS-IS." PURCHASED DEVICES AND RENTED DEVICES SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO CUSTOMER BY THE DEVICE MANUFACTURER. MODIFICATIONS MAY VOID OR OTHERWISE LIMIT ANY WARRANTY APPLICABLE TO THE DEVICES. LIGHTEDGE MAY PROVIDE ASSISTANCE WITH THE DEVICES, INCLUDING REPLACEMENT AND REPAIR, AT AN ADDITIONAL CHARGE. LIGHTEDGE MAY OFFER AND CUSTOMER MAY ELECT TO PURCHASE A SERVICE PLAN FOR CERTAIN DEVICES.

LIGHTEGE MAKES NO WARRANTIES WHATSOEVER AS TO THE COMPATIBILITY OF ITS SERVICES WITH EQUIPMENT, DEVICES OR SOFTWARE SUPPLIED BY CUSTOMER OR PURCHASED BY CUSTOMER FROM A VENDOR OTHER THAN LIGHTEDGE.

**10. Indemnification.** Customer shall indemnify, defend and hold harmless LightEdge from and against any and all loss, claim, liability, damage, cost or expense (including, without limitation, court costs and reasonable attorneys' fees) arising in connection with the receipt and use of the Services or in any way related to Customer's performance under this Agreement, including, but in no way limited to, a breach by Customer of its representations and warranties, except those losses, claims, liabilities, damages, costs or expenses arising out of the willful misconduct of LightEdge, its employees, agents or other representatives.

LightEdge shall indemnify, defend and hold harmless Customer from and against any and all loss, claim, liability, damage, cost or expense (including, without limitation, court costs and attorneys' fees) arising in connection with the provision of the Service or performance under this Agreement, including, but in no way limited to, a breach by LightEdge of its representations and warranties, except those losses, claims, liabilities, damages, costs or expenses arising out of the willful misconduct of Customer and, if applicable, Customer's employees, agents or other representatives.

**11. Limitation of Liability.** LIGHTEDGE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT. ANY LIGHTEDGE LIABILITY TO CUSTOMER FOR ANY DAMAGES OF ANY KIND UNDER THIS AGREEMENT SHALL NOT EXCEED, IN AMOUNT, A SUM EQUIVALENT TO THE AMOUNTS PAYABLE BY CUSTOMER TO LIGHTEDGE FOR THE SERVICES FOR THE SIX MONTH PERIOD PRIOR TO ANY CLAIM. REMEDIES UNDER THIS AGREEMENT ARE EXCLUSIVE AND LIMITED TO THOSE EXPRESSLY DESCRIBED IN THIS AGREEMENT.

**12. Termination.** LightEdge may terminate all, or any portion of this Agreement, at any time, for any reason, upon sixty (60) days notice to Customer. If LightEdge elects to terminate other than for "Cause" (as prescribed below), then Customer shall be responsible for paying all amounts owed under this Agreement up and until the date of termination, but shall not incur any termination liability.

Either party may terminate this Agreement, or any portion of this Agreement (such as a Service Agreement) for cause, provided that the party wishing to terminate first provides written notice to the other party, specifying the alleged cause for termination. The party alleged of the breach shall then have a period of thirty (30) days from receipt of this notice to correct the situation. "Cause" is defined as (i) the failure of Customer to pay any amounts for Services that are undisputed (provided any disputes are reasonable and in good faith) within thirty (30) days after the date of the invoice or the failure to pay any amounts when due that Customer owes to LightEdge under any other agreements, contracts, or other arrangements or otherwise, (ii) Any material failure by a party to comply with or to perform any material nonpayment provision or condition of a this Agreement and the continuance of such failure for a period of thirty (30) days after notice thereof to such party or the failure by Customer to comply with or to perform any material nonpayment provision under any other agreement or understanding between Customer and LightEdge; or (iii) A party becomes insolvent, is unable to pay its debts when such debts become due, or is the subject of a petition in bankruptcy, whether voluntary or involuntary, or of any other proceeding under bankruptcy, insolvency or similar laws; or makes an assignment for the benefit of creditors; or is named in, or its property is subject to a suit for appointment of a receiver; or is dissolved or liquidated.

**12.1 Early Termination Without Cause.** Customer may terminate all or any portion of this Agreement without cause by providing a minimum of 30 days written notice to [terminations@lightedge.com](mailto:terminations@lightedge.com) (the "Termination Notice"). The date of any such written Termination Notice shall be the Termination Notice Date. The Termination Effective Date shall be 30 days from the Termination Notice Date or any other later date specified by Customer in

the Termination Notice. Normal service charges shall apply up to the Termination Effective Date.

**Termination Liability.** If LightEdge terminates all or any portion of this Agreement for cause or if Customer terminates all or any portion of this Agreement without cause, in addition to owing any and all fees, costs and expenses incurred up and through the Termination Effective Date, **Customer shall be responsible for the full remaining balance of all amounts owed for the remaining Term of the terminated portion of the Agreement, as measured from the Termination Effective Date**, including, without limitation, payments for terminated Services and any monthly rent payments for Rented Devices associated with the terminated portions of this Agreement, up and until such Rented Devices are recovered by LightEdge, as set forth in Section 8.2, as well as all other costs, fees and liquidated damages set forth in 8.2.

**Customer agrees that actual damages in the event of a termination by LightEdge for cause or a termination for convenience or improper termination by Customer will be difficult or impossible to ascertain and that the amounts due as set forth in this section are intended, therefore, to establish liquidated damages and not intended as a penalty.**

**13. Out-of-Service Credit.** Applicable Out-of-Service Credits, if any, are denoted in the applicable Service Agreement.

**14. Service Suspension/ Maintenance.** LightEdge may from time-to-time suspend a Service for routine maintenance. LightEdge shall provide Customer advance notification of the Service suspension. Such Service suspensions are not considered an out-of-service condition as discussed in the Service Agreements, provided that the Service is restored by the end of the period specified in the notification. This section is not intended to impact the ability of LightEdge to suspend or terminate a Service as otherwise provided in this Agreement.

**15. Intellectual Property / Proprietary Information.** Customer acknowledges that this Agreement is not intended to transfer ownership of any intellectual property. LightEdge shall continue to own and retain all of its intellectual property, including, but in no way limited to, patents, inventions, trade secrets, trademarks, service marks, trade names, logos, designations, copyrights and other proprietary rights, and Customer agrees that it will not at any time during or after the term of this Agreement, assert or claim any interest in or do anything that may adversely affect the validity of any trademark, service mark, trade name, logo, designation or copyright belonging to or licensed to the LightEdge (including, without limitation, any act or failure to act which may infringe or lead to the infringement of any of the proprietary rights).

Customer understands and agrees that the terms and conditions of this Agreement and communications between the parties regarding this Agreement or the Services provided hereunder (including any price quotes or related proposals), as well as such information relevant to any other agreement between Customer and LightEdge are confidential as between Customer and LightEdge and shall not be used by Customer for Customer's own benefit, except in connection with the performance of this Agreement, or disclosed by Customer to any party other than the directors, officers and employees of Customer or agents of Customer who have specifically agreed to nondisclosure of the terms and conditions hereof. Notwithstanding the foregoing, it is understood that Customer shall not disclose the terms of this Agreement to any competitor of LightEdge. Customer agrees that a breach or imminent breach of this section shall constitute a material breach of this Agreement for which LightEdge will have no adequate remedy at law. Customer agrees, therefore, that LightEdge's remedies upon a breach or imminent breach of this section include, but are not limited to, the right to preliminary and permanent injunctive relief restraining Customer from any further violation of said Section, as well as an equitable accounting of all profits or benefits arising out of such breach, in addition to any other remedies available at law or in equity or otherwise to LightEdge.

**16. Force Majeure.** If LightEdge's performance of any obligation under this Agreement is prevented, restricted or interfered with by causes including failure or malfunction of Customer-supplied equipment, acts of God, explosions, vandalism, cable cuts, storms, fires, floods or other catastrophes, power failure, national emergencies, insurrections, riots, wars, strike, lockouts, boycotts, work stoppages or other labor difficulties, or any law, order, regulation or other actions of any governmental authority, agency, instrumentality, or of any civil or military authority, then LightEdge shall be excused from such performance on a day-to-day basis to the extent of such restriction or interference. LightEdge shall use commercially reasonable efforts under the circumstances to avoid or remove such causes of nonperformance with reasonable dispatch. If such occurrence occurs for a period of at least sixty (60) days, then Customer shall have the option to terminate the affected portion of this Agreement, without liability.

**17. Notices.** All notices required or permitted to be given hereunder shall be in writing (including electronic mail sent to the addresses set forth on Page 1 of this Master Agreement) and deemed given (a) when personally delivered, (b) one (1) day after delivered to an overnight courier guarantying next day delivery, (c) three (3) days after deposited in the United States mail, postage prepaid, sent certified or registered or (d) the date upon which the read-receipt was received for electronic mail. All notices shall be addressed to the parties at the addresses specified above or to such other address as hereafter designated in writing by the applicable party in the manner provided in this Section 17 for the giving of notices.

**18. Attorneys' Fees.** If a proceeding is brought for the enforcement of this Agreement (including the collection of any amounts owed hereunder) or because of any alleged or actual dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs and expenses incurred in such action or proceeding in addition to any other relief to which such party may be entitled.

**19. Arbitration/Venue and Choice of Law.** Except for attempts by LightEdge to collect amounts owed under this Agreement, which may be pursued, among other ways, through the federal and state judicial systems, any dispute arising out of or relating to this Agreement or the breach thereof, shall be referred to arbitration by either party hereto and finally settled by arbitration in accordance with the rules of the American Arbitration Association as the exclusive method of dispute resolution. The arbitration panel shall consist of three (3) arbitrators, to be appointed by each party and the third to be appointed by the first two arbitrators so selected. The arbitration shall take place in Des Moines, Iowa. The arbitration award shall be final, binding upon the parties, not subject to any appeal, and shall deal with the question of costs of arbitration and all matters related thereto. Judgment upon the award rendered may be entered by any court having jurisdiction, or application may be made to such court for judicial recognition of the award or an order of enforcement thereof, as the case may be.

This Agreement shall be governed by the laws of the State of Iowa. Venue for disputes that may be brought to the courts shall be in the state and federal courts sitting in Des Moines, Iowa.

CUSTOMER AND LIGHTEGE EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

**20. Marketing Release.** LightEdge has permission of Customer to use and release information describing Customer's usage of LightEdge products and services in marketing, promotional and advertising materials. The materials may include the use of Customer logos, trademarks, service marks and non-confidential information, quotations from, and the names, images, and comments of, Customer's employees and other related references. Marketing, promotional and advertising materials are defined, but not limited to press releases, testimonials, quotes, case studies, print, radio, website, online banner and TV advertisements, promotional collateral, internal training, presentations and sales.

**21. Miscellaneous Provisions.**

*Past Due Accounts:* In the event Customer is past-due on amounts owed, Customer shall not be entitled to any applicable out-of-service credit. In addition, LightEdge may, at its sole option, refuse to provide additional Services or allow Customer to place additional orders; place Customer's account on "hold"; and refuse to provide support for the Services, including the issuance of new "trouble tickets." Customer shall receive email notification that its account will be placed on "hold" unless Customer pays the past-due amounts, including any applicable fees. LightEdge shall not be responsible in any way for damages caused by or expenses incurred by Customer resulting from placing Customer's account on "hold".

*Technical Support:* LightEdge shall not be responsible for any charges incurred by Customer for Customer's engagement of a third party to perform technical support, whether related or unrelated to the Services and/or Devices (except where specifically noted in an applicable service plan).

*Assignability.* Without first obtaining LightEdge's express, written consent, Company shall not assign or otherwise transfer (including without limitation, a transfer due to a change of control), whether voluntarily, involuntarily or by operation of law, its rights or obligations under this Agreement.

*Relationship of the Parties.* Nothing in this Agreement will create, or shall be construed to create, any partnership, joint venture, agency, franchise, sales representative or employment relationship between the parties.

*Severability.* If any provision of this Agreement is held to be unenforceable, the Parties shall substitute for the affected provision an enforceable provision which approximates the intent and economic effect of the affected provision and the remaining provisions of this Agreement will be unimpaired and will remain in full force and effect.

*Waiver, Remedies Non-Exclusive.* No failure or delay on the part of any Party in exercising any right or remedy provided in this Agreement will operate as a waiver thereof; nor will any single or partial exercise of or failure to exercise any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy provided herein or at law or in equity. Except as expressly provided herein, no remedy specified in this Agreement is intended to be exclusive of any other remedy, and each and every remedy will be cumulative and in addition to every other right or remedy provided herein or available at law or in equity.

*Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa without regard to conflicts of law principles.

*Headings.* The headings of the sections, subsections, and paragraphs of this Agreement are inserted for convenient reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

*No Third-Party Beneficiaries.* This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors, legal representatives and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto (and their respective heirs, successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement.

*Entire Agreement.* This Agreement constitutes the entire understanding and agreement between the Parties related to the subject matter hereof and shall supersede and/or replace any and all prior or contemporaneous oral and written communications.

*Amendments/Counterparts.* This Agreement may only be amended by a writing signed by both of the Parties. This Agreement may be executed in multiple counterparts. Facsimiles of Party's authorized representative's signature shall be deemed to be binding upon such party, unless otherwise prohibited by law.

*Drafting.* This Agreement has been drafted and negotiated by the Parties (and their counsel) and shall be fairly interpreted in accordance with its terms without any presumption or strict construction in favor or, or against, either Party arising from the identity of the drafter.



**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date this Agreement is signed by LightEdge as set forth below.

**Customer**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LightEdge**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_