

Terms and Conditions

Definitions

1. **Business Hours** - means the identification of the business hours each day during the Service Days for which the Program Sets will be guaranteed available to the Customer.
2. **Customer** - refers to the person, firm and/or corporation that orders LSPR Services and is responsible for the payment of charges and compliance with this Agreement. This will also include all authorized "Users" of the LoadSpring Platform system as identified by the Customer.
3. **Install/Move/Add/Change - (IMAC)** means a SERVICE modification(s) and/or requests not identified in commercial Agreement or required by third party software vendor to improve application stability or performance by adjusting settings, installing/upgrading versions, configuring additional environments. Also includes performance issues, error resolution or configuration changes requested to any hosted Application, or underlying infrastructure application, such as database, which are not a direct result of actions or mis-actions by LSPR.
4. **Measurable Downtime** - means the period during which Customer cannot access software or hosting services defined in the appropriate Program Set. This time is the earlier of either the time that the Customer notifies LoadSpring, or monitoring utilities notify LoadSpring administrators and ending at the time that LoadSpring confirms the Customer's accessibility via telephone, electronic mail, or other means.

NOTE: The first 30 days of the Contract are exempt from measurable downtime.

5. **Macro Disaster** - means any complete system failure including complete routers, switches, servers, NAS Storage devices or SAN Storage devices including operating system data and software.
6. **Micro Disaster** - means any hardware component failure that occurs from the point of network control (data center routers) to end network systems and servers including operating system data and software.
7. **Mega Disaster** - means a complete failure of the majority of the data center facility in which customer services are primarily being provided from. A Mega Disaster classification will mean that basic service delivery at even minimal levels is disrupted for more than 6 hours and in order to restore full service would require relocation of service access to a backup data center facility.
8. **Program Set** - means a combination of software, hosting services and/or consulting services with associated monetary costs for each item.
9. **Recovery Time Objective - (RTO)** means the measure of time (in hours or days) to restore complete program set access in the event of a system or component failure.
10. **Recovery Point Objective - (RPO)** means the maximum allowable time (in hours or days) of data loss prior to a system or component failure.
11. **Service Days** - means the identification of the days of the week for which the Program Sets will be guaranteed available to the Customer.



12. Service Order - (SO) means the part of this contract, or any future amendments to this contract, which contain the Customer contact information, the Program Sets for all services identified and delivered, the business Hours, the Service Term, the SLA Guarantee, the Service Days and Service Times among other information.
13. Service Term - means the start and end date of this Contract specified on the Service Order during which the Customer has production level access to the Services.
14. SLA Guarantee - means Service Level Guarantee and is the amount of time that all Program Set items are guaranteed to be available as a percentage of the total time, in business hours, of availability in one year based upon the number of Service Days per week and the number of Service Hours identified as Service Time.
15. SLA Incident - means one or more events that cause a disruption of SERVICE, either access, performance, data loss or security, or which, if not causing a service disruption nevertheless to require further monitoring and/or repair, which were caused by LoadSpring's action, mis-action, infrastructure, or misconfiguration. These events have actual or potential impact on the SLG provided by LSPR in this AGREEMENT. SLA Incidents affect more than 10% of users.

Service Access & Remedy

1. It will be the responsibility of LoadSpring Solutions (LSPR) to ensure Customer access to all LoadSpring Platform™ modules, software applications and services identified by the Program Sets for any Service Orders, current with this contract and future with amendments to this contract, within the SLA Guarantee identified on the corresponding Service Order. In the event that the SLA Guarantee identified on the first SO and/or Contract for Hosting Services differ, the SLA Guarantee identified on the SO will prevail. In the event that the Customer, or any user authorized by the Customer cannot access the identified services, they are instructed to contact LoadSpring Solutions immediately.
2. It will be the responsibility of the Customer to ensure their users are (a) Authorized and appropriately trained in the use of the LoadSpring Platform™, (b) Meet or exceed the requirements as listed in the LoadSpring Platform Users Guide appropriate for your version that is downloadable from the main page of the LoadSpring Platform for all users. (c) Any user who satisfies items a and b above, but still cannot connect to LSPR's LoadSpring Platform™ must notify LSPR immediately.
3. In the event of an SLA Incident during identified business hours for a Measurable Downtime exceeding that allowed by the SLA Guarantee, due to a Micro Disaster or Macro Disaster, as identified above, LSPR will credit the Customer an amount equal to 25% of the monthly recurring fee associated with the Program Set(s) which experienced Measurable Downtime in excess of that.

NOTE: The Standard RPO of 24 hours will apply for Customer data components in the event that the Micro/Macro disaster causes data loss unless a shortened RPO is defined in the Service Order. (For Mega Disaster, see next section titled "Disaster Recovery").

Technical Support

LSPR technical support personnel will be available for response to issues related to LoadSpring Platform™ access, functionality, hosted application performance/configuration/access at a systems level, printing/external device access for all issue types.

Incident Request During Business Hours

Any issues arising from Services provided by LSPR including, but not limited to, access to the LoadSpring Platform, launching applications, performance and data recovery should be reported in the LoadSpring Platform Support Module. Users have three methods to obtain Technical Support during normal business hours:

- Using the Support Module of the LoadSpring Platform
- Calling our Technical Support line at +1.877.562.3777 or +44.800.088.5889
- Emailing our Technical Support Team at support@loadspring.com

Incident Request After Business Hours

Standard after business hours support and procedures are as follows:

- Log a Support Incident using the Support Module of the LoadSpring Platform: Only issues marked as “Prevents user from completing work” will be responded to after business hours.
- Call our Technical Support line at +1.877.562.3777 or +44.800.088.5889, the User MUST select the option for Emergency Support and leave a detailed voicemail. They will receive a call back within 30 minutes.
- Emailing our Technical Support team after normal business hours is not recommended

Charges & Adjustments

Customer agrees to pay LSPR the sum indicated for services as set forth in the SO. Any increase/decrease in monthly fees due to adding or deleting users, applications and/or environments greater than 25% will be factored throughout the contract. However, if deletion causes the monthly recurring fee to decrease by more than 25% of the then applicable monthly recurring fee, the fee shall not be so reduced until, for the first year of this contract, after 90 days after the customer acceptance form for amendment has been received by LSPR. Furthermore, if the decrease in monthly recurring fees is equal to 100% of all SO's associated with, this contract will be considered terminated and subject to the terms in the "Termination" clause below. In the case of Payment for additional users shall be due based upon "Payment Terms" identified in your SO after receipt by Customer of an LSPR invoice. Payment for one-time and onboarding fees shall be made prior to the requested installation date.

If Customer fails to make necessary payments to LSPR under this Agreement within agreed terms:

- 1 day past the due date, LSPR will send a warning notification to the Customer that payment is overdue.
- 21 days past due date LSPR will provide notice, which includes LoadSpring Platform User Alert on login that Support and Services suspension is imminent.
- 31 days past due date LSPR will issue suspension notice, stop support and issue an invoice for 30 days past due fee of 1.5% interest per month.
- 36 days past due date LSPR will suspend Services until the payment is remitted.

LSPR may in good faith, elect to test an issue or improve a service or as a proof of concept for Customer. In return, Customer is required to pay for such services within 30 days of acceptance, and LSPR reserves the right to increase invoicing upon Customer signing an approved amendment within 30 days. If the Customer does not accept the charges in a timely manner, LSPR reserves the right to remove the services at its discretion.

Payment & Invoicing

LoadSpring generally submits all invoices to the Customer in advance of the next service period equal to the payment terms agreed to. LSPR will follow up 5 days later to make sure Customer has received the invoice. If the Customer is in default with respect to any sum due and payable, by way of sole and exclusive remedy, LSPR may charge the Customer interest on any outstanding amounts at a rate of 1.5% per month after two written notifications and 30 days has expired from original notification.

Payment schedule is Annual Up-Front unless otherwise specified. Monthly payment schedule preference incurs a 5% fee premium. Quarterly payment schedule preference incurs a 3% fee premium. Processing fees may apply for certain forms of payment.

If Customer has an online service portal for invoice submission Customer agrees it is Customer's responsibility to have the portal accessible for uploading invoices at all times. If by chance, the portal becomes unavailable with no fault of LSPR Customer agrees to accept late submissions. Customer is responsible for paying invoice in accordance with their payment terms from original date on invoice.

Late payments made in regard to this will accrue fees as stated above.

Service Orders and Invoices will be in United States Dollar currency (\$; USD) unless otherwise specified. When necessary, non-USD currency options are established at the then current exchange rate, are firm, and shall not be revised for the duration of the Agreement, except for a modification of exchange rate as follows:

The reference exchange rate (RER) is the fixing rate officially provided between the USD and foreign currency. If the 3 months average RER increases or decreases by more than 5%, the parties agree to meet and to renegotiate the rate cards. In case no agreement could be reached between the parties, the Agreement may terminate as mentioned in the section "Termination".

Invoice First Payment

The first invoice for any service added, amended, or renewed is sent upon delivery of the Services and is due upon receipt. If this payment is not received within 15 business days, service will be immediately terminated.

Duration

The Service Term shall commence on the first day that Customer has access to the Services and continue until 90 days termination notification from Customer of the Contract for Master Services. LSPR reserves the right to determine if a contract concludes at the date specified on the Estimated End Date specified on the current active Service Orders for CUSTOMER.

Termination

1. LSPR may terminate this Agreement by giving thirty (30) days' notice in writing to Customer for failure to remit to LSPR necessary monthly fees as set forth in this Agreement.

2. Customer may, for convenience, terminate this Agreement on giving ninety (90) days' notice in writing to LSPR and will be subject to a termination fee equal to 1/4 of the remaining months or 90 days, whichever is greater of all items as outlined in all SO's associated with the Contract for Master Services. All contracted items will remain active and subject to the conditions of this Agreement during this period. Annual Subscription Fees and Setup Fees are not refundable. Furthermore, if early termination occurs before the anniversary of the second 12 months of a contract, any multiyear discounts applied to previous month's service will be reimbursed to LSPR.

NOTE: Any contract acceptance periods outlined in the SO, not to exceed 90 days, will supersede this clause.

3. Either party may terminate this Agreement if the other party commits any material breach of any of the terms of this Agreement or the other party is unable to perform its obligations for a period of fifteen (15) consecutive days or for periods aggregating 90 days in any calendar year, or the other party becomes insolvent, files or has filed against it a petition in bankruptcy, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors.
4. In the event of any termination of the MSA, regardless of reason, both parties will cooperate with and provide to the other party all information, Customer Data, and assistance reasonably necessary or desirable by either party to ensure the orderly wind-down and transfer of the services, functions, responsibilities, tasks, and operations comprising the services as set forth in the associated SO's. Fees for the above-mentioned services provided by either party after the Agreement is terminated will be at actual time & material costs plus eight percent (8%).
5. Any services provided that were used by the Customer, but we're not paid for either through normal invoicing, amendments, or service additions for items such as, but not limited to, increased data storage, consulting hours, IMAC hours, additional application environments, etc. will be billed through an additional invoice the balance of which is due before any data is returned following notice of termination.

Intellectual Property Rights

1. All copyright, patent, trademark, trade secret, and other proprietary rights ("Intellectual Property Rights") to the LSPR Services, software, and related documentation shall remain the property of LSPR or its third-party suppliers.
2. LSPR does not claim any rights, title, or interest in any software, data, or content that is CUSTOMER owned and is installed on LSPR managed equipment. LSPR will not attempt to obtain Customer source code to software through de-compilation, disassembly, or other means.
3. CUSTOMER shall not use, reproduce or sublicense LSPR services, software or documentation, or any related information or documentation, and shall ensure that same is not used, reproduced or delivered to any of its Customers for any purposes except those purposes expressly permitted by the terms of this Agreement.
4. Intellectual property for this agreement is defined as models that the customer independently creates in our solutions or is developed by LoadSpring specifically as a "work for hire" product within the context of the engagement.

Confidentiality & Warranties

1. Neither LSPR nor Customer shall use or divulge or communicate to any person (other than to those whose province it is to know, or as permitted by this Agreement) any confidential information concerning the services, the software, customers, business accounts, finance, or contractual arrangements or other dealings transactions or affairs of the other party or its subsidiaries which may come to either party during the course of this Agreement or any of the terms of this Agreement.



- Both parties shall use all reasonable efforts to prevent the unauthorized publication or disclosure, or dissemination of any such information material or documents described in 1. above and to ensure that any person to whom such information or documents are lawfully disclosed is aware that the same is confidential and agrees to keep such information material and documents confidential, with the exception of information which is (i) public knowledge, (ii) previously known, (iii) obtained from a third party having the right to disclose, (iv) developed by receiving party independent of disclosing party, or (v) necessarily disclosed by the license of commercial products.
- To the extent that, in the provision of the services under this Agreement, LSPR processes on behalf of the Customer any personal data that is subject to the EU General Data Protection Regulation 2016/679 (GDPR), the terms of the Data Processing Addendum at Schedule A, which are hereby incorporated by reference, shall apply and the parties agree to comply with such terms.

Except as set forth above, LSPR specifically disclaims any warranties of any kind, express, implied, or statutory, including any warranties of merchantability or fitness for a particular purpose. LSPR specifically makes no representations regarding its services' suitability for Customer's end users' requirements or performance. The Customer represents and warrants to LSPR that it has the ability and experience to carry out the obligations assumed by it under this Agreement and that by virtue of entering into this Agreement, it is not and will not be in breach of any express or implied obligation to any third-party binding upon it which conflicts herewith.

Applicable Law

The Agreement and the Orders are governed by the Laws of the State of Delaware, United States, except matters of trademark, patent, or copyright infringement upon LSPR by Customer, which will be governed by the United States and/or international law as required. In the event of any dispute regarding the validity, interpretation, or execution of the Agreement and/or a Service Order, the Parties shall strive to reach an amicable settlement in the timeliest manner possible. In the absence of an amicable settlement, the dispute shall be brought before the sole authority of the Commercial Courts of the United States, even in the event of emergency proceedings, third-party appeals, or multiple respondents. Each provision of this Agreement shall be construed separately and, notwithstanding that any such provision may prove to be illegal or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

Miscellaneous

- In no event shall either party hereto be liable for any incidental, resulting, or consequential damages arising out of this Agreement.
- Any software provided by LSPR to Customer is for use exclusively with the LoadSpring Platform and only during the Contract Dates specified above. Upon termination of this Agreement, Customer is required to uninstall said software and return to LSPR along with a Letter of Destruction.
- LSPR shall have the right to publish basic information relating to this Agreement, including an announcement of the relationship, Customer's identity, and the nature of the services provided, in promotional material.

Authorized Company Signature (Officer Only)

LoadSpring Solutions, Inc.

Print Name: _____

Print Name: _____



Title: _____

Title: _____

Date: _____

Date: _____

Supplemental online references

Service Deliverables www.loadspring.com/docs/servicedeliverables.pdf

Data Processing Addendum www.loadspring.com/docs/dpa.pdf