



# Lightspeed Service Agreement

*Last updated: December 20, 2021*

Welcome to Lightspeed!

At Lightspeed, our mission is to bring cities and communities to life by powering small and medium-sized businesses. We provide easy-to-use, omnichannel commerce-enabling SaaS platforms. Our software gives our customers the critical functionality they need to connect with consumers, manage their operations, accept payments, and grow their business.

Below is our Service Agreement (the "**Agreement**") which covers the services Lightspeed Commerce Inc. and its affiliates (collectively, "**Lightspeed**") provide to you (the "**Customer**"). To find out which Lightspeed entity you are dealing with, please take a look at III.

On the right-hand side, you'll notice that we've summarized and translated the "legalese" into plain language. This was done to help you better understand your rights and obligations under this Agreement. However, please remember that the content on the right-hand side is not legally-binding; you should consult the full-text of the Agreement on the left-hand side of this webpage for any questions of legal interpretation. Translations of this Agreement are available in French, German, English and Dutch; as a courtesy; but this English version is the only binding document.

You may still have questions or concerns after reading this Agreement. If that's the case, don't be shy! You can reach out to us at the addresses below:

*If you're located in the European Union:*

**Lightspeed Netherlands B.V.**

Haarlemmerweg 331 A

1051 LH, Amsterdam, The Netherlands

+31 (0) 20 820 23 91

[info.nl@lightspeedhq.com](mailto:info.nl@lightspeedhq.com)

*If you're located elsewhere in the world:*

**Lightspeed Commerce Inc.**

700 Saint-Antoine Street East, Suite 300

Montreal (Quebec) H2Y 1A6, Canada

1-866-932-1801

[info@lightspeedhq.com](mailto:info@lightspeedhq.com)



## I. General Terms and Conditions

*Legal Jargon*

### 1. Subscription to Lightspeed Product

During the Term and in accordance with this Agreement, Customer may access and use the products which Customer subscribed to, whether by paid subscription, free trial or promotion (each a “**Product**”), as referenced in the invoice or quote executed by Customer (the “**Order Form**”). Each Product may include updates, cloud-based and support services, applications or documentation. Each of these are subject to the terms of this Agreement as applicable. Lightspeed may add to, change or discontinue any component of the Products at any time; provided however, that no such change shall materially increase Customer’s obligations or materially decrease Customer’s entitlements under this Agreement. Customer is responsible for all actions taken under its Lightspeed account credentials, regardless of whether such actions are taken by Customer, their employees or a third party. Customer will safeguard all account credentials in its possession or under its control. Lightspeed is not liable for any loss or damage arising from any unauthorized use of Customer’s account.

### 2. Grant of License

During the Term, Lightspeed grants Customer a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use, and to permit its employees and all other users who access and use the Products on Customer’s behalf (collectively, the “**Users**”) to access and use, the Products on the terms set forth in this Agreement. Customer agrees that all rights, title and interest in and to all the intellectual property rights in the Products, and all modifications, extensions, scripts and other derivative works of the Products provided or developed by Lightspeed, including the Beta Technology, are owned exclusively by Lightspeed or its licensors. All rights not granted to Customer in this Agreement are reserved by Lightspeed.

*Actual Human-Readable Language*

Thank you for subscribing to our Products! Your subscription entitles you to access and use the Products listed on your invoice and/or Order Form.

From time to time, we will be required to make changes to the Products. This may happen, for instance, when we introduce new features or send bug fixes.

Since Lightspeed doesn’t control your use of our Products, you are responsible for the actions taken through your account including properly managing personally-identifiable information. Please be careful not to share your account credentials with those who shouldn’t have them.

In order for you, your employees, and other designated users to have access to the Products, Lightspeed gives you a license to use the Products. This means that you don’t own the Products. All intellectual property rights in the Products are exclusively owned by Lightspeed, but you do have a right to use the Products for as long as your account is in good standing.

### 3. License Restrictions

Customer and any Users shall not (and shall not allow any User or third party to): (i) decompile, disassemble, reverse engineer or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming or interoperability interfaces of the Products, by any means whatsoever; (ii) distribute viruses or other harmful or malicious computer code via or into the Products; (iii) engage in any conduct that disrupts or impedes a third party's use and enjoyment of the Products; (iv) remove any product identification, copyright or other notices from the Products; (v) sell, lease, lend, assign, sublicense, grant access or otherwise transfer or disclose the Products in whole or in part, to any third party; (vi) use the Products for timesharing, service bureau or hosting purposes or otherwise use, resell, sublicense, distribute or transfer or allow others to use the Products to or for the benefit of third parties; (vii) modify or incorporate into or with other software or create a derivative work of any part of the Products, unless agreed to in writing by Lightspeed; (viii) use the output or other information generated by the Products for any purpose other than as contemplated by this Agreement; (ix) use the Products for any use other than Customer's internal business use; (x) use unauthorized modified versions of the Products, including without limitation, for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the Product; or (xi) use the Products in any way that is contrary to applicable local, state/provincial, federal, regional and foreign laws, including without limitation those relating to fiscal laws and VAT regulations, as well as privacy, data protection, electronic communications and anti-spam legislation. Lightspeed retains all title to, and except as expressly licensed herein, all rights to the Products, all copies, derivatives and improvements thereof, and all related materials.

### 4. Term of Agreement

The "**Initial Term**" shall mean the number of months in the term as specified in the Order Form, beginning on the date specified in the Order Form ("**Subscription Start Date**"). Upon expiration of the Initial Term and unless otherwise stated in the Order Form, this Agreement will automatically renew for a duration equal to the Initial Term (each a "**Renewal Term**", the "**Current Term**"

Although you have a right to use the Products, that doesn't mean you can misuse them. For example, you shouldn't be deconstructing our Products in an attempt to get to the underlying source code. You shouldn't be using the Products to send out malware or infect other devices. And you certainly shouldn't use the Products in any illegal way.

The left-hand side of this page lists other restrictions you should be aware of.

Take a careful look at your Order Form. It indicates the start date, initial term and renewal periods of your subscription. Depending on the Product purchased, your subscription might automatically



being the Initial Term or the then-current Renewal Term (as the case may be); and the Initial Term and all Renewal Terms collectively, the “**Term**”) until terminated by Customer or Lightspeed by delivery of written notice to the other party at least ninety (90) days prior to the end of the Current Term, or such period of notice equal to the Current Term where the Current Term is less than ninety (90) days. If no Order Form has been provided, the minimum period of notice required to be given shall be thirty (30) days. In the case of Products licensed on a trial basis, the Term of this Agreement shall be limited to the duration of the trial period identified in the Order Form. Except as otherwise specified herein, Customer may not terminate this Agreement prior to the expiration of the Term. If Customer is located in the Province of Quebec, Customer expressly waives the application of Sections 2125 and 2129 of the Civil Code of Quebec.

## 5. Fees and Payment

Customer shall pay Lightspeed the annual and/or monthly fees (“**Fees**”) specified in the Order Form, in accordance with the timing and currency specified in the Order Form. If no Order Form has been provided, the Fees will be as set out on the websites for the relevant Products. Unless required by applicable law, all payments by Customer to Lightspeed under this Agreement are non-refundable and made via the payment method specified by Customer in the Order Form, or as otherwise agreed in writing by the parties. Customer shall undertake any additional actions reasonably requested by Lightspeed to implement any automated Fee payment process. Any amounts past due shall accrue interest at a rate which is the lesser of: one and a half percent (1.5%) per month or the maximum rate allowable by law. Any assessment of late fees shall be without prejudice to Lightspeed’s right to suspend Customer’s access to the Products. Any applicable goods and services or sales taxes will be added to Fees owing pursuant to this Agreement.

## 6. Confidential Information

Lightspeed and Customer (each a “**Receiving Party**”) shall each retain in confidence all information received from the other party (the “**Disclosing Party**”) pursuant to or in connection with this Agreement, the Products or the Beta Technology, that the

renew. Make sure you understand everything in there!

You can’t cancel your subscription early unless Lightspeed does something to break the terms of this contract. More information about cancellation is in the “Termination and Suspension” section below.

Your Order Form will tell you how often to pay your Fees. You may be required to pay all Fees upfront or they may be spread out over the year on a monthly basis. Your Order Form will contain all these details.

Don’t forget that your Fees are non-refundable and must be paid on time. Otherwise, we might charge you for late payment.

As part of our ongoing relationship, we might have access to each other’s confidential business information. Lightspeed understands that



Disclosing Party identifies as being proprietary and/or confidential or that, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary and/or confidential (“**Confidential Information**”), and will make no use of such Confidential Information except as necessary to fulfill their respective obligations under this Agreement. Each party shall treat the terms and conditions of this Agreement as confidential; however, either party may disclose such information in confidence to its legal and financial consultants as required in the ordinary course of that party’s business. Notwithstanding the foregoing, the restrictions set forth above will not apply to (i) information previously known to the Receiving Party without reference to the Disclosing Party’s Confidential Information, (ii) information which is or becomes publicly known through no wrongful act of the Receiving Party, (iii) information that is independently developed by the Receiving Party without reference to the Disclosing Party’s Confidential Information, or (iv) information required to be disclosed pursuant to applicable law by enforceable orders of the court or other governmental authority. The foregoing shall also not prevent Lightspeed from using Customer Data on an aggregate and de-identified basis. Customer shall ensure that its Users fully comply with the terms of this Section and shall be responsible for any damages suffered by Lightspeed as a result of a User’s failure to do so.

## 7. Customer’s Representations

Customer represents and warrants that currently and throughout the Term (i) Customer is fully authorized to enter into this Agreement and that Customer and any Users are fully authorized to utilize the Products, (ii) Customer and any Users are and will remain in compliance with all Lightspeed policies, applicable laws and regulations with respect to its and their use of the Products and activities related to this Agreement, including but not limited to fiscal and privacy laws; and (iii) if Customer or any of its Users imports lists into the Products for the purpose of sending electronic communication (e.g., email, text messages), or otherwise collects electronic addresses for the purpose of sending electronic messages, then Customer warrants that each person on such list has previously opted-in to receive promotional electronic communications from Customer (where applicable) and that the

confidentiality is key to our mutual success, and so should you.

That’s why both parties will protect each other from unauthorized disclosure and ensure confidential information is only used if required under this Agreement.

Of course, not all information shared between us is meant to be confidential. For instance, information that is already publicly available should not be considered confidential – which means that any material that Lightspeed has posted on its website can be shared.

Finally, don’t forget that you’re also responsible for the conduct of your employees and designated Users. Please inform them of the importance of protecting all Confidential Information.

As part of your right to use our Products, there are a few things you must confirm:

- ✓ you’re allowed to sign the Order Form and therefore legally bind the business on whose behalf your signing;
- ✓ in using our Products, you and your Users (e.g., your employees) will follow our policies and respect the law; and
- ✓ if you’re using our Products to send promotional messages to



content of such communications by Customer will comply with applicable laws and regulations.

## 8. Customer Data and Privacy

8.1. “**Customer Data**” means any data that Customer or its Users input into the Products for processing in connection with this Agreement, including any personally-identifiable information (“**Personal Data**”) forming part of such data.

8.2. Customer may select the Personal Data it inputs into the Products at its sole discretion; Lightspeed has no control over the nature, scope, origin, and/or the means by which Customer acquires Personal Data processed by the Products. Lightspeed will comply, and will ensure that its personnel comply, with the requirements of applicable privacy laws and regulations governing Customer Personal Data in Lightspeed’s possession or under its control. Customer is solely responsible for ensuring that it complies with any legal, regulatory or similar restrictions applicable to the types of data Customer elects to process with the Products. Customer remains responsible for properly handling and processing notices regarding Personal Data of Customer’s clients and Users.

8.3. The Products grant Customer the ability to independently backup and archive Customer Data. Accordingly, Customer is responsible for performing regular backups of Customer Data. Nevertheless, Lightspeed will regularly perform backups of Customer Data stored in the Products. Lightspeed will assist Customer in recovering and restoring Customer Data to the Products to the extent commercially feasible. Customer understands and agrees that Lightspeed is not responsible for any loss or corruption of Customer Data or other software.

8.4. Lightspeed uses and protects Customer Data, including information transmitted via the Products, in accordance with Lightspeed’s Privacy Policy, located at <https://www.lightspeedhq.com/privacy-policy/> (the “**Privacy Policy**”) and the Data Processing Agreement located at <https://www.lightspeedhq.com/dpa/> (the “**DPA**”). Both the Privacy Policy and DPA are incorporated into this Agreement by reference. In addition to the permissions granted in the Privacy Policy and DPA, Customer allows Lightspeed to use and share non-personal data with third parties to build anonymous data

your clients, you’ve obtained their valid consent to do so.

One of the core functionalities of our Products is the ability for you to input data. Some of that data will likely be client’s personal information. Lightspeed doesn’t have any control over the kind of data you choose to process via our Products, so please be discerning about the categories of data you collect, and the access provided to this data. For example, you should not be storing any unredacted credit card data.

Lightspeed respects all applicable data privacy laws and expects you to do the same. This includes an expectation that you manage any privacy-related notices to be sent to your clients or Users.

Our Products also allow you to extract and back-up your data, so it is your responsibility to regularly do so. Just the same, we will back up your data on a regular basis and help you to recover it. However, we can’t be held responsible for any loss or corruption of your data.

Please consult our Privacy Policy and Data Processing Agreement for more information. These two documents form part of this Agreement, meaning that when you sign your Order Form, you’re agreeing to the terms in both of them.



profiles, provide segmented marketing information, create aggregate statistical reports, and improve current and new products and services.

## 9. Feedback

Customer agrees that any materials that it provides to Lightspeed, including but not limited to questions, comments, suggestions, ideas, plans, notes, drawings, modifications, improvements, original or creative materials or other information regarding Lightspeed or the Products or the Beta Technology, whether such materials are provided in email, feedback forms, or any other format (the "**Feedback**"), shall belong exclusively to Lightspeed, without any requirement to acknowledge or compensate Customer. Customer agrees to assign, and hereby assigns, all right, title, and interest worldwide in the Feedback and the related intellectual property rights to Lightspeed and agrees to assist Lightspeed, at Lightspeed's expense, in perfecting and enforcing such rights. Lightspeed may disclose or use Feedback for any purposes whatsoever without any obligation to Customer.

## 10. Beta Testing Project

10.1. For evaluation and testing purposes only ("**Beta Testing Project**"), Lightspeed may grant Customer a personal, non-exclusive, non-transferable, limited license to use certain technology, support services, accessories, and hardware (collectively, the "**Beta Technology**"). Customer's participation in a Beta Testing Project is voluntary.

10.2. If Customer agrees to the Beta Testing Project, Customer shall (i) test and evaluate the Beta Technology as requested by Lightspeed, (ii) familiarize itself with the Beta Technology information provided by Lightspeed and to only use or test the Beta Technology as directed, (iii) notify Lightspeed of any and all functional flaws, errors, anomalies, and problems directly or indirectly associated with the Beta Technology known to, or discovered by Customer, (iv) respond to any and all reasonable inquiries, questionnaires, and other test documents submitted by Lightspeed and (v) designate to Lightspeed, in writing, an employee or representative who will serve as the single technical contact and who will be responsible for

We encourage you to give us your feedback!

In order for us to implement your suggestions and improve our Products, you understand that we must become the owner of those ideas.

In order for you to be able to evaluate and test our services, we may give you a limited license to use the beta services. You may not share the services with any third party. Any change to the services is at the discretion of Lightspeed.

You will not receive any compensation for testing and evaluating the services unless otherwise agreed.

You agree to test and evaluate the services as set out in this Agreement. For example, you agree to use the services as directed by us and inform us in case of any malfunction or problems. Further, you agree to respond to our communication.



maintaining communication with Lightspeed. In addition, Customer agrees to bear all incidental costs (such as, costs for Internet and phone services, accessories, etc.) associated with its testing of the Beta Technology, unless otherwise agreed to in writing by both parties. Customer has the obligation to maintain backups of its own data. Customer agrees and acknowledges that, following termination of the Beta Testing Project, Lightspeed shall have no obligation to transfer Customer data to any other Lightspeed product or service, including with respect to final release of the Beta Technology.

10.3. Lightspeed has no obligation to develop or provide any updates or revisions to the Beta Technology, and Lightspeed reserves the right to alter or adjust service specifications for the Beta Technology as it deems necessary or desirable. Customer understands and acknowledges that Customer will not, unless otherwise agreed to in writing, receive any payment, compensation or discount for participating in, or for providing any Feedback, comments, evaluations, reports or any other services during a Beta Testing Project. Customer shall maintain backups of its own data. Customer agrees and acknowledges that, following termination of the Beta Testing Project, Lightspeed shall have no obligation to transfer Customer data to any other Lightspeed product or service, including with respect to final release of the Beta Technology.

10.4. The Beta Technology provided by Lightspeed is proprietary to Lightspeed and/or its licensors. Customer agrees and acknowledges that nothing contained in this Agreement shall be construed as granting any ownership or intellectual property rights to any Beta Technology, Feedback or Confidential Information. All applicable rights in all copyrights, trademarks, trade secrets, trade names, patents and other intellectual property rights in or associated with the Beta Technology are and will remain in Lightspeed and Customer shall have no such intellectual property rights in the Beta Technology. Customer will not make, have made, use or sell for any purpose any product or item using, incorporating or derived from any Beta Technology or Confidential Information. Customer may not copy or reproduce the Beta Technology or reverse engineer, alter, modify, disassemble or decompile the Beta Technology, or any part thereof, without Lightspeed's prior written consent.

For this purpose, you will designate a specific person.

We encourage you to give us your feedback! In order for us to implement your suggestions and improve the services, you understand that we must become the owner of those ideas. You will pay yourself for internet and other services as well as equipment that you may need in order to use our services unless otherwise agreed.

All intellectual property rights in the services are exclusively owned by Lightspeed. Although you have a right to use the services, that doesn't mean you can misuse them. For example, you shouldn't be deconstructing the services in an attempt to get to the underlying source code. You shouldn't be using the services to send out malware or infect other devices. And you certainly shouldn't use the services in any illegal way.

The left-hand side of this page lists other restrictions you should be aware of.

## 11. Third-Party Services

**"Third-Party Services"** are products, applications, services, software, networks, systems, directories, websites, databases and information from third parties, including from Lightspeed Payments USA Inc., that one or more Products link to, or which Customer may connect to or enable in conjunction with one or more Products. Customer may decide to enable, access or use any Third-Party Services (as defined above). Customer agrees that access and use of such Third-Party Services shall be governed solely by the terms and conditions of such Third-Party Services, and that Lightspeed is not responsible or liable for, and makes no representations or warranties as to any aspect of such Third-Party Services, including, without limitation, their content or data practices (including with regards to Customer Data and Personal Data) or any interaction between Customer and the provider of such Third-Party Services, regardless of whether or not such Third-Party Services are provided by a third party that is a member of a Lightspeed partner program or otherwise designated by Lightspeed as *"certified"*, or *"approved"* by or *"integrated"* with Lightspeed. Any use by Customer of Third-Party Services shall be solely between Customer and the applicable third-party provider. Customer irrevocably waives any claim against Lightspeed with respect to such Third-Party Services. Lightspeed is not liable for any damage or loss caused or alleged to be caused by or in connection with Customer's enablement, access or use of any such Third-Party Services, or Customer's reliance on the privacy practices, data security processes or other policies of such Third-Party Services.

## 12. Maintenance Activities

It may be necessary for Lightspeed to perform scheduled and/or unscheduled repairs or maintenance, or remotely patch or upgrade the Product. This may temporarily degrade the quality of the services or result in a partial or complete outage of the Product. Lightspeed will endeavor to carry out such work during times that will cause the least disruption to Customer's business. Customer shall cooperate, if necessary, to perform such work.

One of the unique features of our Products is your ability to integrate with our third-party partners. For example, you might be interested in connecting our Products to third party accounting, scheduling or marketing software, or other service providers.

When you do so, you understand that you are contracting with that third party, not with Lightspeed. This means that Lightspeed is not responsible for any issues that may come up as a result, including technical problems or product failures. Any Personal Data you share with that third party is subject to their policies, not Lightspeed's. You agree not to file a claim against Lightspeed related to any Third-Party Service.

To ensure the functionality and security of our Products, we regularly maintain and update them. Maintenance might be scheduled or unscheduled. In both cases, we'll do our best to perform maintenance during times that will minimally impact your business.

### 13. Termination and Suspension

13.1. In the event of a material breach of this Agreement by either party, the non-breaching party may terminate this Agreement by giving the breaching party written notice specifying the nature of the breach in reasonable detail and the non-breaching party's intention to terminate (a "**Termination Notice**"). If the breach has not been cured within the period ending thirty (30) days following delivery of the Termination Notice, then this Agreement shall automatically terminate.

13.2. Notwithstanding the foregoing, Lightspeed may suspend Customer's access to the Products immediately without notice if Lightspeed, in its sole discretion, believes: (i) such suspension is required by law; (ii) there is a security or privacy risk to Customer; (iii) Customer is infringing or violating the rights of third parties, or acting in a manner that is abusive, profane or offensive; (iv) Customer does not pay its Fees or any invoices in a timely manner; or (v) Customer is in breach of any material provision of this Agreement, including its license restrictions or confidentiality obligations. Any suspension of Customer's access to the Products will not limit or waive Lightspeed's rights to terminate this Agreement or Customer's access to the Products.

13.3. Upon termination of this Agreement, Customer shall discontinue its use of the Product(s). Notwithstanding the foregoing, termination of this Agreement by Lightspeed shall not limit Customer's obligation to pay all of the applicable Fees, nor restrict Lightspeed from pursuing any available remedies, including injunctive relief. Any installments that have not yet matured will become due immediately upon termination. Customer agrees that following termination of Customer's account and/or use of the Product, Lightspeed may immediately deactivate Customer's account and delete Customer Data. Customer further agrees that Lightspeed shall not be liable to Customer nor to any third party for any termination of Customer's access to the Product or deletion of Customer Data in accordance with this Agreement. Sections discussing license restrictions, Fees and payment, confidentiality, Customer representation, indemnification, and limitation of liability shall survive termination of this Agreement, along with any other provisions that are intended by their terms to survive.

As a general rule, this Agreement can't be terminated before the end of your subscription. However, if Lightspeed violates the terms of this Agreement in a significant way, you are entitled to early termination. This right also applies to Lightspeed in the event you violate the terms of this Agreement.

Termination doesn't occur instantly – you must first send us a Termination Notice giving us thirty (30) days to fix the breach. If the breach is legitimate and we fail to fix it, you are free to cancel this Agreement. You should also know that we may cancel this Agreement without sending you a Termination Notice for breaches to the specific sections listed to the left.

In certain circumstances, we may be forced to suspend your access to the Products. For example, this would occur:

- ✓ if it was required by law
- ✓ if you are faced with a privacy or security risk
- ✓ if you infringe or violate the rights of third parties
- ✓ if you refuse to pay us
- ✓ If you breach any material obligations under this agreement.

If this agreement is canceled, you agree to stop using the Products and to pay us any Fees that are still outstanding. Any instalments that have not yet matured will become due immediately upon termination. We might also deactivate your account and delete any of your data.

## 14. Indemnification

14.1. Customer shall indemnify, defend and hold harmless Lightspeed and its officers, employees, and agents from and against all losses, expenses, liabilities, damages and costs including, without limitation, reasonable attorneys' fees (collectively "**Costs**"), to the extent that such Costs are attributable to any breach by Customer or any User, independent contractor, or affiliate thereof, of any representations, warranties or other obligations set forth in this Agreement.

14.2. Lightspeed shall indemnify, defend and hold harmless Customer and its officers, employees, agents and affiliates from and against all Costs, to the extent such Costs are attributable to the Products infringing or misappropriating any registered third-party intellectual property right, including trademarks, patents and copyrights if Lightspeed is notified promptly in writing and given authority, information, and assistance for the defense or settlement of any related proceeding.

If you or your Users breach any term of this Agreement and Lightspeed is sued by a third party as a result, you agree to reimburse us for any damages we've suffered.

In parallel, Lightspeed will reimburse you for any damages you've suffered if a third party sues you as a result of the Products infringing on that person's registered intellectual property rights.

## 15. Limitation of Liability

15.1. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, LIGHTSPEEDS' AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER DURING THE THREE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM GIVING RISE TO SUCH LIABILITY WAS FIRST ASSERTED. IF AND TO THE EXTENT THAT CUSTOMER PARTICIPATES IN A BETA TESTING PROJECT, IN NO EVENT WILL LIGHTSPEED'S TOTAL AGGREGATE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THE BETA TESTING PROJECT EXCEED \$/€/CHF 100.

15.2. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, RELIANCE OR PUNITIVE DAMAGES OR LOST OR IMPUTED PROFITS OR ROYALTIES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT, STATUTORY REMEDY OR ANY OBLIGATION ARISING THEREFROM OR OTHERWISE AND IRRESPECTIVE OF WHETHER EITHER PARTY HAS ADVISED OR

Neither party will owe the other for any indirect damages that might be incurred as a result of the Products not working, like loss of business or loss of profits.

If you decide to sue us, the maximum amount of damages that can be claimed corresponds to the amount of Fees you've paid in the previous three (3) months. Our liability is limited in this way to give us the ability to offer the Products to you for a competitive price. If we were to accept more potential liability, the Fees set out on your Order Form would necessarily be higher.



BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT THAT CUSTOMER PARTICIPATES IN A BETA TESTING PROJECT, IN NO EVENT SHALL LIGHTSPEED BE LIABLE TO CUSTOMER FOR ANY DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE BETA TECHNOLOGY OR THE TRANSACTIONS PROCESSED THEREIN.

15.3. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, CUSTOMER HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF AN ADEQUATE REMEDY. THE PARTIES ACKNOWLEDGE THAT THE PROVISIONS OF THIS SECTION FAIRLY ALLOCATE THE RISKS UNDER THIS AGREEMENT AS BETWEEN THEM. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE AMOUNT OF FEES CHARGED IN CONNECTION WITH MAKING THE PRODUCTS AVAILABLE TO CUSTOMER AND THAT, WERE LIGHTSPEED TO ASSUME FURTHER LIABILITY OTHER THAN AS SET FOR HEREIN, SUCH FEES WOULD OF NECESSITY BE SET SIGNIFICANTLY HIGHER.

## **16. Disclaimer of Warranties**

CUSTOMER ACKNOWLEDGES THAT (i) LIGHTSPEED CANNOT GUARANTEE THE RESULTS GENERATED THROUGH THE PRODUCTS OR THE BETA TECHNOLOGY, OR THAT THE PRODUCTS OR THE BETA TECHNOLOGY WILL BE CONTINUOUSLY AVAILABLE FOR USE WITHOUT INTERRUPTION, (ii) THE PRODUCTS AND THE BETA TECHNOLOGY ARE PROVIDED "AS IS", ON AN "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, AND LIGHTSPEED HEREBY DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE WITH RESPECT TO THE PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY (a) IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (b) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE, (c) WARRANTY OF TITLE OR NON-INFRINGEMENT; OR (d) STATUTORY REMEDY, AND (iii) LIGHTSPEED IS NOT RESPONSIBLE FOR ANY PRODUCT CONFIGURATION SETTINGS OR PRODUCT CHANGES OR BETA TECHNOLOGY CHANGES APPLIED BY OR ON BEHALF OF CUSTOMER. LIGHTSPEED EXPRESSLY DISCLAIMS ANY

You understand that our Products are provided on an "as is" and "as available" basis. This means Lightspeed offers its Products without any warranty. To be extra clear, we do not guarantee that the Products will be bug-free and always available. Our Products are sold without any service level warranties or commitments.



SPECIFIC SERVICE LEVEL WARRANTIES OR COMMITMENTS. REGARDLESS OF ANY OTHER TERM OF THIS AGREEMENT, NOTHING IN THIS AGREEMENT EXCLUDES OR PURPORTS TO EXCLUDE ANY STATUTORY RIGHT OR WARRANTY THAT MAY NOT BE EXCLUDED BY LAW. IF ANY PART OF THE PRODUCTS IS GOODS OR SERVICES TO WHICH A GUARANTEE UNDER THE AUSTRALIAN COMPETITION AND CONSUMER ACT 2010 (CTH) APPLIES, THEN SECTION 15 (LIMITATION OF LIABILITY) WILL NOT APPLY AND LIGHTSPEED'S LIABILITY IS LIMITED, AT LIGHTSPEED'S OPTION, TO: (A) REPAIR, REPLACEMENT OR RESUPPLY OF THE PRODUCT; OR (B) PAYMENT OF THE COST OF REPAIR, REPLACEMENT OR RESUPPLY OF THE PRODUCT.

## 17. Assignment and Subcontractors

Customer may not assign any of its rights or obligations under this Agreement without Lightspeed's prior written consent. Lightspeed may, without Customer's prior consent, assign its rights and obligations under this Agreement. Subject to the foregoing, the provisions of this Agreement shall be binding on and inure to the benefit not only of the parties hereto but also to their successors and permitted assigns. Lightspeed shall be free to perform all or any part of this Agreement through one or more subcontractors.

If you would like to transfer this agreement to someone else, you must first get our consent.

We may choose to provide the Products and any related service through one or more subcontractors.

## 18. Governing Law, Venue, Arbitration and Attorneys' Fees

18.1. This Agreement shall be governed by and interpreted in accordance with the laws of the applicable jurisdiction indicated in Section III below. In the event of any controversy or claim arising out of or relating to this Agreement, or the breach or interpretation thereof, the parties agree to submit to the exclusive jurisdiction of and venue in the applicable courts indicated in Section III below. Each party hereby waives all defenses of lack of personal jurisdiction and forum non-conveniens in connection with any action brought in the foregoing courts. The prevailing party in any action or proceeding brought under this Agreement shall be entitled to recover from the other party, in addition to all other relief, its reasonable attorneys' and other experts' fees and expenses incurred with respect to such action or proceeding.

Please take a look at the table in Section III. It explains which Lightspeed entity you're dealing with and according to which jurisdiction's laws this Agreement will be interpreted.

Most claims that are brought about as a result of this Agreement will be decided by arbitration, instead of going through the courts.

Finally, you agree to opt-out of and refrain from participating in any class action against us.



18.2. Any claim, dispute or controversy (whether in contract or tort, pursuant to statute or regulation, or otherwise, and whether pre-existing, present or future) arising out of or relating to: (i) this Agreement; (ii) the Products, services or equipment provided by Lightspeed; (iii) oral or written statements, or advertisements or promotions relating to this Agreement or to the Products, services or equipment; or (iv) the relationships that result from this Agreement (collectively the “**Claim**”) will be determined by arbitration to the exclusion of the courts. Arbitration will be conducted by one arbitrator pursuant to the laws and rules relating to commercial arbitration in the jurisdiction indicated in Section III below that are in effect on the date of the notice.

18.3. Customer agrees to waive any right Customer may have to commence or participate in any class action or representative proceeding against Lightspeed related to any Claim and, where applicable, Customer also agrees to opt out of any class or representative proceedings against Lightspeed.

18.4. Notwithstanding the foregoing provisions, (i) each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party’s copyrights, trademarks, trade secrets, patents, or other intellectual property rights; and (ii) Lightspeed reserves the right to collect any outstanding amounts that Customer owes to Lightspeed in a court of competent jurisdiction.

## 19. Export Compliance and Other Restrictions

Products which Lightspeed may provide or make available to Customer may be subject to U.S. export control and economic sanctions laws. Customer agrees to comply with all such laws or regulations as they relate to the access and use of Products. Customer agrees not to access the Product from any jurisdiction in which the provision of the Product is prohibited under U.S. or other applicable laws or regulations (a “**Proscribed Country**”) or provide access to the Product to any government, entity or individual located in any Proscribed Country. Customer represents, warrants, and covenants that (i) it is not a national of, or company registered in, any Proscribed Country; and (ii) it shall not permit third parties to access or use the Product in violation

However, some claims are best suited to traditional courts and will be decided there. For example, if one of us files an injunction against the other, that cannot be decided by an arbitrator.

Depending on who you are and where you’re located, you may be subject to U.S. export control laws. You agree to abide by those laws and regulations, if applicable.

The U.S. government publishes a list of Proscribed Countries with which companies like Lightspeed are prohibited from doing business. You promise that you are not located in a Proscribed Country and that you will not allow others



of any U.S. or other applicable export embargoes, prohibitions or restrictions.

## 20. General

20.1. If one or more of the provisions of this Agreement is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, then the validity, legality and enforceability of the remaining provisions of this Agreement shall be unaffected.

20.2. Lightspeed may provide any and all notices, statements and other communications to Customer through either email, posting on its website, an in-product message, or by mail or express delivery service. During the term of this Agreement, Customer grants Lightspeed a free license to use, reference and display the Customer's name and trademarks in any communications, including publications, press releases, stories, websites, social media posts, and public filings in connection with the promotion, marketing, distribution and public disclosure of the Lightspeed brand, activity and Products (collectively, the "**Materials**"). Following the termination of this Agreement, Lightspeed shall have sixty (60) days to remove all Customer's name and trademarks from the Materials.

20.3. Neither party shall be deemed in default or otherwise liable for any delay in or failure of its performance under this Agreement (other than Customer's payment obligations) by reason of any act of God, fire, natural disaster, accident, act of government, shortage of materials, failure of transportation or communication or of suppliers of goods or services, or any other cause to the extent it is beyond the reasonable control of such party.

20.4. This Agreement, including any applicable Order Form, along with the applicable Order Form, the Privacy Policy and Data Processing Agreement (as referenced in section 8.4), constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written, electronic or oral communications, representations, agreements or understandings between the parties with respect thereto.

to access the Products from a Proscribed Country.

If an adjudicator refuses to give effect to one part of this Agreement, that doesn't mean that the entire Agreement is invalid.

If we need to contact you, we can do so by email, website post, regular mail or express delivery service. We may also publicly announce that you're one of our Customers.

If one of us is prevented from fulfilling our duties under this Agreement for a reason outside our control, we won't be considered in breach of this Agreement. This does not apply to your payment obligations.

All the terms and conditions that dictate our relationship are contained in this Agreement, the applicable Order Form, the Privacy Policy and Data Processing Agreements. Lightspeed's Privacy Policy and Data Processing Agreements are accordingly referenced in section 8.4 of this document.

We might choose to modify this Agreement from time to time. If we do so, we'll provide you with reasonable prior notice.

You confirm that you understand each term of this Agreement and that you've had the opportunity to speak to a lawyer about any concerns you may have.



20.5. In the event of any inconsistency or conflict between the terms of the Agreement and the terms of the Order Form, the terms of the Order Form shall govern.

20.6. Lightspeed reserves the right, at any time and upon thirty (30) days' written notice, to amend this Agreement, including making changes to the Fees and scope of the Products.

20.7. Customer has reviewed, understood and accepted the terms and conditions set forth in this Agreement and has either consulted with legal counsel prior to executing this Agreement or has knowingly forgone its right to consult with legal counsel prior to such execution.

20.8. The parties acknowledge that they require that this Agreement be drawn up in the English language, that the English language version prevails and that any translation is for information purposes only.

In case there's any conflict between the Order Form and these terms and conditions, the Order Form will prevail.

We both confirm that we want the binding version of this Agreement to be drafted in English.

## II. Product-Specific Terms and Conditions

### *Legal Jargon*

#### 1. Lightspeed eCommerce

1.1. Customer will retain ownership of the URL and/or domain name applicable to any website utilized by Customer in connection with Lightspeed's eCommerce Product ("**Customer's Site**").

1.2. Customer represents and warrants that currently and throughout the Term, Customer and any Users are fully authorized to publish, and authorize Lightspeed to publish on behalf of Customer, without the necessity of obtaining any further permissions from or payments to any third party, all of the materials provided for publication on Customer's Site, including without limitation, text, logos, photos and other graphics.

#### 2. Hardware

2.1. If Customer agrees to purchase point-of-sale equipment and supplies ("**Hardware**"), Customer shall pay the purchase price set forth in the Order Form, including shipping/handling fees, duties, brokerage fees, and any applicable sales, use, harmonized, valued-added or similar taxes. Hardware is subject to availability and will be shipped to Customer upon due receipt of payment. Lightspeed may fulfill a Hardware purchase order by shipping to Customer an equivalent Hardware product with same functionality. All sales of Hardware are final. Customer must verify no later than five (5) business days from receipt of Hardware that shipment was accurate and complete, failing which the Product warranty under this section will be inapplicable.

2.2. In addition to any applicable manufacturer's warranty, Lightspeed warrants to Customer that new Hardware will be free from defects in workmanship and materials for thirty (30) days from the date that Hardware was shipped to Customer as original end-user ("**Warranty Period**"). This Limited Warranty

### *Actual Human-Readable Language*

You have the rights to the URL and domain name associated with your website.

You confirm that you have all the necessary rights to publish all the content on your website.

As part of your Order Form, you might choose to buy Hardware. We will ship the Hardware to you once we've received your payment, and you will have five (5) business days to validate the shipment.

When you buy Hardware from us, you'll benefit from the applicable manufacturer's warranty. Additionally, Lightspeed will warrant that your Hardware will be free from defects for thirty (30) days following the shipment date. This warranty does not cover normal wear and tear and any defects attributable to you, such as moisture or physical damage.



is not transferable. During the Warranty Period, Lightspeed may, at its sole option, repair or replace Hardware without charge for either labor or parts. If Lightspeed is unable to repair or replace the Hardware, Lightspeed agrees to refund Customer the net purchase price paid by Customer for the affected Hardware. Hardware must be returned in good condition in the original packaging and include all related components. Charges for returning Hardware shall be for Customer's account. A restocking fee may also apply. Following expiration of the Warranty Period, Customer must contact manufacturer for any repairs or replacement and adhere to manufacturer's merchandise return procedures. The manufacturer's warranty and contact information are included with the Hardware. Lightspeed's Limited Warranty does not apply: (i) to normal wear and tear; (ii) if the Hardware is opened, tampered with or repaired by someone not authorized by Lightspeed; (iii) to any damage attributable to misuse, moisture or liquids, accident, abuse, neglect or misapplication; (iv) to physical damage to the surface of Hardware, such as scratches, dents or other cosmetic changes; or (v) if used with products or services not provided or licensed by Lightspeed.

2.3. Lightspeed may provide Customer with occasional help and guidance with regard to Customer's network installation and setup, however, Customer remains at all times responsible for its own network.

2.4. REPAIR OR REPLACEMENT ARE THE EXCLUSIVE REMEDY PROVIDED IN CONNECTION WITH THE PURCHASE BY CUSTOMER OF THE HARDWARE. LIGHTSPEED, ON BEHALF OF ITSELF, ITS RESELLERS AND DISTRIBUTORS, HEREBY DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, REPRESENTATIONS OR GUARANTEES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND/OR FITNESS FOR PURPOSE.

### 3. Lightspeed Payments

Lightspeed Payments is a separate payment processing service governed by a different set of agreements, including those of third-party payments processors. To the extent applicable, these agreements are referenced in the Order Form and the online

At your request, we might help you with your network installation and setup, but we are not responsible for any issues that occur during such action.

Other than the limited warranty described above, Lightspeed provides no other warranty. If you discover a defect in the Hardware during the warranty period, Lightspeed's only obligation is to repair or replace the defective piece of Hardware.

Lightspeed Payments is a separate payment processing service not governed by this Agreement. If you submit a merchant application, you are subject to



merchant application. By submitting a merchant application, Customer has been presented with, and consented to, these separate terms and conditions.

#### 4. API Access

To the extent Customer's Order Form includes access to Lightspeed's application programming interfaces (the "**Lightspeed APIs**"), Customer's access to and use of the Lightspeed APIs is governed by the Lightspeed API License Agreement located at <https://developers.lightspeedhq.com/terms> (the "**API Agreement**"), the terms of which are incorporated herein by reference. Customer acknowledges that the API Agreement provides Lightspeed with the latitude to limit or revoke Customer's access to the Lightspeed APIs at any time in its sole discretion. Customer may engage a third-party developer to integrate into the Lightspeed APIs on Customer's behalf, provided such third-party developer first enters into the API Agreement with Lightspeed and Lightspeed approves such third-party developer's access in its sole discretion. To the extent Customer engages such a third-party developer, Customer shall be liable for the acts and omissions of such third-party developer to the same extent Customer would be liable under the API Agreement if such acts and omissions were those of Customer.

Lightspeed Payments agreements. Please consult the agreements mentioned in your Order Form and merchant application.

If your Order Form includes access to Lightspeed's APIs, the parties' rights and obligations with respect to the Lightspeed APIs will be governed by the API Agreement. You may engage third-party developers to integrate into the Lightspeed APIs on your behalf; however, you will be responsible for any activity performed by them on your behalf.



### III. Governing Law and Contracting Entity

Depending on the Products you have subscribed to and your location, you may be contracting with Lightspeed Commerce Inc. or one of our affiliates. Please consult the table below to understand with which entity you are contracting, as well as the governing law applicable to this Agreement.

Product	Your Location	Contracting Entity	Governing Law	Venue
Lightspeed Retail POS	Europe	Lightspeed Netherlands B.V.	The Netherlands	Amsterdam
	Rest of World	Lightspeed Commerce Inc.	Quebec, Canada	Montreal
Lightspeed eCommerce C-Series	Europe	Lightspeed Netherlands B.V.	The Netherlands	Amsterdam
	Rest of World	Lightspeed Commerce Inc.	Quebec, Canada	Montreal
Lightspeed Golf	Europe	Lightspeed Netherlands B.V.	The Netherlands	Amsterdam
	Rest of World	Lightspeed Commerce Inc.	Quebec, Canada	Montreal
Lightspeed Restaurant POS K-Series / L-Series	Europe	Lightspeed Netherlands B.V.	The Netherlands	Amsterdam
	Rest of World	Lightspeed Commerce Inc.	Quebec, Canada	Montreal
Lightspeed Restaurant POS G-Series	Europe	Lightspeed Netherlands B.V.	The Netherlands	Amsterdam
	Rest of World	Lightspeed Commerce Inc.	Quebec, Canada	Montreal
Lightspeed Restaurant POS O-Series	Worldwide	Lightspeed POS Germany GmbH	The Netherlands	Amsterdam
	Worldwide	Kounta Pty Limited	New South Wales, Australia	Sydney
Vend by Lightspeed	Worldwide	Vend Limited	New Zealand	Auckland