

**Pulsar360**  
**MASTER SERVICES AGREEMENT**  
**Terms and Conditions**

- 1. SERVICES.** Pulsar360 agrees to provide to Customer and Customer agrees to procure from Pulsar360 certain communication services ("Communication Services") and equipment ("CPE"), collectively, "Services" as described in Service Orders ("Service Order(s)") issued and agreed upon by the parties. Each Service Order shall describe the Services, the agreed to term ("Service Term"), the recurring (monthly) and non-recurring (provisioning or other) charges, and such other information as may be necessary. Service Orders must be completed and signed by both parties before Services can be delivered. Once agreed upon and accepted by the parties, such Service Order(s) acknowledge acceptance of these Terms and Conditions as part of the Agreement and are fully binding upon the parties hereto.
- 2. INSTALLATION DATE.** Service Orders may set forth specified installation dates ("Installation Date"). The Installation Date shall be the date confirmed in writing by Pulsar360. Customer agrees to accept Services on the Installation Date. Customer acknowledges that actual installation dates may be subject to facilities availability and other factors beyond the control of Pulsar360, and that Pulsar360 shall not be held liable for changes in Installation Date due to factors beyond the control of Pulsar360.
- 3. TERM.** Customer agrees to purchase the Services for the Service Term as set forth on the applicable Service Order(s). Subject to the earlier termination provisions set forth herein, at the end of the initial Service Term, the Agreement and all applicable Service Orders shall automatically renew for consecutive one (1) month Service Term(s), subject to continuing payment of applicable fees and charges and Customer's compliance with terms and conditions of the Agreement. Either party may terminate Service Order(s) upon written notice of non-renewal at least 30 days prior to the expiration date of the then-current Service Term. Any Service Order(s) not terminated shall remain in full force and effect.
- 4. RATES AND CHARGES.** Rates and charges shall be set forth on the Service Order(s). Pulsar360 may adjust the rates and charges for the renewal terms of any Service Order upon written notice provided at least 90 days prior to the end of the Service Term or any renewal hereof.
- 5. PAYMENT.** Pulsar360 shall invoice Customer for all Service charges provided to Customer for each month of Service, including MRC (including amounts for Service commencing during the month), usage-based Service and NRC, as set forth in Service Orders as described in Section 1 of the Agreement. Any monthly recurring charges ("MRC") shall be billed in advance in accordance with the Service Order(s). Any non-recurring charges ("NRC") shall be billed prior to the Installation Date, or if the NRC is incurred after the Installation Date, such charges shall be billed on the next invoice thereafter. Usage-based Services shall be invoiced monthly in arrears.

In addition, Pulsar360 reserves the right to suspend any Services for any period during which any invoices for Services are delinquent and unpaid. If Services are suspended, the Customer shall be required to pay a reconnection fee equal to the greater of i) \$150 or ii) 10% of the Customer's average monthly recurring charges.

In addition to charges for the Services, Customer shall pay Pulsar360 for all excise, sales, use or other taxes, fees or charges applicable to the Services, all of which shall be paid by Customer in addition to other amounts owing. Such taxes, fees and charges shall be separately stated in the applicable monthly invoice. The Charges do not include any applicable federal, state, or local taxes, fees, tariffs and surcharges, or any charges that may apply for the use of the Internet. Unless the Customer provides a valid exemption certificate to Pulsar360, the Customer shall pay such applicable taxes, fees, tariffs and surcharges upon receipt of an itemized invoice.

The Customer shall be liable to Pulsar360 for any and all costs and expenses incurred directly or indirectly, including reasonable attorneys' fees and expenses, in collection or attempted collection of any amounts due. Charges refer to US Dollars and payment shall be made by wire transfer or by check drawn on a bank located within the US.

All amounts stated on each invoice shall be due upon receipt. Payments shall be considered delinquent 25 days after invoice date. Customer shall pay the amounts set forth in the monthly invoice without deduction, offset or delay for any reason, including circumstances arising under any other Service Order. Restrictive endorsements or statements on checks accepted by Pulsar360 shall not be binding upon Pulsar360. All payments are to be made in U.S. dollars. Pulsar360 may assess a late fee of 1½% per month (not to exceed the maximum rate allowed under state law) on all balances not paid when due. Customer shall pay any and all costs incurred in collection of rates and charges due and payable, including reasonable attorney's fees, whether or not a suit is instituted.

- 6. DEPOSITS.** The initial and continuing delivery of Service(s) is subject to Pulsar360's initial and continuing credit review. Upon request, Customer shall provide Pulsar360 with information regarding payment history for communications services and other information as may be necessary to evaluate and determine the creditworthiness of Customer,

including but not limited to, information regarding the number of years in business, financial statement analysis and commercial credit bureau rating. Acceptance of any Service Order issued hereunder is subject to final approval by Pulsar360's Credit Department.

Without waiving any right of termination or any other rights hereunder, Pulsar360 at its discretion may require Customer to tender a deposit to guarantee payment hereunder as a condition of initial Service, or, at Pulsar360's sole discretion, as a condition of continuing service. If Pulsar360 has to draw down on any such deposit amount, Pulsar360 may require that Customer replenish such deposit amount. If Customer fails to replenish the deposit amount within fifteen (15) calendar days of Pulsar360's request, Customer shall be in Default as described in the Agreement. All such deposit funds shall not bear interest.

**7. TAXES.** Customer is responsible for payment of any and all federal, state and local taxes, charges or surcharges imposed on or based upon the provision, sale or use of Pulsar360's Services (excluding taxes based upon Pulsar360's income or property). Pulsar360 shall collect all such taxes, charges or surcharges unless Customer provides Pulsar360 with proof of exemption. Customer shall indemnify Pulsar360 relative to such exempt status.

**8. REGULATORY, LEGAL AND SUPPLIER CHANGES.** Customer acknowledges that the Service may be subject, in whole or in part, to one or more provisions of state or federal tariffs filed by Pulsar360 or its suppliers and carriers. In the event of any conflict between any provision of the Agreement and any provision of such tariff, the provision of such tariff shall control. The Agreement and the Services shall be subject to such modifications as may be required or authorized by any regulatory agency in the exercise of its lawful jurisdiction.

Customer acknowledges that certain of Pulsar360's suppliers and carriers establish prices charged to Pulsar360 and the terms on which such suppliers and carriers sell services to Pulsar360 based on governmental laws, rules, regulations, orders and decisions. If any of the prices charged to Pulsar360 by any of its suppliers increase or if any of the terms of service change as a result of changes to governmental rules, laws or regulations or pursuant to new decisions or orders issued by applicable regulatory or judicial bodies, or by unilateral action by suppliers, Pulsar360 reserves the right to increase the price charged to Customer and change the terms of Service hereunder, effective 30 days following notice to Customer. If Customer does not agree to accept new pricing and revised terms, Customer may terminate the affected Services without penalty within 30 days of the date of such notice. Any continued use of the Services 30 days after the notice date shall be deemed acceptance of the new prices and terms.

**9. COMPLIANCE WITH THE LAW.** The Agreement is subject to all applicable federal, state, and local laws and regulations, rulings, orders, and other actions of government agencies ("Rules"). Pulsar360 shall use its good faith reasonable efforts to obtain, retain, and maintain such approvals and authorizations. If any such Rule adversely affects the Services or requires Pulsar360 to provide Services other than in accordance with the terms of the Agreement, Pulsar360 may, without liability to the other party, terminate the affected Services upon 30 days prior written notice to the other party. In performing their obligations under the Agreement, the parties shall comply with all applicable federal, state and local laws, regulations, rules and orders. It is Pulsar360's policy to cooperate with any court orders, subpoenas, and other similar government requests ordering Pulsar360 to disclose information about Pulsar360's Customers' use of Services.

**10. USE OF SERVICES.** Customer acknowledges that Pulsar360 exercises no control over the content of the information (e.g., data, scripts, code, modifications, etc.) passing through its Services, and that it is the sole responsibility of Customer to ensure that the information transmitted and received through such Services complies with all applicable laws and regulations.

For Services or equipment ordered by Customer which provide access to the Internet, or for Internet services or equipment provided by third-parties which may pass through Pulsar360's Services, Customer specifically acknowledges that the flow of data to or from the Internet depends in large part on the performance of services provided and controlled by third parties, and Pulsar360 does not warrant that such Internet service shall be uninterrupted, error free or completely secure, as set forth in the Service Level Agreement ("SLA") covering Quality of Service 'QoS' matters, attached to the Agreement.

Any IP address(es) which Pulsar360 or its suppliers or carriers provide for Customer's use during the Term ("IP Addresses") shall remain the sole and exclusive property of Pulsar360 and shall automatically revert back to Pulsar360 upon expiration, cancellation or termination of the Agreement for any reason. Pulsar360 reserves the right to require documentation to support any Customer request for additional IP Addresses and to deny any such requests at its sole discretion. If despite Pulsar360's commercially reasonable efforts, it becomes necessary due to circumstances beyond Pulsar360's control, or as necessary for efficient network management, Customer agrees to renumber the IP Address as requested by Pulsar360.

In order to protect the integrity of Pulsar360's network, Pulsar360 may, without liability, temporarily block Customer calls as a result of substantial call usage surges. Pulsar360 shall use reasonable efforts to promptly notify Customer after blockage has occurred. Further, if there is a change in Customer's traffic profile, which adversely impacts Pulsar360's network, Pulsar360 reserves the right to block such traffic.

11. **EXCESSIVE USE OF SERVICES.** Customer acknowledges that Pulsar360 will invoice the Customer for all Services usage that is considered by Pulsar360 to be excessive. Excessive use minutes will be invoiced at the Long Distance rate as set forth on the applicable Service Order(s). This shall continue indefinitely until such time as normal usage is achieved or a separate, written agreement is reached.
12. **COMPATIBILITY.** Unless otherwise provided in the Service Order, Customer shall provide equipment compatible with the Services and Pulsar360's network and facilities.
13. **NON-INTERFERENCE.** Customer shall ensure that Customer's use of the Services provided herein and any equipment associated therewith shall not: (a) interfere with or impair service over Pulsar360's network or facilities; (b) impair privacy of any communications over such network or facilities; (c) cause the damage of any nature to Pulsar360's assets; (d) create hazards to Pulsar360's officers, directors, employees, subcontractors, agents or users of the aforementioned network or facilities. Pulsar360 reserves the right to suspend Service, terminate a Service Order(s) or terminate the Agreement immediately and without notice to prevent and protect against Customer acts that may cause harm to Pulsar360's network or Services, operations, and customers, including, but not limited to, Pulsar360's economic or safety requirements or if Services are used to commit violations of law.
14. **MAINTENANCE AND UPGRADE OF FACILITIES AND SERVICES.** Pulsar360 shall maintain its facilities and equipment used to provide the Services at no additional charge to Customer. Pulsar360 reserves the right to suspend service for scheduled maintenance or planned enhancements or upgrades to Pulsar360's network without notice to Customer. These maintenance periods are identified as 12AM EST/EDT to 5AM EST/EDT Saturday and Sunday mornings. Any maintenance that may negatively impact the systems availability outside of these specified periods will be announced by noon on the previous business day.
15. **ACCESS TO PREMISES.** Customer shall grant Pulsar360 and Pulsar360's partners, subcontractors, suppliers or carriers access to Customer's premises for the installation, operation, removal, repair and scheduled and unscheduled maintenance (with reasonable notice) of the facilities and equipment for the Services hereunder, to the extent reasonably determined by Pulsar360. Customer shall provide all necessary preparation and support for installation, relocation of services after installation, and obtain any needed approvals from owners or managers of such premises and shall ensure that Pulsar360 and its supplier personnel have ready access to all relevant portions of premises. Customer acknowledges that failure to cooperate regarding such access shall release Pulsar360 from its obligation to install, support or perform Services and Customer shall be liable for any charges or fees that result from such denial of access, including fees and costs for missed appointments.
16. **LIMITED WARRANTY.** Pulsar360 shall use commercially reasonable efforts to provide the Services on a 24 hour- per-day, 7 day-per-week basis in accordance with the terms of the Service Level Agreement. Pulsar360 does not warrant that Services shall be provided without interruption. The sole remedy of Customer for any failure of Pulsar360 to provide Services shall be to receive a credit as provided in the Service Level Agreement. Unless equipment is purchased from Pulsar360, Pulsar360 makes no warranty with respect to the Equipment, and Customer agrees to look solely to the warranty (if any) offered by the manufacturer or supplier. **If Equipment is purchased from Pulsar360**, Pulsar360 shall provide reasonable cooperation with respect to transferring any applicable Equipment warranty to Customer. Pulsar360 shall also extend a 1 year Advance Replacement warranty to equipment purchased from Pulsar360. If equipment fails within 12 months from the day of shipment, and Pulsar360 identifies the equipment as being defective, Pulsar360 will overnight ship replacement equipment directly to the customer site. Defective equipment must be returned to Pulsar360, at the customer expense, within 7 days of replacement equipment shipment. Failure to return equipment within 7 days will result in Pulsar360 charging full retail value of the replacement equipment shipped. Pulsar 360 DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT.

**17. LIMITED LIABILITY.** IN NO EVENT SHALL Pulsar360 BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF Pulsar360 UNDER THE AGREEMENT EXCEED THE AMOUNT PAID BY CUSTOMER PURSUANT TO THE AGREEMENT.

Pulsar360 is not responsible for any outage or temporary interruption of services causing the customer to be unable to connect to the Pulsar360 Services. An outage includes any specific customer network hardware failure, ISP outage or capacity issues, or failure of any 3rd Party Provider. Pulsar360 shall not be held liable for any materials, damages, or loss caused by these 3rd party services or providers. Pulsar360 disclaims any and all responsibility or liability for the legality, reliability, or operability or availability of services provided by Pulsar360 when data is transmitted over the Internet or via a 3rd Party Provider. Pulsar360 disclaims any responsibility for any harm resulting from service outages for data transmitted on the Internet or via a 3rd Party Provider through the Pulsar360 products and services.

**18. CONFIDENTIALITY.** Each party acknowledges that the other party may disclose information about its business, products or technology to the other which it considers to be proprietary and confidential ("Confidential Information"). Neither party shall disclose Confidential Information disclosed to it by the other party to any third party (other than its agents and employees who are subject to appropriate nondisclosure obligations) or use the Confidential Information for any purpose other than the performance of the Agreement. The foregoing restrictions shall not, however, apply with respect to any Confidential Information which: (i) was in the public domain at the time of disclosure, (ii) was in the publ domain at the time of disclosure, or subsequently enters the public domain other than through a breach of the Agreement, or (iii) is independently developed by the recipient without use of or reference to the disclosed information.

**19. TERMINATION AND CANCELLATION.** Either party may terminate the Agreement or any Service Order(s) issued hereunder upon 30 days advance written notice to the defaulting party, if the defaulting party: (a) materially breaches any term or provision herein and fails to cure such material breach within the said 30 days; or (b) makes an assignment for the benefit of creditors; or (c) has any proceedings filed against it under any law relating to creditor's rights in general. If Pulsar360 materially breaches the Agreement and fails to cure the breach within the cure period described in this section, then Customer may terminate without incurring any additional early termination charges or fees.

Customer shall give 30 days' prior written notice to Pulsar360 to disconnect any Service. Pulsar360's rates for Service under the Agreement are in consideration for Customer's agreement to purchase Service for the entire Service Term. In reliance on Customer commitment in Service Orders, Pulsar360 has entered into purchase commitments from its carrier suppliers. It is difficult, if not impossible, to calculate Pulsar360's loss if Customer terminates the Agreement or Service Orders before the Service Term ends. As liquidated damages, Customer shall pay to Pulsar360 100% of all contract term fees and charges prior to disconnection of Services.

If Customer fails to pay invoices within 30 days after the invoice date, Pulsar360 shall issue a notice of Default to Customer. If invoices remain unpaid 40 days after the invoice date, Pulsar360 may do any combination of the following at its sole discretion and without further notice: refuse to accept new orders, terminate any or all of Services and treat any such termination as an early termination under this section, cancel or stop provisioning any pending Services not yet installed, discontinue support for any Services, or terminate the Agreement. Pulsar360 may set-off and apply any and all credits, rebates, deposits, accounts or monies owed to Customer against any and all of Customer's obligation under the Agreement. These rights are in addition to all other rights and remedies available to Pulsar360 under applicable law.

The furnishing of Service is subject to the availability thereof, and is limited to the capacity and geographic areas of Pulsar360's subcontractors, suppliers and carriers, which Pulsar360 may obtain from time to time as required at its sole discretion. Pulsar360 shall make commercially reasonable efforts to provide Customer with the Services ordered; however there may be circumstances in which Pulsar360 may not be able to provide such Services. If Pulsar360 determines that it cannot provide Service to Customer efficiently or on the terms and conditions contemplated in the Agreement, Pulsar360 may terminate such Service Orders upon twenty day notice without liability and without further obligation.

Customer will respond to requests for information pertaining to the provisioning and activation of Pulsar360 Services in a timely manner. If Customer fails to respond to inquiries for 30 days, the Order will be considered abandon and therefore, the Agreement is terminated by Customer and all termination and cancellation fees will be assessed in accordance with the terms above.

The provisions of the Agreement which require performance following the termination of the Agreement shall survive such termination.

- 20. **FORCE MAJEURE.** In the event that either party's performance, other than payment, is delayed, prevented, obstructed, or inhibited because any ACT OF GOD or any cause beyond such party's reasonable control, the party's performance shall be excused and the time for the performance shall be extended for the period of delay or inability to perform resulting from such occurrence. The occurrence of such an event shall not constitute grounds for a declaration of default by either party.
- 21. **NOTICES.** All notices required by the Agreement or relating to the Services herein (except for notices under the SLA) shall be deemed given if mailed postage pre-paid, registered or certified mail, return receipt requested, or by nationally recognized overnight courier.

All notices to be considered valid under the Agreement shall be sent to:

Pulsar360, Inc.  
 PO BOX 319  
 Littleton, CO 80160

Customer: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 22. **ASSIGNMENT.** Customer may not assign, transfer or delegate its obligations under the Agreement in whole or in part without the prior written consent of Pulsar360 (including whether by merger, sales of assets, sales of stock, consolidation or other similar transaction); such consent not to be unreasonably withheld. Pulsar360 may assign its duties in whole or in part, may subcontract the performance of Services to third parties, including but not limited to, obtaining services from other suppliers or carriers at its sole discretion, or assign any of its other rights hereunder, provided that Pulsar360 shall remain responsible to Customer under the Agreement. Pulsar360 is entitled to pledge the Agreement as collateral for financing. To the extent permitted under the Agreement and permitted by law, the Agreement shall bind and inure to the benefit of each party's successors and permitted assigns.
- 23. **WAIVER.** The failure of either party to insist upon the performance of any provision herein or to exercise any right or privilege granted to it hereunder shall not be construed as a waiver of such provision or any provision herein, and the same shall continue in full force. The various rights and remedies given to or reserved by either party herein, or allowed by law, are cumulative, and no delay or omission to exercise any of its rights shall be construed as a waiver of any default or acquiescence, nor shall any waiver of any breach or any provision be considered a condonement or any continuing or subsequent breach of the same provision.
- 24. **AMENDMENTS, MODIFICATIONS AND SUPPLEMENTS.** Any amendment, modification, supplement or change hereto must be in writing and signed by the parties hereto.
- 25. **GOVERNING LAW.** The laws of the State of Colorado, without regard to conflict of laws principles, shall govern the interpretation of the Agreement. All disputes related to the Agreement shall be subject to the exclusive jurisdiction of the state and federal courts in Arapahoe County, Colorado.
- 26. **ATTORNEY FEES.** In the event that any suit or other action is instituted to interpret or enforce the Agreement, the prevailing party shall be entitled to recover its attorney fees, including those incurred on appeal, as determined by the court.

**27. ENTIRE AGREEMENT.** The Agreement, together with the Service Order(s), Terms of Service, SLA, which is incorporated herein by reference, and any addendum(s) and exhibit(s), set forth the entire agreement of the parties with respect to the subject matter hereof is held to be invalid, void, or unenforceable, the remainder of the provisions shall nevertheless remain unimpaired and in effect.

Executed by the Parties as of the date set forth below:

Customer \_\_\_\_\_

**Pulsar360, Inc.**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_