

LV Energy Systems Reseller Portal – Portal Usage Terms & Conditions

This agreement is between you or the entity you represent and LV Energy Systems LLC (also as LV or the “OEM”), and consists of the terms below, Exhibit A, terms incorporated by reference, terms applicable to other LV websites and services that you use and are necessary to use the Services (for example, your LV Account), LV API Terms, and the Privacy Statement (together, the “Agreement”). If you are entering into this Agreement on behalf of an entity, such as your employer, you represent that you have the legal authority to bind that entity. If you specify a company name in connection with signing up for or ordering a Service, you will be deemed to have placed that order and to have entered into this Agreement on behalf of that organization or company. Key terms are defined in Section 11. By accepting this Agreement, you agree to these terms. If you do not accept and comply with this Agreement, you may not use the Services.

1. Services.

- a. Right to use. We grant you the right to access and use our portal in accordance with this Agreement to design, develop, and test your sales processes to make them available for your LV reseller services.
- b. User Plan. Each user of the Luminetworx portion of the portal must be allocated an individual user account, whether they access the service directly or indirectly.
- c. Manner of use. You may not:
 - i. reverse engineer, decompile, disassemble or work around technical limitations in the product, except to the extent that applicable law permits it despite these limitations;
 - ii. disable or otherwise attempt to circumvent any mechanism that limits your use of the product;
 - iii. rent, lease, lend, resell, transfer, or sublicense any product or portion thereof to or for third parties, except as explicitly permitted herein or in license terms that accompany any Services component;
 - iv. use the Product for any purpose that is unlawful or prohibited by this Agreement; or
 - v. use the Product in any manner that could damage, disable, overburden, or impair any LV service, or the network(s) connected to any Luminetworx product, or interfere with any other party’s use and enjoyment of any of the same.
- d. Updates. We may make changes to the Product from time to time, including: the availability of features; how long, how much or how often any given feature may be used; and feature dependencies upon other services or software.
- e. Preview features. We may make features available on a Preview basis. Previews are provided “AS-IS”. Previews may be subject to reduced or different security, compliance, privacy, availability, reliability, and support commitments, as further explained in the Privacy Statement, and any additional notices provided with the Preview. We may change or discontinue Previews at any time without notice. We also may choose not to release a Preview into “General Availability”.

2. Software.

- a. Using Luminetworx Software outside the portal. LV may provide you with Luminetworx Software through or as a part of our OEM Partner Agreement. Termination of use of or access to our solutions or the termination of this Agreement terminates your right to possess or use any such products; and the suspension or termination of an Agreement terminates that user’s right to possess or use any such Luminetworx products that was acquired through, is attached to, or otherwise requires that agreement. You must delete all copies of such Luminetworx Software licensed under this Agreement and destroy any associated media upon the termination of the associated possession or usage rights. Unless expressed in writing, LV will not provide you with Luminetworx Software for use outside the portal. If the Luminetworx Software is provided with its own

license terms, those license terms control provided that they are modified by the preceding portion of this Section 2(a) in case of conflict. This subsection does not apply to Luminetworx Software addressed in subsection (b) below.

b. Software on our Portal. Software accessible on the Portal is made available by LV under the associated license terms. If LV decides to make Luminetworx Software accessible on the Portal without license terms, then it may be used for training purposes only. If any such Luminetworx Software without license terms is marked as “sample” or “example,” then you may use it under the terms of the License Agreement.

c. Scope of rights. All LV solutions are the copyrighted works of LV and or its subsidiaries. All Luminetworx software is licensed, not sold and may not be transferred unless specified otherwise in any license terms provided with the original sale. Rights to access Luminetworx Software on any device do not give you any right to implement LV or Luminetworx patents or other LV intellectual property in software or devices that access that device.

d. Third party software. You are solely responsible for any third-party software that you install, connect, or use with any Service. We will not run or make any copies of such third-party software outside of our relationship with you. You may only install or use any third-party software with any Service in a way that does not subject our intellectual property or technology to any terms governing such software. We are not a party to and are not bound by any terms governing your use of any third-party software. We do not grant any licenses or rights, express or implied, to such third-party software.

e. Open source software as part of the Service. If the Service uses or distributes any third-party software with open source software license terms (“Open Source”), then such Open Source is licensed to you by LV solely to allow you to interact with the Service under terms of this Agreement. Copies of those applicable Open Source licenses and any other notices, if any, are included for your information only.

f. Application programming interfaces. LV will not assert any of its patent rights on account of your products calling application programming interfaces that it publishes on the Documentation Portal (“APIs”) in order to receive services from the Luminetworx product that exposes the APIs.

3. Luminetworx Content.

All Luminetworx Content is the copyrighted work of LV and or its subsidiaries and is governed by the terms of the license agreement that accompanies or is included with the Luminetworx Content. If the Luminetworx Content is made available to you on the Portal without a license agreement, then you may make a reasonable number of copies of the Luminetworx Content for your internal use in designing, developing, and testing your applications. You must preserve the copyright notice in all copies of the Luminetworx Content and ensure that both the copyright notice and this permission notice appear in those copies. Accredited educational institutions, such as K-12 schools, universities, and private or public colleges may download and reproduce Luminetworx Content for distribution in the classroom for educational purposes.

4. Security, Privacy, and Customer Data.

a. Security. We maintain technical and organizational measures, internal controls, and data security routines intended to protect Customer Data against accidental loss or change, unauthorized disclosure or access, or unlawful destruction.

b. Privacy and data location. We treat Customer Data in accordance with the terms herein and our Privacy Statement. We may transfer to, store, and process Customer Data in the United States or in any country where we or our Affiliates or subcontractors have facilities used for Developer Services. You will obtain any necessary consent or rights from end users or others whose data or personal information or other data you will be hosting in the Services.

c. Rights to Provide Customer Data. You are solely responsible for your Customer Data. You must have, and you hereby grant us, sufficient rights to use and distribute Customer Data (including Customer Data sourced

from third parties) necessary for us to provide you the Developer Services without violating the rights of any third party, or otherwise obligating Luminetworx to you or to any third party. We do not assume any additional obligations that may apply to Customer Data except as required by applicable law.

d. Ownership of Customer Data. Except for software and Content, we license to you, as between the parties, you retain all right, title and interest in and to Customer Data. We acquire no rights in Customer Data other than as described in this Section 4.

e. Use of Customer Data. The Services transmit Customer Data to us, including usage and performance data and crash dumps you choose to send. We will use Customer Data to provide the Services. This use may include troubleshooting to prevent, find and fix problems with the operation of the Services and ensuring compliance with this Agreement. It may also include: providing you with suggestions to help you discover and use functionality within the Services; improving the features of our Services; and otherwise use patterns, trends, and other statistical data derived from Customer Data to provide, operate, maintain, and improve our products and services. We will not use Customer Data or derive information from it for any (1) advertising or (2) other commercial purposes (beyond providing you with the Services) without your consent.

f. Customer Data return and deletion. You may delete your Customer Data at any time. If you terminate your account, we may delete Customer Data immediately without any retention period. We have no additional obligation to continue to hold, export, or return Customer Data and have no liability whatsoever for deletion of Customer Data pursuant to this Agreement.

g. Third party requests of Customer Data. We will not disclose Customer Data to a third party (including law enforcement, other government entity, or civil litigant, but excluding our subcontractors) except as you direct or unless required by law. We will ask any third-party demanding access to your Customer Data to contact you directly using your basic contact information. We will promptly notify you and provide a copy of the demand unless legally prohibited. You are responsible for responding to requests by a third party regarding your use of Services.

h. Subcontractors. We may hire other companies to provide limited services on our behalf, such as customer support. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services we have retained them to provide. We remain responsible for our subcontractors' compliance with the obligations set forth in this Agreement.

i. Compliance with law. We will comply with all laws applicable to our provision of the Services, including applicable security breach notification laws, but not including any laws applicable to you or your industry that are not generally applicable to information technology services providers. You will comply with all laws applicable to your Customer Data, and use of the Services, including any laws applicable to you or your industry.

j. Certifications and compliance. The Developer Services shall be subject to any security, privacy, and compliance practices specifically described for the Developer Services at the Developer Services Portal. These obligations do not apply to any other elements of the Services.

k. Claims of infringement. We will inform you if we receive notice claiming that your usage of the Service infringes a third party's intellectual property rights, and in such instances, we may provide your basic contact information to the third party. You will promptly respond to such complaints.

5. Customer Accounts, Customer Conduct, Identity Services, and Feedback.

a. Account creation. If any of the Services requires you to open an account, you must complete the registration process by providing us with current, complete and accurate information. You may not select an account username or identifier that impersonates someone else, is or may be illegal, or may be protected by trademark or other proprietary rights, is vulgar or offensive or may cause confusion. We reserve the right to reject and/or reassign these usernames and Service identifiers in our sole discretion.

b. Responsibility for your accounts. You are responsible for: any and all activities that occur under your account; maintaining the confidentiality of any non-public authentication credentials associated with your use of the Services; and promptly notifying our customer support team about any possible misuse of your accounts or authentication credentials, or any security incident related to the Services.

c. Your conduct and the availability of third-party content and links to third party content. For any public, community interaction you undertake on the Services you must follow the LV Community Code of Conduct. We have no obligation to monitor the content and communications of third parties on the Services; however, we reserve the right to review and remove any such materials posted to the Documentation Portal in our sole discretion. Third parties that participate on the Services are not authorized LV spokespersons, and their views do not necessarily reflect those of LV.

d. Identity usage across Services. We may provide Services that supplement Luminetworx Software and rely upon your user account or other identity mechanism. We may use this information to identify you and authorize access to Luminetworx Content, Luminetworx Software, and other resources across the Services.

e. Submissions and feedback. We do not claim ownership of any Submission unless otherwise agreed to by the parties. However, by providing a Submission, you are irrevocably granting LV and its Affiliates the right to make, use, modify, distribute and otherwise commercialize the Submission in any way and for any purpose (including by granting the general public the right to use your Submissions in accordance with this Agreement, which may change over time). For Submissions provided to the Documentation Portal you further grant the right to publish specific identifying information detailed in the Privacy Statement in connection with your Submission. These rights are granted under all applicable intellectual property rights you own or control. No compensation will be paid with respect to the use of your Submissions. Luminetworx is under no obligation to post or use any Submission, and LV may remove any Submission at any time. By providing a Submission you warrant that you own or otherwise control all of the rights to your Submission and that your Submission is not subject to any rights of a third party (including any personality or publicity rights of any person).

f. Services accessible only to invited customers. Elements of the Services may be accessible to you on an invitation only basis, for example as part of a program for using pre-release Services and providing feedback to us (e.g., through the “Connect” portal). Those Services are confidential information of LV. You may not disclose this confidential information to any third party for a period of five years. This restriction does not apply to any information that is or becomes publicly available without a breach of this restriction, was lawfully known to the receiver of the information without an obligation to keep it confidential, is received from another source who can disclose it lawfully and without an obligation to keep it confidential, or is independently developed. You may disclose this confidential information if required to comply with a court order or other government demand that has the force of law. Before doing so, you must seek the highest level of protection available and, when possible, give us enough prior notice to provide a reasonable chance to seek a protective order.

6. Term, Termination, and Suspension.

a. Agreement term and termination. The term of this Agreement begins when you accept it. You may terminate this Agreement at any time by submitting your profile for deletion at contact@lvenergysystems.com. Upon termination of this Agreement your contact information and preferences will be removed and your optional free subscription to Luminetworx Developer obtained under this Agreement will end.

b. Regulatory. In any country where any current or future government regulation or requirement that applies to us, but not generally to businesses operating there, presents a hardship to us operating the Services without change, and/or causes us to believe this Agreement or the Services may be in conflict with any such regulation or requirement, we may change the Services or terminate the Agreement. Your sole remedy for such changes to the Services under this Section is to terminate this Agreement.

c. Suspension. We may suspend your use of the Services if: (1) reasonably needed to prevent unauthorized access to Customer Data; (2) you fail to respond to a claim of alleged infringement under Sections 4 or 8 within a reasonable time; (3) you violate this Agreement; or (4) we suspect fraud. We will attempt to suspend access to the minimum necessary part of the Services while the condition or need exists. We will give notice before we suspend, except where we reasonably believe we need to suspend immediately. If you do not fully address the reasons for the suspension within 60 days after we suspend, we may terminate this Agreement and delete your Customer Data without any retention period. We may also terminate your account if your use of the Portal is suspended more than twice in any 12-month period.

d. Suspension or termination of developer access for non-usage. We may suspend or terminate your access to the software obtained under this Agreement and delete any Customer Data related to it if you fail to use your access to promote, develop and cultivate new Luminetworx business opportunities, or if you otherwise fail to comply with any milestones or other requirements that we may communicate to you within any period of 90 consecutive days during the term of this Agreement. We will provide you with notice prior to any suspension or termination of your subscription and Customer Data deletion.

7. Disclaimer of Warranties.

EXCEPT AS WARRANTED IN A SEPARATE AGREEMENT, LV AND ITS RESPECTIVE SUPPLIERS AND SUBSIDIARIES PROVIDE THE SERVICES (INCLUDING THE CONTENT AND APIS) “AS IS,” “WITH ALL FAULTS” AND “AS AVAILABLE.” YOU BEAR THE RISK OF USING IT. WE PROVIDE NO WARRANTIES, GUARANTEES OR CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. YOU MAY HAVE ADDITIONAL RIGHTS UNDER YOUR LOCAL LAWS WHICH THIS AGREEMENT CANNOT CHANGE. THESE DISCLAIMERS WILL APPLY TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, INCLUDING APPLICATION TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

a. Third party content and materials. LV DOES NOT CONTROL, REVIEW, REVISE, ENDORSE, OR ACCEPT RESPONSIBILITY FOR ANY THIRD PARTY CONTENT, INFORMATION, MESSAGES, MATERIALS, PROJECTS ACCESSIBLE FROM OR LINKED THROUGH THE SERVICES, AND, EXCEPT AS WARRANTED IN A SEPARATE AGREEMENT, LV MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER ABOUT AND SHALL NOT BE RESPONSIBLE FOR ANY OF THE FOREGOING. ANY DEALINGS YOU MAY HAVE WITH SUCH THIRD PARTIES ARE AT YOUR OWN RISK.

8. Defense of Claims.

a. Defense. We will defend you against any claims made by an unaffiliated third party that the Luminetworx and or other LV products infringe its patent, copyright or trademark or makes unlawful use of its trade secret. You will defend us against any claims made by an unaffiliated third party that any (1) Non-Luminetworx Product that is not made available through the LV Portal or (2) Customer Data you provide directly or indirectly in using the Services infringe the third party’s patent, copyright, or trademark or makes unlawful use of its trade secret.

b. Limitations. Our obligations in Section 8.a will not apply to a claim or award based on: (1) Customer Data, Non-Luminetworx Product, modifications you make to the Services, or materials you provide or make available as part of using the Services; (2) your combination of the Services with, or damages based upon the value of, a Non-Luminetworx Product, data or business process; (3) your use of a Luminetworx trademark without our express written consent, or your use of the Services after we notify you to stop due to a third-party claim; or (4) your redistribution of the Services to, or use for the benefit of, any unaffiliated third party.

c. Remedies. If we reasonably believe that a claim under Section 8a may bar your use of LV products and Portal, we will seek to: (1) obtain the right for you to keep using it; or (2) modify or replace it with a functional

equivalent. If these options are not commercially reasonable, we may terminate your rights to use the LV products and Portal.

d. Obligations. Each party must notify the other promptly of a claim under this Section 8. The party seeking protection must (1) give the other sole control over the defense and settlement of the claim; and (2) give reasonable help in defending the claim. The party providing the protection will (1) reimburse the other for reasonable out-of-pocket expenses that it incurs in giving that help and (2) pay the amount of any resulting adverse final judgment (or settlement that the other consents to). The parties' respective rights to defense and payment of judgments or settlements under this Section are in lieu of any common law or statutory indemnification rights or analogous rights, and each party waives such common law rights.

9. Limitation of Liability.

a. Limitation. The aggregate liability of each party under this Agreement is limited to direct damages up to One United States dollar (\$1.00 USD).

b. EXCLUSION. NEITHER PARTY, NOR ITS SUPPLIERS WILL BE LIABLE FOR LOSS OF REVENUE, LOST PROFITS, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, EVEN IF THE PARTY KNEW THEY WERE POSSIBLE.

c. Exceptions to Limitations. The limits of liability in this Section apply to the fullest extent permitted by applicable law, but do not apply to: (1) the parties' obligations under Section 8 (Defense of claims); or (2) breach of any confidentiality obligation; or (3) violation of the other's intellectual property rights.

10. Miscellaneous.

a. No additional rights granted. We reserve all rights not expressly granted under this Agreement, and no other rights are granted under this Agreement by implication or estoppel or otherwise.

b. Notices. You must send notices by mail to the address listed for Luminetworx: **LV Energy Systems LLC Attention: Luminetworx Product Development 304 S. Jones Blvd Las Vegas, Nevada 89107 USA**. You agree to receive electronic notices from us related to the Solutions, which will be sent by email to your specified end user or administrator contact information or presented to you in the Service experience. Notices are effective on the date on the return receipt for mail, the date sent for email, and the date presented if within the Service experience.

c. Assignment. You may not assign this Agreement either in whole or in part.

d. Severability. If any part of this Agreement is held unenforceable, the rest remains in full force and effect.

e. Waiver. Failure to enforce any provision of this Agreement will not constitute a waiver.

f. No agency. We are independent contractors. This Agreement does not create an agency, partnership or joint venture.

g. No third-party beneficiaries. There are no third-party beneficiaries to this Agreement.

h. Applicable law and venue. This Agreement is governed by State of Nevada law, without regard to its conflict of laws principles. Any action to enforce this Agreement must be brought in the courts of King County, State of Nevada. This choice of jurisdiction does not prevent either party from seeking injunctive relief in any appropriate jurisdiction with respect to violation of intellectual property rights.

i. Entire agreement. This Agreement is the entire agreement concerning its subject matter and supersedes any prior or concurrent communications.

j. Survival. All provisions and definitions will survive this Agreement's termination.

k. U.S. export jurisdiction. The Services are subject to U.S. export jurisdiction. You must comply with all applicable laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <https://export.luminetworx.com>

l. International availability. Availability of the Services, including specific features and language versions, varies by country.

m. Force majeure. Neither party will be liable for any failure in performance due to causes beyond its reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Services).

n. Modifications. We may modify this Agreement at any time with or without individual notice to you by posting a revised version on the legal information section of the LV Portal (or an alternate site we identify), or by notifying you in accordance with Section 10.b. Any modifications will be effective upon your continued use of a Service.

o. Notices and procedure for making claims of copyright infringement. We respect the intellectual property rights of third parties. If you wish to send a notice of intellectual property infringement, including claims of copyright infringement, please use our procedures for submitting at <https://cpy.luminetworx.com> ALL INQUIRIES NOT RELEVANT TO THIS PROCEDURE WILL NOT RECEIVE A RESPONSE.

11. Definitions.

Any reference in this agreement to “day” will be a calendar day.

“Affiliate” means any legal entity that a party owns or that owns a party, with a 50% or greater interest.

“Content” means documents, photographs, videos, and other graphical, textual, or audio-visual content that may be subject to copyright protection.

“Customer Data” means any Content or other data, including all text, sound, video, or image files, or software, that are provided to us by, or on behalf of, you through your use of the LV Portal for use by you or your authorized users. Customer Data does not include Submissions or any other Content or data that you submit to the Documentation Portal or otherwise provide via the LV Portal for public access.

“Luminetworx” means the products and other services on the portal identified as governed by this Agreement.

“Luminetworx Portal” means the web domain where all content, educational and sales aid materials are available for Luminetworx can be found.

“Evaluation Software” means Luminetworx software we provide to you as part of the Development Services for training purposes.

“Documentation Portal” see Luminetworx Portal.

“Submissions” means Content, code, comments, feedback, suggestions, information or materials that you provide via the Documentation Portal or any Services for public access (rather than for your personal use or use by your authorized users). Submissions do not include Customer Data.

“User Account” means a per-user based subscription, trial, or other Luminetworx granted benefit that permits access to and account services for the Developer Services “we” and “us” means Luminetworx, LV Energy Systems LLC 304 S. Jones Blvd Las Vegas, Nevada 89107 and its Affiliates, as appropriate “you” and “your” means the person or entity accepting this Agreement to use the Services.