

LIGHTPOINTE COMMUNICATIONS, INC.
WARRANTY AND SUPPORT AGREEMENT

This Warranty and Support Agreement (“Agreement”) sets forth the terms and conditions applicable to all hardware, software and support products that you (“Customer,” “your,” or “their”) obtain directly from LightPointe Communications, Inc. (“LightPointe,” “Company,” “us,” “our” or “we”) or from one of our authorized partners, resellers or distributors.

1. **LIMITED WARRANTY**

All LightPointe products carry a 1 year (12 month) manufacturer’s warranty against manufacturing defect.

The standard warranty covers only the repair and return shipment of defective product unless the Advance Exchange option has been purchased and registered with LightPointe.

The Warranty start date is the day the product ships from LightPointe or a LightPointe authorized reseller/agent to the customer installation location. The Warranty Registration form must be completed and on file with LightPointe or the Warranty may be void. The Warranty Registration form is available within the documents included in the box with your LightPointe product, by contacting LightPointe, or visiting the support section of LightPointe’s Website (<http://www.lightpointe.com>).

All Advanced Exchange Services options MUST be purchased within 90 days of product shipment.

Extended Warranty Services may be purchased no later then 30 days after the standard warranty expires.

Certain products offered by LightPointe and all Refurbished, Repaired or Replacement parts are warranted for 12 months, or for the remainder of the warranty period for the original product, whichever is greater.

2. **WARRANTY OPTIONS**

A. **Standard Warranty Support**

LightPointe’s standard hardware support program is for a period of one (1) year (12 months) from the date that your hardware warranty takes effect.

LightPointe will provide technical support by telephone or email, for products within the warranty period, free of charge, 24 hours a day, seven days per week, 365 days a year. . You may call us at the numbers listed in the support section of the LightPointe Website or use the contact numbers at the end of this document. In addition, technical support in the form of knowledgebase documents is offered at, <http://lightpointe.custhelp.com>. Fees for technical telephone support may apply if the product (i) is not currently covered by the Standard Warranty, or (ii) the warranty has expired, (iii) the product was not purchased from an authorized LightPointe reseller or agent or (iv) the equipment is unpaid for and over 30 days past due.

If you report a hardware problem to us we will respond with technical assistance to help determine the cause of the problem within a four (4) hour response time and will use our reasonable efforts to promptly correct, remedy, or supply a work-around for the reported problem. If, after consultation, we determine that a problem exists requiring LightPointe product repair, we will issue to you a Return Materials Authorization (“RMA”) number. The product requiring repair must be shipped to the designated LightPointe repair facility, and you must note the RMA number on the shipping container and documents. You (Customer) assume all shipping costs and all risk for loss or damage during shipment to LightPointe. You may be subject to repair fees if the product is damaged due to negligence, misuse or is damaged during shipment to LightPointe.

Within a commercially reasonable period of time after receiving the returned product, LightPointe will repair and return the defective product, or provide a replacement product. LightPointe may decide to replace your equipment with new or equivalent to new replacement equipment, or the latest equivalent model if the returned defective product has been discontinued.

Customer or Customer’s agents must de-install and re-install any replacement parts. LightPointe is not responsible for damage to our products caused by errors in installation performed by you or your agents.

B. **Advance Exchange and Extended Warranty Period services**

You can upgrade from our standard Warranty Support program to enhanced Warranty Support options for additional charges. These upgrades can be purchased directly from LightPointe or through any LightPointe agent or reseller. The price varies by type of product.

Advance Exchange

Advance Exchange service is available as an option for an additional charge during the Standard 12 month Warranty Support period, or as part of the Extended Warranty Periods (additional 12 and 24 month options as described below). Advance Exchange provides for the shipment of replacement equipment simultaneous to the issuance of a defective product RMA number, thereby decreasing the number of days required to receive replacement working equipment. Advance Exchange service must be purchased within 90 days of the start of the Standard Warranty period. Advance Exchange is only authorized after LightPointe technical support has determined that (i) a repair is necessary and (ii) the return has been authorized by LightPointe. If the Advanced Exchange option has been purchased within the eligibility period, LightPointe will use all reasonable efforts to ship the replacement equipment on an Advance Exchange basis within one business day from the issuance of the RMA. A deposit or purchase order may be required prior to shipping the Advance Exchange replacement equipment and in all cases an Advance Exchange invoice will be generated by LightPointe for the value of the equipment as security against the equipment being returned. Such Advance Exchange invoice only becomes payable in the event you do not return the equipment within the specified time period. Advance Exchange equipment is provided with no additional charges assuming the following provisions are met:

- i. You return your defective equipment to us within ten (10) business days after you receive the Advance Exchange equipment from LightPointe. Within a commercially reasonable period of time after we receive your defective equipment, LightPointe will repair the equipment, or provide you with new or equivalent to new replacement product equipment, and return it to you.
- ii. After you receive your repaired or replaced equipment from LightPointe, you then return the LightPointe Advance Exchange equipment to us within ten (10) business days. LightPointe will credit the Advanced Exchange invoice at that time. If you choose to keep the Advance Exchange equipment, or do not return it within ten days, the Advance Exchange invoice will be considered immediately due and payable.

On all Advance Exchange and Warranty returns, you (Customer) shall pay all shipping charges to LightPointe's designated return location using a door-to-door freight service and LightPointe shall pay all shipping charges (excluding Customs, Duties, and Taxes) to your designated location. The LightPointe designated return location will be specified when you receive your RMA number from LightPointe technical support.

Extended Warranty Period

Extension of the Warranty Support period can be purchased any time up to 13 months from the start date of the Standard Warranty (no more than 30 days following Standard Warranty expiration). Under the Extended Warranty options, the Standard Warranty coverage described above in Paragraph 2.A. will be extended for either 12 or 24 months and will include Advance Exchange for the extended periods only. The price for Extended Warranty support varies by LightPointe product type.

- i. Option one (1) increase the standard 12 month warranty to 24 months and includes Advance Exchange during the extended period – you should order one 12 month extension.

Option two (2) increases the standard 12 month warranty to 36 months and includes Advance Exchange during the extended period – you should order one 24 month extension.

3. EXCLUSIONS

This Warranty and Support Agreement does not apply to malfunctions or product failures caused by: (i) you or any third party; (ii) accident, misuse or abuse; (iii) the installation, repair or alteration of our product (including modification of software) by anyone other than LightPointe or our authorized agent; (iv) products not sold by LightPointe that are attached to or used with our product, even if those products are sold by one of our authorized resellers; (v) failure to provide a proper environment for the product (within the range of

tolerances listed in our specifications for the product); (vi) damage during transit; (vii) power surge or failure, or (viii) any other condition not arising under normal operating conditions.

In addition, our warranty for any hardware product is void if the power supply originally supplied with the LightPointe product is replaced with a power supply not approved by LightPointe, or if a replacement power supply not approved by LightPointe is used to power the equipment at any time during its service life.

4. EXCLUSIVE REMEDIES, LIMITATIONS OF LIABILITY, DISCLAIMER

THE WARRANTIES CONTAINED IN THIS AGREEMENT ARE YOUR ONLY REMEDIES FOR HARDWARE OR SOFTWARE PRODUCT DEFECTS OR FAILURES, REGARDLESS OF CAUSE. EXCEPT FOR THE FOREGOING, COMPANY'S PRODUCTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. FURTHER, COMPANY DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE SOFTWARE OR WRITTEN MATERIALS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SOME STATES DO NOT ALLOW LIMITATIONS ON THE DURATION OF AN IMPLIED WARRANTY, SO THE LIMITATIONS ABOVE MAY NOT APPLY TO YOU.

OUR TOTAL LIABILITY FOR ANY BREACH OF THIS AGREEMENT OR FOR ANY DAMAGES, LOSSES, INJURIES OR EXPENSES OF ANY KIND ARISING IN CONNECTION WITH ANY PERFORMANCE OR NONPERFORMANCE UNDER THIS AGREEMENT OR OF ANY PRODUCTS ORDERED OR PROVIDED HEREUNDER SHALL IN NO CASE EVER BE GREATER THAN THE AMOUNT PAID BY YOU FOR THE PURCHASE OF THE EQUIPMENT COVERED BY THIS AGREEMENT.

WE WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR FOR LOST DATA, LOST PROFITS, LOST SAVINGS OR LOST REVENUES, EVEN IF WE ARE AWARE OF THE POSSIBILITY OF SUCH DAMAGE. WE ARE NOT LIABLE FOR ANY LOSS, EXPENSE, DAMAGE, OR DELAY DUE TO FIRE, POWER SURGE OR FAILURE, LIGHTNING STRIKE, ACTS OF GOD, LABOR DISPUTES, TRANSPORTATION DELAYS, INABILITY TO SECURE MATERIALS, OR OTHER CAUSES BEYOND OUR REASONABLE CONTROL WHETHER OR NOT SIMILAR TO THOSE LISTED HERE.

THE WARRANTY DISCLAIMERS, LIMITED REMEDIES AND LIMITATIONS ON LIABILITY AND TYPES OF DAMAGES STATED IN THIS AGREEMENT APPLY REGARDLESS OF THE FORM OF ANY LAWSUIT OR CLAIM YOU MAY BRING, WHETHER IN TORT, CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

5. GENERAL

LightPointe reserves the right to modify its Warranty and Support Agreement at any time without notice.

If any portion of this Agreement is deemed invalid or unenforceable, the remaining parts will still be enforced to the greatest extent possible.

This Agreement will be construed under and governed by California law, excluding the application of its conflicts of law rules.

This Agreement states the entire agreement of the parties with respect to products and services ordered hereunder and supersedes all prior Agreements, proposals or understandings with respect to such products and services.

6. PRIMARY CONTACT INFORMATION AS OF JANUARY 2006:

LightPointe Communications, Inc. (USA)
10140 Barnes Canyon Road
San Diego, CA 92121
techsupport@lightpointe.com
858-643-5200
858-643-5201 Fax
<http://www.lightpointe.com>