



SIGNATURE AND COVER PAGE

The parties identified below hereby enter into this Master Services Agreement, effective as of the latest dated signature below (the “Effective Date”), comprised of:

- a. The Master Service Terms attached.
- b. The Colocation Service Schedule attached, or, if none, the Colocation Services Schedule available from www.cologix.com/cologix-contracts/.
- c. The Network Services Schedule attached, or, if none, the Network Services Schedule available from www.cologix.com/cologix-contracts/.

Accepted and agreed by:

COLOGIX

Cologix Canadian Issuer Limited Partnership
By: Cologix Canada, Inc. as manager

By: _____
Name: _____
Title: _____
Date: _____

Address for Notice:
Cologix
Attention: Legal
1601 19th Street, Suite 650
Denver, CO 80202
With a copy to: Legal@cologix.com

CUSTOMER

By: _____
Name: _____
Title: _____
Date: _____

Address for Notice:

Attention: _____

With a copy to: _____



Master Service Terms

1. **Services.** The Master Services Agreement, including any schedules, exhibits and attachments, is referred to as the “MSA”. This MSA will apply to all services provided to Customer or a Customer Affiliate by Cologix or a Cologix Affiliate within the Canada (“Services”) pursuant to a Service Order (as defined below) that incorporates the terms of this MSA. As used herein, “Affiliate” means any entity controlled by, controlling or under common control with the applicable party, “Schedule” means each service schedule that reference this Master Services Agreement, and “Agreement” means each Service Order that incorporates this MSA. This MSA is not intended to apply to Service(s) delivered outside of Canada.
2. **Service Orders.** Cologix will perform the Services specified (a) in any written order between Cologix and Customer (or a Customer Affiliate) that is signed by both parties, or (b) by Customer (or a Customer Affiliate) via Cologix’s customer portal or email and confirmed by Cologix via email or delivered by Cologix (each, a “Service Order”). Cologix will have no obligation to provide any Services except as expressly set forth in a Service Order. Each Service Order will identify (i) the Services to be provided by Cologix to Customer, (ii) the recurring charges and any non-recurring charges for such Services, (iii) the term during which such Services are to be provided, and (iv) any other provisions applicable to such Services.
3. **Representations and Warranties.**
 - a. Cologix represents and warrants to Customer that: (i) each Agreement constitutes a valid and binding obligation of Cologix that does not violate any other agreement between Cologix and any other person, (ii) Cologix will provide the Services in compliance with all applicable laws, rules and regulations, and (iii) Cologix (including each of its agents and subcontractors) will perform the Services in a workmanlike manner.
 - b. Customer represents and warrants to Cologix that: (i) each Agreement constitutes a valid and binding obligation of Customer that does not violate any other agreement between Customer and any other person, (ii) Customer will use the Service(s) in compliance with all applicable laws, rules and regulations, and (iii) Customer (including each of its agents and subcontractors) will comply with Cologix’s Policies and Procedures: Facility User Guide, as amended from time to time (“Policies and Procedures”) and published (including by posting at www.cologix.com/resources or successor site) or posted at Cologix’s facility, provided that Customer will have thirty (30) days following written notice from Cologix to comply with such Policies and Procedures.
 - c. Customer (i) will not resell or sublicense the Service(s) without Cologix’s prior written consent, (ii) will remain liable for the payment of all charges due under each Service Order and all acts or omissions of any sublicensee of Customer will be attributable to Customer under the Agreement, and (iii) will indemnify, defend and hold Cologix harmless from claims made against Cologix by any third party related to Customer reselling or sublicensing the Service(s).
 - d. Each party represents and warrants that (i) each individual or entity owning a ten percent (10%) or greater interest in such party is (A) not currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the US Treasury, and (B) is not an individual or entity with whom a citizen of the United States or Canada is prohibited to engage in transactions by any prohibition of United States or Canadian law, regulation, or Executive Order of the President of the United States and (ii) it has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times. Each party will use reasonable efforts to notify the other in writing if it has a reasonable basis to believe that any of the foregoing representations or warranties may no longer be true or have been breached. Each party will provide such reasonable information as may be requested by the other to determine the party’s compliance with the terms hereof. In the event of a breach of the foregoing representations, warranties or covenants, the nonbreaching party may suspend or cancel one or more Service Orders immediately upon written notice to the other party.



- e. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, NO WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY COLOGIX, AND COLOGIX EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. CUSTOMER IS SOLELY RESPONSIBLE FOR, AND COLOGIX EXPRESSLY DISCLAIMS, ALL REPRESENTATIONS, WARRANTIES AND LIABILITIES OF ANY KIND RELATING TO CUSTOMER'S SOFTWARE AND HARDWARE, INCLUDING THIRD-PARTY SOFTWARE AND/OR HARDWARE LICENSED BY CUSTOMER. COLOGIX DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE.

4. Billing; Payment of Invoices; Taxes.

- a. Cologix will inform Customer in writing, which may be via email communication, that Customer's ordered Service(s) are available for use by Customer (the "Service Commencement Notice"). Upon receipt of such notice, Customer will have a period of three (3) business days (the "Acceptance Period") to confirm that the Service(s) have been installed and made available to Customer in accordance with the specifications, if any, set forth in the Service Order. Unless Customer delivers written notice to Cologix within the Acceptance Period that the Service(s) is not installed in accordance with the specifications, if any, set forth in the Service Order (a "Defect Notice"), which Defect Notice will contain reasonable description of the alleged defects in the Service(s), billing will commence following the expiration of the Acceptance Period (the "Service Commencement Date"), regardless of whether Customer is prepared to accept delivery of the ordered Service(s). In the event that Customer timely provides a Defect Notice, then Cologix will correct any deficiencies in the Service(s) and deliver a new Service Commencement Notice to Customer, after which the process stated above will be repeated. Notwithstanding the foregoing, to the extent that Customer has not provided Cologix with (i) its final power configuration with respect to the ordered power Service(s) within ten (10) business days of Customer's execution of the applicable Service Order, or (ii) a letter of authorization with respect to any cross connects included in a Service Order within thirty (30) business days of Customer's execution of the applicable Service Order, Cologix may deliver the Service Commencement Notice and commence billing for the Service(s) despite the fact that the Service(s) are not fully available for Customer's use due to a lack of timely delivery of those items.
- b. Unless otherwise specified in the applicable Service Order, any non-recurring charges set forth in the Service Order will be invoiced by Cologix following the delivery of the related Services set forth in the applicable Service Order. Recurring charges will be billed monthly in advance, except for usage-based charges, which are billed in arrears. Billing for partial months will be prorated based on a calendar month.
- c. Subject to section 4(d) below, all amounts payable under the Agreement will be payable in full within thirty (30) days of the date of invoice (the "Payment Period"), in Canadian dollars, unless otherwise specified in the applicable Service Order. Any undisputed amounts not paid by the end of the Payment Period is subject to a late fee at the lesser of 1.5% per month or the maximum rate permitted by law, calculated from the end of the Payment Period. In addition, if Customer fails to pay all undisputed amounts within three (3) days of written notice by Cologix that the Payment Period has expired, Cologix reserves the right to, without limitation, suspend the performance of any Service(s) provided to Customer until such time as Customer pays all undisputed amounts (in which case Cologix will promptly restart performance of the Services), restrict Customer's access to the Customer Space (and Customer's equipment therein) until such time as Customer pays all undisputed amounts (in which case Cologix will promptly grant full access to Customer), refuse to provide any new Service(s) requested by Customer until such time as Customer pays all undisputed amounts, and/or exercise any termination rights it has under this MSA. The failure to pay amounts owed under a Service Order when due will be considered a material breach of the Agreement.
- d. Customer may reasonably dispute charges on an invoice by providing written notice to Cologix (with details of the nature of the dispute and the Service(s) and invoice(s) disputed) within thirty (30) days that such charges



are invoiced. To the extent that charges are reasonably disputed by Customer, the payment of such charges may be suspended, and such dispute will be promptly addressed and resolved by the parties. To the extent the dispute is resolved against Customer, Customer will pay the disputed amount plus a late fee determined using the rate referenced in Section 4(c) above from the date that payment of such charges was originally due. Failure to provide notice of a dispute within such thirty (30) day period will be deemed acceptance of the invoice and a waiver of any right to dispute such charges.

- e. Cologix reserves the right to change Customer's payment terms, including requiring a deposit or another form of security, at any time when Customer's payment history under any Service Order contains a delinquent balance or Customer has an Insolvency Event (as defined below). As used herein, "Insolvency Event" means making a general assignment for the benefit of a party's creditors, filing a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization or similar relief or an involuntary petition in bankruptcy or other insolvency protection is filed against the applicable party. The acceptance and deposit by Cologix of any payment from Customer that contains reference of any type that such payment constitutes "payment in full" will not constitute an accord and satisfaction or a waiver by Cologix of any right(s) it possesses, in law or equity, to collect payment in full from Customer for any and all Services provided to Customer under the Agreement.
- f. All charges for Service(s) are exclusive of applicable taxes and fees. Except for taxes based on Cologix's net income, Customer will be responsible for all taxes and fees that arise in any jurisdiction, however designated, imposed on, incident to, or based upon the provision, sale or use of the Service(s) (collectively, the "Taxes"). Customer will indemnify Cologix for payment and reporting of all such Taxes, including costs, expenses, and penalties incurred by Cologix in settling, defending or appealing any claims or actions brought against Cologix related to, or arising from, Customer's non-payment of any such Taxes. If Customer is entitled to an exemption from any Taxes, Customer is required to present Cologix with a valid exemption certificate (in a form reasonably acceptable to Cologix). Cologix will give effect to any valid exemption certificate provided by Customer in accordance with the foregoing sentence to the extent it applies to any Service billed by Cologix to Customer following Cologix's receipt of such exemption certificate.
- g. Customer acknowledges that the Services furnished pursuant to the Agreement may be delivered through the use of services obtained from third parties (e.g., local exchange carriers, utility companies, etc.) (collectively, the "Third Party Charges"). These charges may change over time, including adjustments to comply with any regulatory requirements. Cologix reserves the right to modify its rates for any Services provided under the Agreement to reflect any adjustments in Third Party Charges applicable to the Services, provided any such adjustment is reasonably allocated to Customer, and made without markup or other administrative charge by Cologix. Cologix will provide notice of any such adjustment to Customer.

5. Term; Termination; Expiration.

- a. Unless otherwise specified in the Service Order, each Service Order will automatically renew for (i) successive twelve (12) terms if the Service Order does not have a month-to-month term, or (ii) successive one (1) month terms if the Service Order has a month-to-month term (each such successive 12-month or 1-month term a "Renewal Term"), unless either party provides written notice of non-renewal to the other party at least thirty (30) days prior to the end of the then-current term ("Non-Renewal Notice Period"). Cologix may increase any charges payable by Customer to Cologix with respect to any such Renewal Term by providing written notice of the new applicable charges at any time prior to the end of the then-current term; provided, however, if Cologix delivers such notice during the Non-Renewal Notice Period, Customer will have thirty (30) days from the date of Cologix's notice to give notice of non-renewal.
- b. Either party may terminate a Service Order, (i) if the other party fails to perform or breaches any material term or condition of such Agreement (other than as provided below) and does not cure such breach within thirty (30) days (ten (10) days for late payment of fees) following the receipt of a written notice from the non-breaching party specifying the nature of the breach in reasonable detail and stating such party's intention to terminate the



Service Order, as applicable; or (ii) the other party has had an Insolvency Event. Notwithstanding the foregoing, Customer's sole remedies for Service outages, failures or defects are described in the service level agreement(s) ("SLAs"), if any, included in the applicable Schedule or Service Order.

- c. If Customer terminates a Service Order for convenience prior to the end of the applicable term thereof, then Customer will provide not less than thirty (30) days' prior written notice to Cologix of such termination, and, prior to the effective date of such termination (and prior to Customer's removal of its equipment and personal property from the applicable Cologix facility), Customer will pay to Cologix, as liquidated damages, a termination fee in an amount equal to one hundred percent (100%) of the monthly recurring charges due under the terminated Service Order(s) for the remainder of the term of such Service Order(s).
- d. Within five (5) business days following the expiration, or the earlier termination, of a Service Order (the "Equipment Removal Period"), Customer will remove all of its related equipment and other personal property (which includes any hardware or software licensed by Customer from a third party) from Cologix's facility. If Customer fails to remove its equipment or other personal property upon expiration of the Equipment Removal Period, Cologix may, upon providing three (3) business days' prior written notice to Customer, disconnect, remove and dispose of Customer's equipment or other personal property at Customer's expense.
- e. Either party may terminate the MSA upon written notice if there are no Service Orders then in effect.
- f. In the event of any change in applicable law, regulation, decision, rule or order that materially increases the costs or other terms of delivery of the Service(s), Cologix may modify the charges for the Service Order to reasonably account for such change upon written notice. If Cologix elects to modify the charges for the Service Order, then Customer may terminate the affected Service Order by delivering written notice of termination to Cologix no later than thirty (30) days after its receipt of Cologix's notice.

6. Limitation of Liability. EXCEPT TO THE EXTENT A PARTY HAS AN INDEMNIFICATION OBLIGATION TO THE OTHER PARTY OR AN OBLIGATION TO PAY FEES UNDER THE AGREEMENT, (A) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOSS OF DATA OR LOSS OF PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE AGREEMENT OR THE SERVICE(S), EVEN IF THE RELEVANT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) TO THE EXTENT NOT PROHIBITED BY LAW, EACH PARTY'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATED TO THE AGREEMENT, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY, OR IN TORT, WILL BE LIMITED TO THE MONTHLY RECURRING CHARGES BILLED BY COLOGIX TO CUSTOMER IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE MONTH IN WHICH THE FIRST CLAIM AROSE.

7. Indemnification. Each party will defend the other party, and will indemnify them for any damages, costs or expenses (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction, with respect to any third party claim or governmental proceeding, arising out of or alleged to have arisen out of, (a) such party's breach of its representations or warranties under the Agreement, or (b) bodily injury, death or tangible property damage caused by such party's gross negligence or willful misconduct. The obligations of the parties in this Section 7 are subject to the conditions precedent that the indemnified party (i) give prompt written notice to the indemnifying party of any such claim, (ii) allow the indemnifying party sole control over the defense or settlement of such suit or proceeding, at the indemnifying party's sole expense, and (iii) provides reasonable information and assistance in the defense and settlement of any such claim or action at the indemnifying party's expense; provided, that any delay in furnishing such notice will not discharge the indemnifying party from its indemnification obligation hereunder, except to the extent such delay results in actual prejudice to the indemnifying party; and further provided that the indemnifying party will not be responsible for any costs, expenses or compromise incurred or made by the indemnified party without the indemnifying party's prior written consent. The indemnifying party will keep the



indemnified party advised of the progress of any such claim and the indemnified party will have the right to participate in such claim at its own expense. If the indemnifying party fails to take timely action to defend any such claim then the indemnified party may defend such claim at the indemnifying party's expense. The indemnifying party will not have the right to settle, compromise or otherwise enter into any agreement regarding the disposition of any claim without the indemnified party's prior written consent, which may not be unreasonably withheld, delayed or conditioned, except in a settlement solely involving monetary damages.

8. Insurance.

- a. Customer will keep in full force and effect during the term of the Agreement: (i) comprehensive general liability insurance, including contractual liability insurance and defense outside of the limits, in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, (ii) "Special Causes of Loss" (formerly known as "All Risk") Property insurance covering all of Customer's personal property at full replacement cost, located at any of Cologix's facilities and (iii) workers' compensation insurance in an amount not less than that required by applicable law and Employer's Liability with limits of at least \$500,000 each accident, disease, employee. Customer acknowledges that (A) it retains the risk of loss for, or damage to, its equipment and other personal property located at any of Cologix's facilities and (B) Cologix's insurance policies do not provide coverage for Customer's equipment or other personal property. Customer's general liability policy will indicate that the insurer provides the primary, non-contributory insurance for any claims under the Agreement. Customer's general liability policy, workers' compensation and property policies will include a provision denying insurer subrogation rights against Cologix and the Cologix indemnitees. If requested by Cologix, Customer will provide a certificate to Cologix confirming that (i) such policies are in full force and effect, and (ii) such policies provide coverage to Cologix and the Cologix indemnitees as additional insureds. Upon receipt of notice from its insurance company, Customer will provide Cologix with thirty (30) days' prior written notice before any cancellation or material modification of its insurance policies. Customer will require any contractor, customer or other third party entering a Cologix facility on Customer's behalf to procure and maintain the same types, amounts and coverage extensions as required of Customer and as required and approved by Cologix, acting reasonably.
- b. Cologix will maintain in full force and effect during the term of the Agreement: (i) comprehensive general liability insurance, including contractual liability insurance, in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, (ii) "Special Causes of Loss" (formerly known as "All Risk") Property insurance on all of Cologix's equipment and personal property located at its facilities, and (iii) workers' compensation insurance in an amount not less than that required by applicable law and Employer's Liability with limits of at least \$500,000 each accident, disease, employee. Cologix's general liability policy and property insurance policy will include a provision denying insurer subrogation rights against Customer and the Customer indemnitees. If requested by Customer, Cologix will provide a certificate to Customer confirming that such policies (i) are in full force and effect and (ii) provide coverage to Customer and the Customer indemnitees as additional insureds.

9. Confidential Information. "Confidential Information" means: (a) the content of the Agreement and any related documents, and (b) any and all technical and non-technical information, whether in graphic, electronic, written or oral form, that is (i) provided by one party or its subsidiaries or affiliates to the other party or such other party's subsidiaries or affiliates, (ii) reasonably necessary for the performance of Services or the evaluation of potential Services, and (iii) recognized by a reasonable party as confidential or proprietary given the nature of the circumstances surrounding the disclosure. For the avoidance of doubt, Cologix's Confidential Information will include pricing and terms relating to the Customer Space and Service(s) and any audit or compliance reports provided by Cologix to Customer. Each party agrees that: (a) Confidential Information is confidential and constitutes proprietary information of the disclosing party, and (b) during the term of the Agreement and thereafter, it will not use or disclose, and it will cause its customers, sub-licensees, partners, officers, directors, shareholders, employees, brokers, auditors and attorneys to not use or disclose any Confidential Information to any other person without first obtaining the prior written consent of the disclosing party; provided, however, the parties will have no obligation to maintain the confidentiality of information that: (i) was received by it from a third party without an



obligation of confidentiality; (ii) is or becomes available to the general public through no breach of this Agreement by the receiving party or was in the public domain at the time it was communicated to the receiving party by the disclosing party through no breach of an obligation of confidentiality by the receiving party; (iii) is approved in writing for release by the disclosing party, but only to the extent of such authorization; or (iv) is independently developed by the receiving party or was in the receiving party's possession free of any obligation of confidentiality at the time it was communicated to the receiving party. Additionally, each party will have the right to disclose Confidential Information without the consent of the other party to the extent required, but only to the extent required, by law, oral questions, interrogatories, requests for information or other documents in legal proceedings, subpoena, civil investigative demand, regulatory process or any other similar process ("Legal Disclosure"). If the receiving party or its representatives are requested or required to make a Legal Disclosure, such party will, to the extent permitted by applicable law, provide the disclosing party with prompt notice of any such request or requirement so that the disclosing party has an opportunity to seek a protective order or other appropriate remedy at its sole expense, or waive compliance with the provisions of this Agreement. If the disclosing party has not secured a protective order or other appropriate remedy, and receiving party or its representative are nonetheless legally compelled to disclose any Confidential Information, receiving party or its Representatives, as applicable, may disclose that portion of the Confidential Information that it reasonably believes is necessary to be disclosed. Each party acknowledges that if it discloses any Confidential Information in breach of this Section 9 that the disclosing party may suffer irreparable harm and that money damages may not be a sufficient remedy. Receiving party further acknowledges that the disclosing party will be entitled to seek to obtain equitable relief, including injunction and specific performance, without the necessity of posting a bond, in the event of any actual or threatened breach of this Section 9.

10. Publicity. During the term of the Agreement, Customer grants Cologix the right to use Customer's logo and name on Cologix's website and promotional materials. Customer will have the right to require Cologix to terminate any such uses at any time by written notice.

11. No Broker. Customer represents and warrants that Customer has not engaged any broker or agent in connection with the Agreement or any Customer Space or Services provided by Cologix to Customer hereunder and agrees that Customer will not retain or engage any broker or agent in connection with any renewal (automatic or otherwise) of the Customer Space and Services provided to Customer under the Agreement. Cologix will have no responsibility to pay any commissions or other amounts owing to any broker or agent engaged by Customer in violation of the terms of this Section 11. Notwithstanding anything to the contrary set forth in this Section 11, Cologix may pay commissions related to Service Orders owing to third parties under Cologix partner agreements.

12. Relationship of Parties. Nothing in the Agreement will be construed to imply a joint venture, partnership or agency relationship between the parties. Cologix will be considered an independent contractor when performing Service(s) under the Agreement.

13. Assignment and Subcontracting.

- a. Neither party will have the right to assign the Agreement without the other party's prior written consent, not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Cologix may, without the consent of Customer, assign the Agreement to an Affiliate of Cologix, or to an entity acquiring all or substantially all of the assets or equity of Cologix, or to an entity resulting from a merger, consolidation or other corporate reorganization of Cologix.
- b. Cologix may permit any Affiliate of Cologix, independent contractor, or other third party to perform any of Cologix's obligations hereunder or under any Service Order, provided that Cologix remains primarily liable to Customer for the performance of its obligations hereunder.

14. No Third Party Beneficiaries. No provisions of the Agreement are intended to, or will be construed to, confer upon any person, other than the parties hereto, any rights, remedies or other benefits under or by reason of the Agreement.



15. Notices. All notices required or permitted hereunder may be sent and received electronically, provided that notice of non-renewal, breach or termination of any Agreement will be given in writing and, will be considered properly given if hand-delivered, mailed first class mail (postage prepaid and return receipt requested) or sent by express overnight courier at the address specified on the first page of this MSA or at such other address as a party may specify in writing pursuant to this Section. All notices will be deemed given when received.

16. Governing Law; Consent To Jurisdiction. The Agreement will be deemed to be a contract made under, and will be construed in accordance with, the laws of the Province of Ontario. In addition, each party consents to the jurisdiction of any court empowered to enforce the Agreement located in Toronto, Canada.

17. Force Majeure. Except with respect to any payment obligations, neither party will be liable for any failure or delay in its performance under the Agreement due to causes beyond its reasonable control. To the extent that Cologix does not deliver any Service(s) as a result of a force majeure event, Customer will not be obligated to pay Cologix for such Service(s) for so long as Cologix does not deliver the affected Service(s).

18. Waiver. No waiver will be effective unless documented in a writing signed by an authorized representative of the party against which enforcement of the waiver is sought. The failure of either party to insist upon strict performance of any of the terms or provisions of the Agreement, or the exercise of any option, right or remedy contained herein, will not be construed as a waiver of any future application of such term, provision, option, right or remedy, and such term, provision, option, right or remedy will continue and remain in full force and effect.

19. Survival. Any term or provision of the Agreement of an ongoing nature and/or which, by their nature and context, should reasonably be expected to survive the expiration or earlier termination of the Agreement, will so survive such expiration or termination thereof.

20. Prevailing Party. In the event of a dispute arising from or related to the Agreement, the substantially prevailing party will be entitled to recovery of all reasonable costs incurred, including, without limitation, court costs, attorneys' fees and other related costs and expenses.

21. Counterparts; Electronic Copies. Each document of this MSA and any Service Order may be executed in counterparts. In addition, each party hereby agrees that facsimile, photographic or electronic copies of any of the foregoing will be deemed an original thereof. Finally, each party hereby consents to the use of electronic signatures, including via Adobe e-signature or a similar product or service, and acknowledge and agree that no electronic record or signature will be challenged or denied legal effect or enforceability because it is in electronic form.

22. Severability. If any term or provision, or part thereof, of the Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable or otherwise ineffective, that term or provision, or part thereof, will be limited or eliminated to the minimum extent necessary so that the Agreement will otherwise remain in full force and effect and enforceable. If the surviving portions of the Agreement fail to retain the essential understanding of the parties, the Agreement will be terminated by the mutual consent of the parties.

23. Headings. Headings are for ease of reference only and will not have any effect upon the construction of the Agreement.

24. Construction. The parties agree that each party has reviewed and revised the Agreement and has had a reasonable opportunity to seek independent legal advice. As such, the parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of the Agreement.

25. Entire Agreement; Modification; Order of Precedence. Each Agreement constitutes the entire agreement between the parties relating to its subject matter and it supersedes all prior agreements and understandings between the parties, oral or written, with respect to its subject matter and may not be changed unless mutually agreed in



writing by both parties. In case of a conflict between any of the terms and conditions in this document and any other terms and conditions in any Schedule or Service Order, the order of precedence follows: (a) the Service Order; (b) the applicable Schedule; and (c) this document (including attachments and exhibits). For the avoidance of doubt, the terms of any purchase order sent to Cologix by Customer (for Customer's administrative purposes or otherwise) will not be binding.



Colocation Space and Services Schedule

1. **Grant of License.** Cologix grants to Customer the right and non-exclusive license to occupy the colocation space identified in the Service Order (the "Customer Space") during the term identified in such Service Order, solely for the Permitted Uses (as defined below). Notwithstanding the foregoing, Customer acknowledges that it does not have, has not been granted and will not hold any real property interest in the Customer Space or the facility and that Customer is a licensee and not a tenant or lessee of the Customer Space. This license is subordinate to any lease between Cologix and its landlord.
2. **Use of Customer Space.**
 - a. Customer will use the Customer Space solely for the purpose of (i) installing Customer's equipment in the Customer Space, (ii) maintaining the equipment, (iii) operating the equipment, and (iv) removing the equipment (collectively, the "Permitted Uses"). In connection with the foregoing, Customer will maintain the Customer Space in an orderly and safe condition, in accordance with nationally published CCOHS standards, and will return the Customer Space to Cologix in the same condition (reasonable wear and tear excepted) as when such colocation space was delivered to Customer. Customer will perform the Permitted Uses at its sole cost and expense.
 - b. Customer will ensure that its officers, employees, technicians, agents, representatives, contractors and visitors who are involved in the Permitted Uses, or who are granted access to the Customer Space, comply with the Policies and Procedures.
3. **Cologix Maintenance.** Cologix will perform janitorial services, environmental systems maintenance, power plant maintenance, fire system maintenance and other actions as are reasonably required to maintain the Customer Space in a condition that is suitable for the placement of communications and networking equipment.
4. **Equipment Cabinets, Racks, Cages and Private Suites.** Cologix will provide equipment cabinets, racks, cages and/or private suites as specified in each Service Order. Any Customer-provided racks will be subject to Cologix's prior written approval.
5. **Power Threshold**
 - a. Total Customer Space size is determined in part by the deployed power density of the facility and the amount of power purchased by Customer.
 - b. Cologix will be the exclusive provider of any AC or DC power circuits for the Customer Space in accordance with the Service Order. Customer will be solely responsible for ensuring that its power usage does not exceed the rated capacity of any circuit or fuse. Cologix will have no liability for any outage, interruption, or damage to Customer's equipment or applications to the extent caused by Customer's exceeding such circuit or fuse ratings. Cologix may, but will have no obligation to, monitor Customer's power usage on an ongoing basis pursuant to Section 6. Customer acknowledges and agrees that Customer's use of any power circuit will not exceed eighty percent (80%) of the applicable fuse rating (the "Power Circuit Threshold"), in accordance with applicable law. Customer-provided power strips used for remote control or other additional functionality must be approved for use in advance by Cologix.
6. **Power Models**
 - a. *Per Circuit Model.* This clause applies only to the extent Customer orders power from Cologix on a per circuit basis as set forth in the applicable Service Order. Customer acknowledges and agrees that Customer will not be permitted to draw power on any such circuit in excess of the Power Circuit Threshold, as measured by Cologix. If at any time Customer exceeds the Power Circuit Threshold, Cologix reserves the right (at any time thereafter) to send a written notice to Customer of such excessive use (each, a "Power Notice") and Customer will have a period of ten (10) days from receipt of such Power Notice to reduce Customer's power draw below the Power Circuit Threshold. If Customer fails to cure such excessive power use within the ten (10) day period set forth



above, then Cologix will have the right, at its option, to: (i) suspend or reasonably limit Services to protect the Facility, infrastructure, or other customers; (ii) upon not less than five (5) business days' prior written notice to Customer, terminate the applicable Service Order with Customer if the power being used by Customer in excess of the Power Circuit Threshold is not available at the applicable facility; or (iii) without any additional notice to Customer, install an additional power circuit and begin charging Customer for an additional power circuit at the same configuration as the circuit triggering such excessive power use for the remainder of the term of the applicable Service Order, which additional circuit charge will be reflected on Customer's next succeeding monthly invoice and will be payable by Customer to Cologix pursuant to the terms of the Agreement. In addition to the foregoing, if at any time during the term of the Agreement Customer receives three (3) or more Power Notices from Cologix (whether or not Customer has cured the related excessive power use), Cologix may, without additional notice, install and begin charging Customer for an additional power circuit, which additional circuit charge will be reflected on Customer's next succeeding monthly invoice and will be payable by Customer to Cologix pursuant to the terms of the Agreement.

b. *KW Commitment Model*. This clause applies only to the extent Customer orders power from Cologix on a kW basis as set forth in the applicable Service Order. Customer will not exceed Customer's committed kW power usage (as reflected on the Service Order) at any time during the term of such Service Order, as measured by Cologix. If at any time a measure of Customer's power usage by Cologix reflects usage in excess of Customer's kW commitment (as reflected on the Service Order) (any such reading, a "kW Usage Spike"), the level of such kW Usage Spike will automatically become Customer's new kW commitment for the remainder of the term of such Service Order (subject to any additional intervening kW Usage Spike which will again set a new kW commitment for Customer). In connection with the foregoing, commencing on the next ensuing monthly invoice, Customer will be charged for such new kW commitment. Notwithstanding anything to the contrary in this Section 6(b), Cologix will allow for one (1) kW Usage Spike by Customer in any twelve (12) month period during the term of each Service Order without any adjustment to Customer's kW commitment, provided such kW Usage Spike is ceased within five (5) days of its occurrence. For the avoidance of doubt, if Customer fails to cease the kW Usage Spike within the foregoing five (5) day period, or has any additional kW Usage Spikes above the one (1) allowed per Service Order in any twelve (12) month period, the provisions of this clause (b) will apply without modification. In addition, any new kW commitment resulting from a kW Usage Spike in a month will apply retroactively to all power charges for such month and, in furtherance of the foregoing, Cologix may conduct a reconciliation and true-up of charges for such month, considering the increased kW commitment. Cologix will send written notice to Customer of any amounts owed by Customer in connection with such reconciliation and such amounts will be reflected on the next monthly invoice received by Customer following the date of such reconciliation by Cologix and will be payable by Customer to Cologix pursuant to the terms of the Agreement. Notwithstanding the foregoing, if Customer exceeds its committed kW power usage, Cologix may suspend or reasonably limit Services to protect the Facility, infrastructure, or other customers.

(i) *kW Usage (Metered) Model*. This subsection applies only to the extent Customer orders power on a metered kWh basis as set forth in the applicable Service Order. Cologix will measure Customer's power



consumption utilizing its Data Center Infrastructure Management (“DCIM”) system. For each billing period, Customer's monthly metered power charge will be calculated as follows:

$$\text{Billable kWh} \times \text{Effective Utility Rate} \times \text{PUE}$$

where:

- Billable kWh means, for each billing period, the greater of:
 - (A) Customer's actual metered kWh usage during the applicable billing period; and
 - (B) Customer's committed power capacity converted to kWh for the applicable billing period, multiplied by the greater of:
 - (i) the minimum usage percentage, if any, specified in the applicable Service Order, and
 - (ii) the minimum usage percentage, if any, imposed by the applicable utility provider for the rate class applicable to Cologix.
- Effective Utility Rate means Cologix's applicable average blended utility cost per kWh for the facility, as determined by Cologix in its reasonable discretion, including actual utility costs, charges, taxes, fees, and similar assessments incurred in providing power service.
- PUE means the Power Usage Effectiveness factor for the facility, unless otherwise specified in the applicable Service Order.

The aggregate of all branch circuits supporting the Customer Space and Services under a Service Order will be totaled and billed by Cologix to Customer for the period from the 21st day of the previous month through the 20th day of the current month. Upon request, Cologix will provide Customer with a usage report reflecting the metered consumption used in calculating the applicable invoice.

7. Access and Security.

- a. Cologix will provide physical access by Customer to Cologix's facility twenty-four (24) hours a day, seven (7) days a week, pursuant to the Policies and Procedures.
- b. Unless otherwise agreed in writing by the parties, Cologix retains the right to access the Customer Space at any time and for any reason, including to perform maintenance and repairs, to inspect equipment, to measure power draw and to perform the contracted Services.
- c. Cologix will provide and maintain, in good working order, the security devices described in the Policies and Procedures.

8. 24x7 Customer Support. Cologix provides 24x7 coordination and resolution of problems associated with the Services. Support is limited to the product features included in the Services purchased.

9. Onsite Technical-Support Services.

- a. Cologix technicians are available to perform various “Remote Hands” technical tasks on Customer's equipment. Typical activities provided by the Remote Hands services include, rebooting or power-cycling Customer equipment, testing or swapping defective cables, visually reporting on status indicators, reseating or replacing modular equipment and modem connections for remote access.
- b. Remote Hands services will be billed on a time and materials basis, at Cologix's then-current Remote Hands rates. Remote Hands services may be purchased in monthly blocks of time or ad hoc. Unless otherwise specified in a Service Order, if Customer orders a pre-paid Remote Hands package, after hours and/or urgent requests will be billed at Cologix's then-current after-hours rates and the hours related to such requests will not be deducted or applied against Customer's pre-paid package. Customer is not entitled to rollover any remaining unused monthly



hours to any other month. For clarity, any hours requested above the number of hours set forth on Customer's pre-paid package will be billed at Cologix's then-current rates.

c. Although Cologix technicians are skilled in troubleshooting and repairing a variety of equipment, prior knowledge of, or training on, a particular system utilized by Customer cannot be guaranteed. Cologix will not be liable for any losses or damages due to any failure of the equipment or for any loss of data or damages resulting from any act or omission related to Remote Hands service.

d. Cologix will have no liability for any loss, damage, or delay with respect to any shipment (which may consist of one or more packages) from Customer, or any third party acting on Customer's behalf that is received, handled, or stored by Cologix as an accommodation to Customer. The receiving, handling, and storage of such shipments are provided solely as a convenience. Customers must provide their own insurance for all equipment being shipped, stored, or otherwise located at any Cologix facility. Any labor associated with the receipt, handling, staging, transportation, or delivery of Customer shipments within a Cologix facility will be billed at Cologix's then-current Remote Hands rates.

10. Colocation Service-Level Agreement. Unless otherwise specified in the Service Order, the following Service-Level Agreement terms shall apply.

a. Power SLA. Cologix will maintain 100% Service availability for redundant power Services and 99.99% Service availability for non-redundant power Services. For any billing month in which Cologix fails to meet the Power SLA, Customer will, subject to the "Excluded Outages" (as defined below), receive, as its sole and exclusive remedy and Cologix's sole obligation for such failure, a credit to its account based on the actual duration of the interruption of such power Service. The amount of credit is stated below as a percentage of the monthly recurring charges due to Cologix for such affected Service for the applicable calendar month.

<u>Services Availability</u> (measured over calendar month)	<u>Redundant Power Credit</u>	<u>Non-Redundant Power Credit</u>
Uptime of 100%	None	None
Uptime of 99.999% - 99.990%	10%	None
Uptime of < 99.990% - 99.900%	25%	10%
Uptime of < 99.900% - 95.000%	50%	25%
Uptime of < 95.000%	100%	50%

b. Humidity SLA. Cologix will maintain the Customer Space to 2021 ASHRAE TC 9.9 Class A1 Allowable Standards (8% - 80%) for absolute humidity as measured by dew point, confirmed by readings from at least three (3) adjacent sensors in the data hall. Cologix does not commit to any absolute humidity within cabinets. If the humidity is outside of the permitted range for more than twenty-four (24) hours, Cologix will remedy the problem within the next twenty-four (24) hours. If Cologix fails to meet the Humidity SLA, and fails to remedy such failure within twenty-four (24) hours, Customer will, subject to the Excluded Outages listed below, receive, as its sole and exclusive remedy and Cologix's sole obligation for such failure, a credit to its account equal to ten percent (10%) of the monthly recurring charges due to Cologix for such affected Service for the applicable calendar month.

c. Temperature SLA. Cologix will maintain the Customer Space to 2021 ASHRAE TC 9.9 Class A1 Allowable Standards for temperature (59°F - 89.6°F/15°C - 32°C), as measured between two (2) and five (5) feet above the floor in the cold aisles within the data hall, and confirmed by readings from at least three (3) adjacent sensors in the data hall. Cologix does not commit to any temperature range inside cabinets. If the temperature is outside the permitted range for more than twenty-four (24) hours, Cologix will remedy the problem within the next twenty-four (24) hours. If Cologix fails to meet the Temperature SLA, and fails to remedy such failure within twenty-



four (24) hours, Customer will, subject to the Excluded Outages listed below, receive, as its sole and exclusive remedy and Cologix's sole obligation for such failure, a credit to its account equal to ten percent (10%) of the monthly recurring charges due to Cologix for such affected Service for the applicable calendar month.

d. If Customer orders liquid cooling services under a Service Order, the applicable Service Order will set forth the applicable service levels, design parameters, technical specifications, operating requirements, and other terms governing such services.

e. Cologix's maintenance logs and trouble-ticketing systems will be used for determining the occurrence and duration of any service level failures and calculating any resulting credits. As a condition to receiving any credit, Customer must submit a written request to Cologix within thirty (30) days after the end of the calendar month in which the applicable service level failure occurred, including reasonable details of the claimed event.

f. If at any time Customer is in default or breach of its obligations under the Agreement, Customer will neither earn nor be entitled to any credit until such default or breach is cured. Customer is limited to receiving an aggregate credit of 100% of the monthly recurring charges due to Cologix for the applicable calendar month for the affected Service.

g. Notwithstanding anything to the contrary herein, credit will not be issued for any outage that, as reasonably determined by Cologix, results from any of the following: (i) Customer-initiated changes, whether implemented by Customer or Cologix on behalf of Customer; (ii) Customer's violation of the Policies and Procedures in effect at the time of the applicable event; (iii) any event or circumstance not wholly within the control of Cologix; (iv) viruses or other malicious code introduced by or on behalf of Customer; (v) any Cologix scheduled maintenance announced at least forty-eight (48) hours in advance, up to an accumulated total of eight (8) hours per month; (vi) any emergency maintenance announced at least sixty (60) minutes in advance, up to an accumulated total of two (2) hours per month; (vii) Cologix's inability to access Customer equipment or Customer Space after reasonable efforts; or (viii) Customer's exceeding its kW commitment as set forth in the applicable Service Order and/or Customer's power draw on any power circuit exceeding the Power Circuit Threshold therefor (clauses (i) through (viii) above, collectively, the "Excluded Outages").

11. **Anti-Long Straw.**

a. Customer must order and maintain space and power Services from Cologix as a prerequisite to ordering any interconnection Services. Such interconnection Services may be ordered only when originating from the same Cologix facility where Customer is physically colocated.

b. Customer will not use, or permit the use of, any interconnection Services to connect to locations outside the applicable Cologix facility for the purpose of reselling connectivity to, or otherwise providing connectivity for the benefit of, any third party that is not physically present within the meet-me room of such facility.

c. Any attempt to achieve connectivity that violates this Section 11, as determined by Cologix, will be a material breach of the Agreement, entitling Cologix to immediately suspend Customer's Services set forth herein, in addition to all other remedies available to Cologix under the Agreement or at law or in equity, including the right to immediately begin charging Customer a recurring premium surcharge on the monthly recurring charge for such breaching interconnection Service until the termination of such breach.

12. **Changes.** Cologix reserves the right, on prior written notice to Customer and only for legitimate business purposes, to relocate, change or otherwise substitute replacement space for the Customer Space, at any time during the term hereof; provided that such replacement space is substantially similar in size and configuration to the original Customer Space. Cologix will develop a written relocation plan and provide Customer with an opportunity to inspect the replacement space prior to such relocation. Any related direct and documented out-of-pocket costs incurred by Customer as a result of such relocation will be at Cologix's sole expense. Cologix will use commercially reasonable efforts to minimize any interruptions in Services during such relocation.



13. **Termination of Use.** Cologix may terminate Customer's use of the Customer Space or the Services delivered therein in the event that: (a) Cologix's rights to use the facility in which the Customer Space is located terminates or expires for any reason (it being agreed that Cologix will provide to Customer reasonable notice (not to exceed six (6) months) and Customer will not be liable for any early termination fee in connection with such termination); (b) Customer is in default or breach of its obligations hereunder; (c) Customer makes any material alterations to the Customer Space without first obtaining the prior written consent of Cologix; or (d) Customer violates the Policies and Procedures. With respect to subsections (b), (c), and (d) Cologix will provide Customer with written notice of such breach and a thirty (30) day opportunity to cure prior to termination; provided, however, that Cologix may terminate immediately upon written notice if, in Cologix's opinion, such breach (i) interferes or has the potential to interfere with other Cologix customers, or (ii) presents a material operational, safety, or security risk.
14. **Release of Landlord.** Customer hereby releases Cologix's landlord (and its agents, subcontractors and employees) from all claims, liabilities, and damages arising out of or relating to Customer's access to, use, or occupancy of the Customer Space and the facility in which it is located, except to the extent of any gross negligence or intentional misconduct of such landlord. For the avoidance of doubt, nothing set forth in this Section 14 will modify or limit Cologix's obligations to Customer under the Agreement relating to Customer's access, use or occupancy by Customer of the Customer Space.



Network Access and Services Schedule

1. **Cologix Duties and Obligations.** Subject to the terms and conditions of this Schedule and as more particularly described in an applicable Service Order, Cologix will provide to Customer certain network access and services (the “Network Access and Services”). Customer will ensure that all use of, and access to, any Network Access and Services complies with all applicable policies, rules, and acceptable use requirements of such services. Cologix does not monitor, control, or assume any responsibility for the content of information transmitted through its network or via the Network Access and Services. Customer acknowledges that Cologix does not control the content of information transmitted over third-party networks. Cologix does not guarantee end-to-end bandwidth, latency, availability, or performance for any portion of the Network Access and Services that traverses networks not owned or directly managed by Cologix.
2. **Acceptable Use Policy.** Customer represents and warrants to Cologix that it will at all times comply with Cologix’s Network Access and Services Acceptable Use Policy (the “Network Access and Services AUP”). Cologix may amend the Network Access and Services AUP from time to time upon reasonable notice to Customer by publishing the policy at www.cologix.com or related web page.
3. **Cologix Support Services.**
 - a. As used herein, “Remote Hands” services means technical tasks performed by Cologix on Customer’s hardware or software upon Customer request or instruction. Remote Hands services include: rebooting or power-cycling Customer equipment, testing or swapping defective cables, visual reporting on status indicators, reseating or replacement of modular equipment and modem connections for remote access.
 - b. Remote Hands services will be billed on a time and materials basis, at Cologix’s then-current Remote Hands rates. Remote Hands services may be purchased in monthly blocks of time or ad hoc. For clarity, any services not specifically listed on a Service Order will be billed on a time and materials basis. Unless otherwise specified in a Service Order, if Customer orders a pre-paid Remote Hands package, after hours and/or urgent requests will be billed at Cologix’s then-current after-hours rates and the hours related to such requests will not be deducted or applied against Customer’s pre-paid package.
 - c. Although Cologix technicians are skilled in troubleshooting and repairing a variety of hardware and/or software, prior knowledge of, or training on, a particular system utilized by Customer cannot be guaranteed. Cologix will not be liable for any losses or damages due to any failure of the equipment or for any loss of data or damages resulting from any act or omission related to Remote Hands service.
4. **24x7 Customer Support.** Cologix provides for the coordination and resolution of problems associated with the Network Access and Service(s) on a 24x7 basis. Support is limited to the product features included in the Network Access and Service(s) purchased.
5. **Service Description.** Cologix provides Network Access and Services that are set forth on the applicable Service Order. Attached as Attachment A is a description of the Network Access and Services currently offered by Cologix. Additional Service Descriptions may be made available on www.cologix.com or related web pages.
6. **Customer Non-Interference; Indemnification.** Customer will not, and will not permit any of its employees, agents, contractors, or representatives to, circumvent, bypass, or otherwise interfere with any security measures or controls of Cologix relating to the facility or any Cologix equipment. Customer will be responsible for, and will indemnify, defend, and hold harmless Cologix and its affiliates from and against any and all damages, losses, liabilities, and costs (including reasonable attorneys’ fees) arising out of or relating to Customer’s breach of this Section, including any damage to Cologix equipment or any service interruption caused thereby. In addition, Customer will pay Cologix, at its then-current remote hands rates, for any remedial or corrective services performed by or on behalf of Cologix as a result of Customer’s acts or omissions.



7. Anti-Long Straw.

- a. Customer must order and maintain space and power Services from Cologix as a prerequisite to ordering any interconnection Services. Such interconnection Services may be ordered only when originating from the same Cologix facility where Customer is physically colocated.
- b. Customer will not use, or permit the use of, any interconnection Services to connect to locations outside the applicable Cologix facility for the purpose of reselling connectivity to, or otherwise providing connectivity for the benefit of, any third party that is not physically present within the meet-me room of such facility.
- c. Any attempt to achieve connectivity that violates this Section 7, as determined by Cologix, will be a material breach of the Agreement, entitling Cologix to immediately suspend Customer's Services set forth herein, in addition to all other remedies available to Cologix under the Agreement or at law or in equity, including, the right to immediately begin charging Customer a recurring premium surcharge on the monthly recurring charge for such breaching interconnection Service until the termination of such breach.

Appendix A Service Descriptions

Service Descriptions.

As used in these service descriptions, a “Cross-Connect” means a cable within a Cologix facility that connects customer equipment within a cabinet or cage to equipment outside of that cabinet or cage

a. ***Metro Connect*** – A connection provided between two (2) separate Cologix facilities within the same metropolitan market. Each Service Order will include a Cross-Connect (hereinafter defined) in each Cologix facility to provide a complete end-to-end service. There are two (2) primary architectures for Metro Connect Services, to be identified on the applicable Service Order:

- (i) A hosted Ethernet solution utilizing shared Cologix equipment to manage connectivity between data centers, available in speeds as specified in the applicable Service Order.
- (ii) Passive Wave Fiber, utilizing Dense Wavelength Division Multiplexing (“DWDM”) technology providing a single wave of light between the source and destination. In connection with Passive Wave Fiber, Customer must provide its own DWDM capable equipment that conforms to Cologix signal requirements. Speed is determined by the Customer equipment.

b. ***Cologix OneConnect*** (“Cologix OneConnect”) – A hosted connection provided between Customer equipment and a Service Provider (“SP”) across Layer 2. This Service is purchased as one or more physical Cologix OneConnect ports at 1Gb or 10Gb speeds. Customer will have the ability to allocate Virtual Cross Connect (“VXC”) on those ports to one or more SPs. VXC pricing is based on which of the following connection types is provided:

- (i) Local – The SP is located in the same facility or market as the customer’s deployment. The Service is provided entirely from Cologix controlled equipment.
- (ii) Extended – The SP is located in a remote metropolitan market and/or via a separate network provider and Cologix will extend Service for Customer to that SP utilizing network services from a carrier partner.

c. ***IP Bandwidth*** – A public internet bandwidth Service comprised of multiple carriers with diverse upstream feeds served via redundant equipment. Customer may request non-redundant IP Bandwidth Services (i.e. a single Cross-Connect to half of the redundant equipment) or redundant IP Bandwidth Services (i.e. two (2) Cross-Connects, one to each side of the redundant equipment), in each case as set forth on the Service Order. Customer may request this Service in either of two (2) payment models – Burstable or Fixed bandwidth:

- (i) Burstable – Customer commits to a minimum bandwidth but is provided the flexibility to burst over that minimum at a higher cost per Mb, measured at the 95th percentile, as more particularly set forth under “**Burstable Billing Calculation and Charges**” below.
- (ii) Fixed – Customer commits to a fixed bandwidth cap, measured at the 95th percentile, and Cologix may throttle, suspend, or otherwise limit usage beyond this cap.

d. ***DDoS Protection Service*** – A Distributed Denial of Service (“DDoS”) Protection Service that may be ordered as an optional add-on solely in connection with IP Bandwidth Services. The DDoS Protection Service is designed to detect and mitigate certain DDoS attacks directed at Customer’s IP address ranges identified in the applicable Service Order (the “Protected Assets”) using commercially reasonable efforts and mitigation techniques. The DDoS Protection Service may be offered in multiple tiers, as specified in the applicable



Service Order, including: (a) a standard tier utilizing mitigation hardware and systems deployed and controlled within Cologix facilities; and (b) a premium tier that may incorporate additional mitigation capabilities delivered through cloud based services managed by a third party provider.

(i) Cologix does not guarantee prevention, detection, or successful mitigation of all DDoS attacks, uninterrupted or error-free service during an attack, or protection against all attack types, vectors, techniques, or traffic volumes.

(ii) The DDoS Protection Service applies solely to the Protected Assets and does not protect Customer applications, servers, internal systems, endpoints, software, data, or other infrastructure. Customer remains solely responsible for implementing and maintaining appropriate security controls, redundancy, and disaster recovery capabilities appropriate to its operations.

(iii) Cologix reserves the right, in its reasonable discretion, to filter, block, reroute, rate-limit, or suspend traffic as necessary to protect its network, facilities, services, other customers, or upstream providers. Customer acknowledges that mitigation techniques may result in latency, packet loss, traffic filtering, rate limiting, or temporary suspension of traffic.

(iv) Certain components of the DDoS Protection Service, including premium tier services, may be delivered through third-party providers, and the availability, functionality, and effectiveness of the DDoS Protection Service may be limited by the performance of such providers or by events outside of Cologix's reasonable control.

(v) No service level agreement applies to the DDoS Protection Service. Except as expressly provided in the MSA, Cologix will not be liable for any failure of the DDoS Protection Service to detect or mitigate an attack, or for any service degradation, interruption, outage, or loss arising from a DDoS attack or related mitigation activities.

Burstable Billing Calculation and Charges.

a. For Burstable IP Bandwidth Services, the Total Utilized Bandwidth (defined below) is derived from a 95th percentile (95%) calculation as described below. The bandwidth utilized by Customer over and above the committed bandwidth amount set forth in the applicable Service Order (the "Burst Bandwidth"), will be billed by Cologix to Customer at one hundred percent (100%) of the committed bandwidth rate set forth in the applicable Service Order pursuant to the calculation set forth below in this section.

b. At the end of each calendar month during the term of a Service Order, Cologix will calculate the Burst Bandwidth Charge (defined below) for such calendar month of all circuits for which Customer has ordered Burstable IP Bandwidth Services, pursuant to the following formula:

(i) "Burst Bandwidth Charge" = (Total Utilized Bandwidth – the total committed bandwidth set forth in the applicable Service Order) x (the specified burst rate set forth in the applicable Service Order per Mbps for Circuits (or, if none specified, the committed bandwidth rate set forth in the applicable Service Order per Mbps for Circuits)).

(ii) "Total Utilized Bandwidth" will be calculated as follows: Cologix will poll the Cologix routers for ingress and egress usage on each respective circuit at intervals of approximately every five (5) minutes. The ingress and egress numbers for each poll will be stack ranked. At the end of each calendar month during the term of a Service Order, the top five percent (5%) of the aggregate ingress and egress usage numbers will be



discarded. The next highest measurement, the greater of the ingress or egress, will constitute the Total Utilized Bandwidth for the applicable circuits for the applicable calendar month.

c. Customer will not receive the benefit of any volume price discounts set forth in a Service Order if the volume threshold is surpassed due to Bursted Bandwidth.

Network Service-Level Agreement.

a. This network service-level agreement (this “SLA”) applies to the Network Access and Services described above that Cologix provides to Customer.

b. Cologix network environments will be available on a 7 (day) x 24 (hour) x 365 (day) basis, except for Excluded Outages (defined below).

c. Customer will not receive the benefit of the Network SLAs unless Customer has ordered from Cologix, and actively maintained, redundant, diverse connections to the applicable network Services provided. For further clarity, Cologix does not provide any SLA for single port solutions ordered by Customer.

d. Availability of the related service will be calculated monthly using total actual minutes available divided by total possible minutes available, but will exclude from the total possible minutes available all Excluded Outages, as defined below.

e. Cologix target levels for availability are as follows:

Metro Connect	
Type	Availability
Redundant Ethernet	99.99%
Redundant Passive Wave	99.99%

Cologix OneConnect	
Type	Availability
For Redundant ports with Redundant VXC's only	99.99%

Blended Internet	
Type	Availability
Redundant Fixed	99.99%
Redundant Burstable	99.99%

f. If, as a direct result of Cologix’ actions or inactions, the Network Access and Services provided by Cologix fail to meet the specified performance levels stated above, then, as Customer’s sole and exclusive remedy, and Cologix’ sole obligation, for such failure, Customer will receive a credit equal to ten percent (10%) of the monthly



recurring charge for the affected service (i.e. the monthly service charge for the related Network Access and Service).

g. Cologix will not be responsible for any failure of, or disruption to, the Network Access and Services to the extent caused by the acts or omissions of Customer or its employees, agents, contractors, or representatives, except to the extent such acts or omissions were performed in accordance with Cologix's express instructions.

h. As a condition to receiving any credit, Customer must submit a written request to Cologix that includes a reasonable description of the service level failure within thirty (30) days following the end of the calendar month in which the applicable service level failure occurred. Customer will open a trouble-ticket with Cologix in connection with any such outage.

i. If at any time Customer is in default or breach of its obligations under the Agreement, Customer will neither earn nor be entitled to any credit until such default or breach is cured.

j. Notwithstanding anything to the contrary herein, credit will not be issued under this SLA for any outage that, as reasonably determined by Cologix, results from any of the following: (i) scheduled maintenance announced at least forty-eight (48) hours in advance; (ii) emergency maintenance (for security or router instability (or related) type patches or modifications); (iii) Customer's violation of the Network Access and Services AUP in effect at the time of the applicable event; (iv) any event or circumstance not wholly within the control of Cologix; (v) any act or omission, directly or indirectly, of Customer or its employees, agents, contractors or representatives or by Customer's or its employees, agents', contractors' or representatives' equipment; (vi) viruses or other malicious code introduced by or on behalf of Customer; (vii) Cologix's inability to access Customer equipment or Customer Space after reasonable efforts; (viii) any violation by Customer of Cologix security precautions or measures; or (ix) any attack against Customer equipment/servers (clauses (i) through (ix) above, collectively, the "Excluded Outages").

k. In the event that emergency maintenance is required, Cologix will not be obligated to provide advance notice to Customer but will notify Customer as soon as reasonably possible.