

MASTER SERVICE AGREEMENT

1. ARTICLE 1. DEFINITIONS

- 1.1. **“Affiliate”** shall mean an entity that now or in the future, directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement. For purposes of the foregoing, "control" shall mean the ownership of (i) greater than fifty percent (50%) of the voting power to elect the directors of the company or (ii) greater than fifty percent (50%) of the ownership interest in the company.
- 1.2. **“Completion Notice”** shall mean a written notice from IT&E that the Service ordered has been installed by IT&E pursuant to the Customer Order, has been tested, and is functioning properly.
- 1.3. **“Confidential Information”** shall mean Software (in object and source code form), Documentation, any technical information related to Products or Services, any work product and deliverables of Services, the terms (but not the existence) of the Agreement, and, if marked or otherwise expressly identified as confidential in writing, pricing and discounts and any other information or data, regardless of whether in tangible, electronic or other form.
- 1.4. **“Customer Commit Date”** shall mean the date that Service will be available to Customer, as set forth in the Customer Welcome Letter or such other written notice from IT&E to Customer. Notwithstanding anything in this Agreement or any Customer Order to the contrary, any Customer requested date for delivery of Service will not be effective unless and until confirmed in writing by IT&E through the delivery to Customer of the Customer Commit Date.
- 1.5. **“Customer Order”** shall mean a request for Service submitted by Customer in the form designated by IT&E.
- 1.6. **“Customer/End User Premises”** shall mean the location or locations occupied by Customer or its customer’s end users to which Service is delivered.
- 1.7. **“Customer Welcome Letter”** shall mean a written or electronic communication from IT&E to the Customer informing the Customer of IT&E's acceptance of the Customer Order.

- 1.8. **“Excused Outage”** shall mean any failure, outage, unavailability, delay, or other degradation of Service related to, associated with or caused by scheduled maintenance events, Customer actions or inactions, Customer provided power or equipment, any third party, excluding any third party directly involved in the operation and maintenance of the IT&E network but including, without limitation, Customer’s end users, third party network providers (including but not limited to providers of off-net services, loops, or facilities), traffic exchange points controlled by third parties, or any power, equipment or services provided by third parties, or an event of Force Majeure as defined in Section 8.1.
- 1.9. **“Encryption”** is the process of transforming information using an algorithm to make it unreadable to anyone except those possessing special keys. The result of the process is encrypted information.
- 1.10. **“Facilities”** shall mean any real or personal property owned, licensed, utilized, or leased by IT&E or any of its Affiliates and used to deliver Service, including terminal and other equipment, conduit, fiber optic cable, optronics, wires, lines, ports, routers, switches, channel service units, data service units, and the like.
- 1.11. **“Firm Order Commitment (FOC)”** is a notice issued by IT&E in response to a customer’s service request. The notice provides a Customer Commit Date (FOC date), which is the date on which IT&E expects to have the services available to the Customer.
- 1.12. An **“Incident”** is an issue that materially disrupts the customer’s business operations. An example would be consistently dropped calls or an unplanned service outage.
- 1.13. **“Local Loop”** shall mean the connection between Customer/End User Premises and an IT&E Gateway or other Facility.
- 1.14. **“Megabit per second”** or “Mbps” shall mean a data rate unit equal to 1 million bits per second.
- 1.15. **“Normal business hours”** IT&E’s normal business hours are Monday through Friday, 8:00 AM to 5:00 PM Chamorro Standard Time, excluding Federal holidays.

- 1.16. **“Off-Net”** shall mean Service that originates from or terminates to any location not on the IT&E network or Cloud Communications or Voice over IP related service that is not delivered over the IT&E fiber voice backbone.
- 1.17. **“On-Net”** shall mean Service that originates from and terminates at a location that is on the IT&E network.
- 1.18. **“Personal Information”** means any nonpublic personal health or financial information protected under Applicable Laws and owned or licensed by Customer or End Users.
- 1.19. **“Problem”** is an issue identified by the Customer that does not impact the Customer’s business operations. An example would be a reduction in call quality.
- 1.20. **“Redundant”** shall mean a configuration specified in the service order that allows traffic to be re-routed in the event of certain network failures. “Non-redundant” shall mean any configuration that does not allow traffic to be rerouted in the event of a network failure.
- 1.21. **“Service”** shall mean any IT&E service described in a Service Schedule and identified on a particular line item of a Customer Order.
- 1.22. **“Service Commencement Date”** shall mean the first to occur of (i) the date set forth in any Completion Notice unless Customer notifies IT&E that the Service is not functioning properly as provided in Section 3.1 (or if two or more Services are designated as "bundled" or as having a “sibling relationship” in any Customer Order, the date set forth in the Completion Notice for all such Services); or (ii) the date Customer begins using the Service.
- 1.23. **“Service Levels”** shall mean the specific remedies IT&E provides regarding installation and performance of Service as set forth in the particular Service Schedule respecting the applicable Service.
- 1.24. **“Service Request”** shall mean a customer's request to install a new service or to perform move, add, change (“MAC”) activity on their behalf.
- 1.25. **“Service Schedule”** shall mean a schedule attached hereto or signed between the parties from time to time and expressly incorporated into this

- 1.26. Agreement, setting forth terms and conditions specific to a particular Service, facilities, or other tools made available by IT&E.
- 1.27. **“Service Term”** shall mean the duration of time (measured starting on the Service Commencement Date) for which Service is ordered, as specified in the Customer Order. The Service Term shall automatically renew for a term of equal length after expiration of the stated Service Term unless terminated by either IT&E or Customer within thirty (30) days written notice to the other prior to the expiration of the Service Term.

2. ARTICLE 2. DELIVERY OF SERVICE

- 2.1. **Submission of Customer Order(s).** The Customer must submit a Customer Order requesting Service to order any service. Unless otherwise agreed, the Customer is obligated to submit Customer Orders. The Customer Order and its backup detail must include a description of the Service, the nonrecurring charges and monthly recurring charges for Service and the applicable Service Term.
- 2.2. **Acceptance by IT&E.** Upon receipt of a Customer Order, if IT&E determines (in its sole discretion) to accept the Customer Order, IT&E will deliver the requested Service (or some portion of the Services). IT&E will become obligated to deliver the ordered Service only if IT&E has accepted the Customer order in writing by an authorized officer and the Service is feasible to provide at IT&E’s discretion.
- 2.3. **Ordering & Delivering Services.** After execution of a Service Order, substantially in the form of Attachment 3, IT&E shall issue a firm order commitment form to the Customer, which provides i) the date by which a Service shall be tested and delivered for the Customer’s use (the “FOC Date”), and ii) a design layout record, and iii) a circuit identification number (collectively the “FOC Form”). IT&E’s scope of responsibility for installation, maintenance, and operation of any Service terminates with connections of IT&E’s telecommunications equipment to a point of demarcation established with the Customer, and IT&E shall not have any responsibility related to the Services beyond the point of demarcation. Upon testing of a Service, IT&E shall issue a notice of completion form substantially in the form of Attachment 2. If IT&E does not receive a signed notice of completion form within three (3) business days, emailed to the email address on the affected Service Order, following such form’s issuance, the associated Service will be deemed accepted as of the form’s issuance date and IT&E shall be permitted to commence invoicing the Customer for the Services.

- 2.4. Pre-FOC Cancellation.** Customer may cancel a Service Order for Services without Termination Liability by providing written notice to IT&E at the email address provided on the affected Service Order prior to issuance of the associated FOC Form, provided, however, that any special construction charges incurred by IT&E for such canceled service shall be reimbursed to IT&E on invoicing to Customer. Special construction charges shall be any and all charges and sunk costs that are not a standard NRC incurred by IT&E. Customer shall incur Termination Liability if a Service is canceled after the associated FOC Form is issued.
- 2.5. Customer Requested Delays to Services.** The Customer may postpone the delivery of a Service upon at least five (5) days' written notice to IT&E before the FOC Date. Such notice shall be delivered to the email address on an affected Service Order. The Customer may postpone delivery of a Service no more than twice and no more than thirty (30) days in the aggregate. After the thirty (30) day Customer delay period, IT&E shall be permitted to invoice the Customer for Services.
- 2.6. Credit Approval.** The customer will provide IT&E with credit information as requested, and service delivery is subject to credit approval.
- 2.7. Customer Obligations.**
- 2.7.1. Customer/End User Premises.** Customer shall allow IT&E access to the Customer/End User Premises to the extent reasonably determined by IT&E for the installation, inspection, and scheduled or emergency maintenance of Facilities relating to the Service and is responsible, at its expense, for securing all easements, licenses, and consents, other than in public rights of way, necessary for IT&E to have access to, and place all necessary facilities in or near, the Customer/End User Premises or the building of which it is a part. IT&E shall notify the Customer at least two (2) business days in advance of any regularly scheduled maintenance that will require access to the Customer/End User Premises or that may result in a material interruption of Service. The customer will be responsible for providing and maintaining, at its own expense, the level of power, heating, and air conditioning specified by IT&E or the manufacturer as necessary to maintain the proper environment for the Facilities on the Customer/End User Premises. If a Customer fails to do so, Customer shall reimburse IT&E for the actual or reasonable cost of repairing or replacing any Facilities damaged or destroyed due to Customer's failure. The customer will provide a safe place to work and comply with all laws and regulations regarding the working conditions of the customer/end-user premises. A customer has

received no notice from any city, county, state, federal, or other governmental agency or authority of any violation of zoning, building, fire, health, safety, environmental, or other statutes, laws, ordinances, codes,

regulations, or orders (collectively, “Laws”) that would have a material adverse impact on this Agreement or an Order. The customer further warrants that, to its best knowledge, there are no existing violations of such Laws.

2.7.2. **Back Up.** The customer is solely responsible for determining the suitability of the Services in light of the type of Customer Data. The customer represents and warrants that it currently maintains, and will continue to maintain, a separate backup of Customer Data at all times during the term of this agreement.

2.7.3. **Security Measures.** The customer agrees to take appropriate measures to protect against misuse or disruption of the Services, including measures to protect against unauthorized access to the Services and any loss or corruption of Customer Data. The customer agrees to notify IT&E immediately of any unauthorized use of the Services or any other security breach.

2.8. **Security Incidents.** Subject to IT&E’s obligations under Applicable Laws, in the event IT&E knows or reasonably believes that there has been unauthorized access to Personal Information in the possession or control of IT&E that compromises the security, confidentiality, or integrity of such Personal Information, IT&E shall (i) promptly notify Customer of such unauthorized access, and (ii) use good faith efforts to cooperate with Customer as reasonably necessary to facilitate compliance with any Applicable Laws regarding unauthorized access of Personal Information. IT&E SHALL HAVE NO LIABILITY FOR UNAUTHORIZED ACCESS TO OR UNAUTHORIZED ACQUISITION OF PERSONAL INFORMATION IF THE CUSTOMER HAS FAILED TO ENCRYPT THE PERSONAL INFORMATION, WHETHER AT REST OR IN TRANSIT.

2.9. **IT&E Facilities.** Except as otherwise agreed, title to all Facilities shall remain with IT&E. IT&E will provide and maintain the Facilities in good working order. Customer shall not, and shall not permit others, to rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities without the prior written consent of IT&E. The Facilities shall not be used for any purpose other than that IT&E provides. The customer shall not take any action that causes the imposition of any lien or encumbrance on the Facilities. In no event

will IT&E be liable to Customer or any other person for interruption of Service or any other loss, cost, or damage caused by or related to improper use or maintenance of the Facilities by Customer or any third party gaining access to the Facilities by Customer in violation of this Agreement, and Customer shall reimburse IT&E for any damages incurred as a result thereof. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Customer Order) to allow IT&E to remove the Facilities from the Customer/End User Premises: (A) after termination, expiration or cancellation of the Service Term of any Service in connection with which the Facilities were used; or (B) for repair, replacement or otherwise as IT&E may determine is necessary or desirable, but IT&E will use reasonable efforts to minimize disruptions to the Service caused thereby.

2.10. Customer-Provided Equipment

2.10.1. Unless the Customer has entered into an Engineering Service Agreement with IT&E where IT&E will manage the customer equipment, IT&E shall not be responsible for operating or maintaining any customer-provided communication equipment. IT&E undertakes no obligations and accepts no liability for the configuration, management, performance or any other issue relating to Customer's routers or other customer-provided equipment used for access to or the exchange of traffic in connection with the Service.

2.10.2. With respect to Equipment provided hereunder. IT&E shall pass through all manufacturers' warranties on Equipment purchased by Customer to the extent assignable, and Customer shall seek remedies only from the manufacturer. IT&E shall provide all reasonable assistance to the Customer if it seeks warranty remedies from the manufacturer of any Equipment provided by IT&E pursuant to this agreement or Service Order.

2.10.3. Point of Demarcation - IT&E's facilities and services may be used with or connected to Customer-provided communications equipment such as a PBX, telephone, router, or switch. Such communications equipment shall be furnished and maintained at the expense of the Subscriber or Customer. The Subscriber or Customer is responsible for all costs at his or her premises, including personnel, wiring, electrical power, and the like, incurred in using IT&E's service. When such communications equipment is used, the equipment shall comply with the generally accepted minimum protective criteria standards of the telecommunications industry. IT&E undertakes no obligations and accepts no liability for the configuration, management, performance, or any other issue relating to Customer-

provide equipment beyond IT&E's demarcation point.

2.11. **Connection to Customer/End User Premises.**

2.11.1. Where IT&E Service is being terminated On-Net at the Customer or End User Premises through IT&E provided local loop to be provisioned by IT&E on behalf of Customer, the charges set forth in the Customer Order for such IT&E Services assumes that such IT&E Service will be terminated at a pre-established demarcation point or minimum point of entry (MPOE) in the building Customer/End User Premises is located, IT&E may charge Customer additional non-recurring charges and/or monthly recurring charges not otherwise set forth in the Customer Order for such IT&E Service where it is determined that it is necessary to extend the demarcation point or MPOE through the provision of additional infrastructure, cabling, electronics or other materials necessary to reach the Customer/End User Premises. IT&E will notify the Customer of any additional non-recurring charges and/or monthly recurring charges as soon as practicable. IT&E will advise the customer as soon as practicable if the extension of the demarcation point will extend the installation timeline.

2.11.2. Where IT&E Services are being terminated Off-Net at the Customer/End User Premises through an Off-Net Local Loop to be provisioned by IT&E on behalf of Customer, the charges set forth in the Customer Order for such IT&E(Off-Net) Service assumes that such IT&E(Off-Net) Service will be terminated at a pre-established demarcation point or minimum point of entry (MPOE) in the building within which the Customer/End User Premises is located, as determined by the local access provider. IT&E may charge Customer additional non-recurring charges and/or monthly recurring charges not otherwise set forth in the Customer Order for such IT&E(Off-Net) Service where the local access provider determines that it is necessary to extend the demarcation point or MPOE through the provision of additional infrastructure, cabling, electronics or other materials necessary to reach the Customer/End User Premises. IT&E will notify Customer of any additional non-recurring charges and/or monthly recurring charges as soon as practicable after the local access provider notifies IT&E of the amount of such charges. IT&E will advise the customer as soon as practicable if the extension of the demarcation point will extend the installation timeline.

2.11.3. In addition, where IT&E Services are being terminated Off-Net at the Customer/End User Premises through an Off-Net Local Loop to be provisioned by IT&E on behalf of the Customer, the charges and the Service Term set forth in the Customer Order for such IT&E(Off-Net) Service

assumes that such IT&E(Off-Net) Service can be provisioned by IT&E through the local access provider selected by IT&E(and/or Customer) for the stated Service Term. In the event IT&E is unable to provision such IT&E(Off-Net) Service through the selected local access provider or the selected local access provider requires a longer Service Term than that set forth in the Customer Order, IT&E reserves the right, regardless of whether IT&E has accepted the Customer Order, to suspend provisioning of such IT&E(Off-Net) Service and notify Customer in writing of any additional non-recurring charges, monthly recurring charges and/or Service Term that may apply. Upon receipt of such notice, the Customer will have five (5) business days to accept or reject such changes. If Customer does not respond to IT&E within five (5) business days, such changes will be deemed rejected by Customer. In the event that Customer rejects the changes (whether affirmatively or through the expiration of the five (5) business day period), the affected IT&E(Off-Net) Service will be canceled without cancellation or termination liability of either party.

2.11.4. IT&E will exercise commercially reasonable efforts to install any IT&E On-Net and/or Off-Net Services on or before the Customer Commit Date specified for the particular IT&E Service. However, the installation interval may be extended due to the additional work required to extend the demarcation point or MPOE to reach the Customer's desired location. IT&E will notify Customer of any updates and/or changes to the Customer Commit Date as soon as practicable. Upon receipt of such notice, the Customer will have five (5) business days to accept or reject such changes. If the Customer does not respond in writing with acceptance to the new Customer Commit Date to IT&E within five (5) business days, such changes will be deemed rejected by the Customer. In the event Customer rejects the changes (whether affirmatively or through the expiration of the five (5) business day period), the affected IT&E Service will be canceled without cancellation or termination liability of either party.

3. ARTICLE 3. TERM

3.1. **Term.** The term of this Agreement ("Term") shall be thirty-six (36) months and shall commence upon execution of this Agreement ("Effective Date."). At the end of the initial Agreement Term, the Agreement term shall automatically renew for a term of equal length of the Initial Agreement Term ("Renewal Term"), unless, within thirty (30) days prior to the expiration of the initial Agreement Term or any Renewal Terms, either Party provides written notice to the other Party of its

desire to terminate the contract upon expiration of the initial Agreement Term or Renewal Term. IT&E and customer shall execute individual Service Orders for services that will specify a mutually agreed upon term length and renewal terms for such services. Service Order terms shall commence with the delivery of the services, at which point the customer shall be invoiced for services. Partial service prior to the start of the full term shall be prorated and invoiced. Should a Service Order term extend beyond the termination of the Agreement, the terms of this Agreement shall apply to the Service Order until its initial term and any renewal terms expire.

4. ARTICLE 4. BILLING, CHARGES, AND PAYMENT

- 4.1. Commencement of Billing.** Upon installation, testing, and completion of the Service requested in any Customer Order, IT&E will deliver to the Customer a Completion Notice. Upon receipt of the Completion Notice, the Customer shall have a period of seventy-two (72) hours to indicate that the Service or Work has not been completed or is not properly functioning. Unless Customer delivers written notice to IT&E within such seventy-two (72) hour period that the Service is not completed per the Customer Order and not functioning properly, billing shall commence on the applicable Service Commencement Date, regardless of whether Customer has procured services from third parties (including carriers) needed to operate the Service, and regardless of whether Customer is otherwise prepared to accept delivery of ordered Service. Suppose the Customer notifies IT&E within the period stated above that the Service/Work is not completed and functioning properly. In that case, IT&E shall correct any deficiencies in the Service and deliver a new Completion Notice to Customer, after which the process stated herein shall be repeated.
- 4.2. Charges.** The Customer Order will set forth the applicable non-recurring and recurring charges for the Service. Unless otherwise expressly specified in the Customer Order, any non-recurring charges shall be invoiced by IT&E to Customer upon the Service Commencement Date. However, in the event such Service requires IT&E to install additional infrastructure, cabling, electronics, or other materials in the provision of the Service, such Customer Order may include (as specified therein) non-recurring charges that are payable by Customer in advance of the Service Commencement Date, as mutually agreed between the parties in writing. Additionally, should IT&E, in the course of installing the Service, encounter an environmental hazard on Customer/End User Premises, including but not limited to the existence of asbestos, Customer shall solely bear the costs of remediation and shall reimburse IT&E for the costs

of any alternative installation due to the environmental hazard. In the event Customer fails to pay such non-recurring charges within the time period specified in the Customer Order, IT&E may suspend installation of the Service (without any liability, including but not limited to liability for Service Level credits) until receipt of such non-recurring charges, and thereafter, IT&E may issue a new Customer Commit Date. If Customer requests and IT&E approves (in its sole discretion) any changes to the Customer Order or Service after acceptance by IT&E, including, without limitation, the Customer requested date for delivery of Service or Service Commencement Date, additional nonrecurring charges and/or monthly recurring charges not otherwise set forth in the Customer Order may apply.

4.2.1. Expedite Fees - If a customer requests an expedite on a pending service order, expedite fees will apply.

4.2.2. Change Order Fees – If a customer requests a change to an order after IT&E has accepted it, a change of order fees may apply.

4.3. Invoices and Payment. Invoices are delivered monthly. IT&E bills in advance for Service to be provided during the upcoming month, except for charges dependent upon Service usage, which are billed in arrears. Billing for partial months is prorated based on a calendar month. All invoices are due thirty (30) days after the invoice date. Unless specified on the particular invoice, all payments shall be due and payable in U.S. Dollars. Past due amounts bear interest at a rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full. The customer shall not be responsible for payment of charges for IT&E services that were not invoiced more than six (6) months after the invoice month in which the charges would have been billed. Any payment in bad funds (bounced checks, stopped checks, credit card declinations) will be assessed a \$25 fee for each instance. Repeated payment in bad funds will be considered a material default that may result in immediate termination of services and assessment of termination and disconnection charges.

4.4. Taxes and Fees. All charges for Service are net of Applicable Taxes (as defined below). Except for taxes based on IT&E's net income, Customer will also be responsible for and pay IT&E all applicable taxes that arise in any jurisdiction, including, without limitation, value-added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes, fees, duties, charges

or surcharges, however designated, imposed on, incident to, or based upon the provision, sale or use of the Service (collectively “Applicable Taxes”). Without limitation, such terms shall include state or federal Universal Fund Assessments, 911 Surcharges, regulatory assessments, and other Surcharges, which IT&E is authorized to assess. If the Customer is entitled to an exemption from any Applicable Taxes, the Customer is responsible for presenting IT&E with a valid exemption certificate (in a form reasonably acceptable to IT&E). IT&E will give effect to any valid exemption certificate provided in accordance with the foregoing sentence to the extent it applies to any Service billed by IT&E to Customer only for the period following IT&E’s receipt of such exemption certificate.

4.5. Regulatory and Legal Changes. 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 Service, IT&E and Customer will negotiate regarding the rates to be charged to Customer to reflect such increase in cost and, in the event that the parties are unable to reach agreement respecting new rates within thirty (30) days after IT&E’s delivery of written notice requesting the negotiation, then (a) IT&E may pass such increased costs through to Customer, and (b) if IT&E elects to pass such increased costs through to Customer, Customer may terminate the affected Service on a prospective basis without termination liability by delivering written notice of termination no later than thirty (30) days after the effective date of the rate increase.

4.6. CPNI. In the normal course of providing telephone services, IT&E maintains certain information about the Customer’s account. Certain customer-specific information, such as information relating to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to, as well as information contained in the Customer’s bill for telephone service, is known as “Customer Proprietary Network Information” or CPNI for short. Examples include the type of line you have, class of service, current telephone charges, long-distance and local service billing records, directory assistance charges, usage date and calling patterns. Protecting CPNI is a duty of IT&E under applicable laws, including but not limited to the Federal Communications Commission’s (FCC’s) Rules contained in Part 665-Subpart U- Customer Proprietary Network Information 47 C.F.R. 64.2001. The complete terms and conditions of IT&E’s handling of such CPNI are set forth in the IT&ECPNI policy at <http://www.IT&E.net>. IT&E reserves the right to modify such terms from time to time and as required by Applicable Laws, effective upon posting the modified terms at IT&E’s website or by written notice to the customer.

4.7. Disputed Invoices. Customer must notify IT&E no later than the date such invoice is due if Customer will withhold the disputed amounts, and failure to notify IT&E within such time frame and withholding monies shall be a material breach of this Agreement. If Customer has previously made payment and later disputes all or a portion thereof, Customer must provide notice to IT&E no more than sixty (60) days after IT&E's receipt of the payment in question. The customer waives all rights to dispute any payment previously made if notice is not provided to IT&E within sixty (60) days. If any portion of an invoice is disputed, the Parties shall make good faith efforts to resolve such dispute within 30 days of receipt of Customer's notice to IT&E of such dispute. If the dispute is resolved in favor of IT&E and IT&E has not yet received payment, Customer shall make payment within ten (10) days of a written demand or the date of an invoice for such payment and shall include interest from the original due date to the date of payment, calculated as provided for above. In the event the dispute is resolved in favor of Customer and Customer has previously made payment, the amounts resolved in favor of Customer shall be either i) paid to Customer within ten (10) days of written demand or ii) credited back to Customer on the next regularly scheduled monthly invoice from IT&E, at Customer's option, and shall include interest from the original due to the date of payment or crediting, as the case may be, calculated as provided for above.

Further, the Parties expressly agree to promptly and fully resolve any dispute arising in connection with this Agreement in good faith, confidentially, and informally, with minimal transaction costs. Neither Party may make any public statement regarding any such dispute and/or the existence of any such dispute except as otherwise expressly provided in this Section. This paragraph is a material part of this agreement and should either party establish by competent proof a violation of this paragraph, the prevailing party shall be entitled, in addition to all available equitable and legal remedies (including injunctive relief for irreparable harm), a minimum liquidated damage payment in the amount of Five Thousand Dollars and 00/100 (\$5,000.00).

4.8. Fraudulent Use of Services. Customer is responsible for all charges attributable to use of Customer's Service or facilities even if incurred as the result of fraudulent or unauthorized use of Service by any person, whether such use is authorized by, or known or unknown, to Customer, except Customer shall not be responsible for fraudulent or unauthorized use by IT&E or its employees.

4.9. Toll Fraud. In the event that Customer installs its own terminal communications equipment, such as a PBX, on its premises, which may access IT&E's toll services, it is expressly agreed and understood that the security of, and fraud controls within, such terminal equipment are the sole responsibility of Customer.

It is expressly understood that such terminal equipment may have the capability to allow calls to originate from remote locations, be routed through such equipment, and be connected to IT&E's toll service in the same manner as a call originated from the Customer's premises. Any arrangement, commonly known in the industry as "remote calling or remote PBX access," could create opportunities for outside third persons to have toll calls appear to originate on and be charged as originating from such terminal equipment. The obligation to provide appropriate security to protect against unauthorized calls rests solely with the Customer.

It is expressly understood that the Customer is responsible for all charges attributable to the use of the Customer's terminal equipment, even if incurred as a result of fraudulent or unauthorized use of the Customer's terminal communications.

4.10. **Porting of Services.** The Customer may, subject to IT&E's prior written approval, cancel a Service and subsequently order a new Service, provided the new Service's MRC and term are not reduced in respect to the Service intended to be replaced and any charges, including but not necessarily limited to termination liability for a canceled Off-Net Service, special construction charges for the canceled Service and NRC for the new Service, are paid by the Customer under the terms herein, and further provided that such new Service must i) be ordered by Customer within 30 days after Customer cancels the Service intended to be replaced and ii) IT&E can reasonably issue a FOC Date that is also within 30 days of Customer canceling the Service intended to be replaced. Suppose a Customer fails to place an order for a new Service satisfying all criteria of this section. In that case, the Customer shall be liable for full Early Termination Liability on the Service that was intended to be replaced. For clarity, any Service ordered prior to canceling the existing Service or otherwise pending or being provisioned cannot be used as a new Service.

4.11. **Chronic Outage.** In the event a Service experiences three (3) or more outages resulting in the granting of Outage Credits in any contiguous thirty (30) day period or more than twenty-four (24) hours of continuous outage on a Service, Customer may, upon notice, terminate the affected Service without incurring Termination Liability for that Service. Notwithstanding the foregoing, following an outage, for no less than the twenty-four (24) hour period following the initiation of corrective action by IT&E to restore the affected Service, any subsequent interruption to the Service prior to IT&E confirming the Service is restored. The event causing the outage has been corrected, shall not be a separate outage, and shall not contribute to the three (3) outages granting Customer the right to terminate the affected Service without Termination

Liability. For clarity, any outage due to events of Force Majeure shall not contribute to the three (3) outages granting Customer the right to terminate the affected Service without Termination Liability.

5. ARTICLE 5. TERMINATION

5.1. Termination by Either Party. If any of the events below occur with respect to one party, then the other party may terminate this Agreement effective immediately upon the delivery of written notice:

- a) A party becomes insolvent; files a voluntary petition in bankruptcy; proposes any dissolution or liquidation; has filed against it an involuntary petition in bankruptcy, or a receiver is appointed or takes possession of the party's property, and such petition is not dismissed or stayed within ninety (90) days of such filing, appointment or taking possession; makes an assignment for the benefit of creditors, or is adjudicated as bankrupt; or takes any similar action under the laws of any jurisdiction.
- b) Material breach of this Agreement, which is not remedied within thirty (30) days after written notice describing the breach with particularity has been made.

5.2. Termination by Customer.

- a) Default by IT&E.
 - (i) IT&E makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy, or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief.
 - (ii) an involuntary petition in bankruptcy or other insolvency protection against IT&E is filed and not dismissed within sixty (60) days or
 - (iii) IT&E fails to observe and perform any material term of this Agreement (other than as provided in Section 4.4 and Article 6), and such failure continues for a period of thirty (30) days after written notice from Customer,

Then Customer may:

- a. terminate this Agreement and/or any Customer Order, in whole or in part, in which event Customer shall have no further duties or obligations thereunder except to make payment for all Services and facilities provided

prior to such termination, to return all facilities and equipment belonging to IT&E, and to comply with all terms of this Agreement which are intended to survive, as specified in §7.15 below; and/or

- b. subject to Section 5.1, pursue any remedies Customer may have under this Agreement, at law or in equity. If the Customer terminates under 5.2(a)(iii), the Customer's notice must specify the material term it believes IT&E has failed to perform. Failure to provide such notice constitutes a waiver of Customer's rights to invoke this Subsection.
- b) Customer may cancel Service at any time and for any reason during the Term by providing at least thirty (30) days prior written notice. If Customer cancels under this clause, Customer agrees to pay IT&E:
 - (i) 100% of any unpaid or waived non-recurring charges.
 - (ii) 100% of service charges are incurred and not yet paid.
 - (iii) 100% of the monthly recurring charges for each month remaining in the first year of a Service Order Term.
 - (iv) 75% of the monthly recurring charge for each month remaining in the second year of a Service Order Term.
 - (v) 50% of the monthly recurring charge for each month remaining after the second year of a Service Order Term and
 - (vi) 100% of any charges owed by IT&E to a third party resulting from such termination
 - (vii) The Customer agrees that IT&E's actual damages arising from early termination are impossible to ascertain, that the early termination charges are a reasonable estimate of the same, and that such charges constitute liquidated damages and not penalties.
- c) In the event that Customer cancels under any of these above Subsections, Customer agrees to return all facilities and equipment belonging to IT&E.

5.3. Termination by IT&E.

- a) Default by Customer.
 - (i) If Customer makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution, or similar relief.

- (ii) an involuntary petition in bankruptcy or other insolvency protection against Customer is filed and not dismissed within sixty (60) days.
 - (iii) If Customer fails to make any payment required hereunder when due, such failure continues for ten (10) business days after written notice from IT&E.
 - (iv) If Customer fails to observe and perform any material term of this Agreement (other than payment terms) and such failure continues for a period of thirty (30) days after written notice from IT&E or
 - (v) If Customer's use of Service materially exceeds Customer's credit limit, unless within three (3) business day's written notice thereof by IT&E, Customer provides adequate security for payment for Service; then IT&E may: (A) terminate this Agreement and any Service or facilities provided hereunder, and any Customer Order, in whole or in part, in which event IT&E shall have no further duties or obligations thereunder, and/or (B) subject to Section 5.1, pursue any remedies IT&E may have under this Agreement, at law or in equity. If IT&E does so terminate service, Customer shall be responsible for all costs, fees, damages, and payments which result or occur on account of such termination as stated herein or otherwise, in addition to the cancellation fee as stated in Section 5.2(c) and any costs of collection also as stated herein.
- b) IT&E may suspend or terminate any or all services covered by this Agreement without liability if IT&E reasonably believes its network, servers, assets, Customers, or employees to be in jeopardy.
 - c) IT&E may suspend or terminate any or all Service Orders or Services covered by this Agreement without liability at any time upon the presence of an environmental hazard, including but not limited to asbestos, at the Customer/End User Premises.
 - d) The Company may partially or fully terminate this Agreement without liability in the event a material change in law renders the Company incapable of providing the Services. Both parties recognize that this Agreement is subject to change, modification, or cancellation as may be required by any regulatory authority or court in the exercise of its lawful jurisdiction.

5.4. Other Rights of Termination.

In lieu of any Service Level credits for installation delays, if IT&E's installation of Service is delayed for more than thirty (30) business days beyond the Customer Commit Date for reasons other than an Excused Outage or circumstances beyond the control of IT&E, Customer may terminate and discontinue the affected Service upon written notice to IT&E and without payment of any applicable termination charge; provided such written notice is delivered prior to IT&E delivering to Customer the Completion Notice for the affected Service. This Section 5.4(a) shall not apply to any Service where IT&E (or a third-party contractor engaged by IT&E) is constructing Facilities in or to the Customer/End User Premises necessary for the delivery of such Service.

6. ARTICLE 6. LIABILITIES, DISCLAIMERS, AND INDEMNIFICATION

6.1. **No Special Damages.** Notwithstanding any other provision hereof (other than Section 6.4), neither party shall be liable under any circumstance for any indirect, incidental, special, consequential, exemplary, or punitive damages (including, without limitation, damages for lost profits, lost revenues or the cost of purchasing replacement services) arising out of the performance or failure to perform under this Agreement or any Customer Order.

6.2. **Disclaimer of Warranties.** IT&E MAKES NO WARRANTIES OR REPRESENTATIONS EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN ANY APPLICABLE SERVICE LEVELS STATED IN ARTICLE 7 BELOW. IT DOES NOT WARRANT THAT THE PROFESSIONAL SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. EQUIPMENT PROVIDED BY IT&E IN CONJUNCTION WITH ANY SERVICE IS PROVIDED ON AN 'AS IS' BASIS. IT&E DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF, AND THE CUSTOMER SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS. CUSTOMER AGREES THAT ANY EQUIPMENT OR SOFTWARE PROVIDED TO CUSTOMER UNDER THESE STANDARD TERMS AND CONDITIONS WILL CARRY THE WARRANTY CARRIED BY THE MANUFACTURER OR DEVELOPER, IF ANY, AND IT&E MAKES NO INDEPENDENT WARRANTY WITH RESPECT TO SUCH PRODUCTS.

6.3. **Indemnification.** Each party shall indemnify the other from any claims by third parties and expenses (including legal fees and court costs) respecting damage to tangible property, personal injury, or death caused by such party's negligence or willful misconduct.

6.4. Limitation. Notwithstanding anything to the contrary herein, except for applicable Service Level Credits, IT&E shall have no liability of any nature whatsoever for any damage, claim, or cause of action to Customer or any other person in the absence of gross negligence or willful misconduct. Additionally, IT&E's liability shall be limited to the total monthly service charges paid by customers to IT&E in the preceding twelve months. The limitations of this paragraph and of paragraph 6.1 above shall also apply to any claim or damage arising from the provision or use (or failure thereof) of any E-911 or 911 services or connections to any public emergency response agencies, including but not limited to errors in emergency calling databases or transmission of correct calling telephone numbers.

7. ARTICLE 7. SERVICE LEVELS

7.1. Service Interruptions and Delivery. To report issues related to Service performance, the Customer may contact IT&E Customer Service by calling toll-free in the U.S. at 1-833-484-0404. For IT&E to investigate any reported issues, Customer agrees to provide IT&E with supporting information as reasonably requested by IT&E, which may include (as applicable), without limitation, circuit ID, circuit endpoint(s), IP address(es), originating phone number and terminating phone number. In the event of a failure to deliver Service in accordance with the Service Levels, Customer's sole remedies are contained in (a) the Service Levels applicable (if any) to the affected Service, and (b) Section 5.4 above.

7.2. Service Level Credits. In the event IT&E does not achieve a particular Service Level in a particular month, IT&E will issue a credit to the Customer as set forth in the applicable Service Schedule upon the Customer's request. To request a credit, Customer must contact IT&E with a written request (in a form reasonably requested by IT&E) pursuant to Section 8.4 within thirty (30) days of the end of the month for which a credit is requested. In no event shall the total amount of credits issued to Customer per month exceed the monthly recurring charges invoiced to Customer for the affected Service for that month.

8. ARTICLE 8. GENERAL TERMS

8.1. Force Majeure. IT&E shall be excused from performance and shall not have any liability to Customer, or any other person or entity, with respect to any failure of IT&E to perform its obligations under the provisions of this Agreement if such failure is due to a Force Majeure event, including, without limitation, any labor dispute, fire, flood, storm, earthquake, riot, legal enactment, governmental regulation, Act of God, equipment failure, cable cut, or action or order of any

judicial, legislative, governmental, or quasi-governmental authority, or any other cause beyond IT&E's reasonable control ("Force Majeure Event"). Neither party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control. Suppose IT&E is unable to deliver Service due to a Force Majeure event. In that case, the Customer shall not be obligated to pay IT&E for the affected Service for so long as IT&E cannot deliver the affected Service.

8.2. Assignment and Resale. Customer may not assign its rights and obligations under this Agreement or any Customer Order without the express prior written consent of IT&E, which will not be unreasonably withheld. This Agreement shall apply to any permitted transferees or assignees. Notwithstanding any assignment by Customer, Customer shall remain liable for the payment of all charges due under each Customer Order. Customer may resell the Service to third-party "end users" provided that Customer agrees to indemnify, defend, and hold IT&E harmless from claims of any nature made against IT&E by such end users. Any unauthorized attempt to assign this Agreement or any of Customer's rights, duties, or obligations without such prior written consent shall be considered null and void. Customer, and not the Company, shall bear the risk of any loss arising from any unauthorized or fraudulent usage of services provided under this Agreement to the Customer. IT&E may, at its sole discretion, terminate this Agreement and any licenses granted under this Agreement by notice to Customer effective on the date such notice is given if Customer assigns this Agreement or any of its rights, duties, or obligations hereunder without the prior written consent of IT&E. IT&E may assign its rights under this Agreement. This Agreement shall benefit the successors and assigns of IT&E and shall be binding upon Customer.

8.3. Affiliates.

- a) Service may be provided to Customer pursuant to this Agreement by an Affiliate of IT&E, including, without limitation, an Affiliate authorized to provide Service in a country other than the country within which this Agreement has been executed. Suppose a Customer Order requires the delivery of Service in a jurisdiction where, in order for such Customer Order to be enforceable against the parties, additional terms must be added. In that case, the parties shall incorporate such terms into the Customer Order (fully preserving the terms of this Agreement possible). Notwithstanding any provision of Service to Customer pursuant to this Agreement by an Affiliate of IT&E, IT&E shall remain responsible to Customer for the delivery and performance of the Service under the terms and conditions of this Agreement.

- b) The parties acknowledge and agree that Customer's Affiliates may purchase Service under this Agreement; provided, however, any such Customer Affiliate purchasing Service hereunder agrees that such Service is provided pursuant to and governed by the terms and conditions of this Agreement. Customer shall be jointly and severally liable for all claims and liabilities arising under this Agreement related to Service ordered by any Customer Affiliate. Any default under this Agreement by any Customer Affiliate shall also be deemed an event of default by Customer. Any reference to Customer in this Agreement with respect to Service ordered by a Customer Affiliate shall also be deemed a reference to the applicable Customer Affiliate.
- c) Notwithstanding anything in this Agreement to the contrary, either party may provide a copy of this Agreement to its Affiliate or such other party's Affiliate for purposes of this Section 8.3 without notice to, or consent of, the other party.

8.4. Insurance. Each Party agrees to maintain insurance policies of the type and including coverage limits provided hereinafter:

- a) Workers' compensation insurance complies with statutory requirements, and employer's liability insurance has limits of \$1,000,000 for each accident (minimum) and \$1,000,000 for disease for each employee (minimum).
- b) Commercial general liability insurance is endorsed to cover contractual liability, products, and completed operations. Automobile liability insurance shall include coverage for all owned, non-owned, and hired vehicles. Each policy shall include coverage limits for bodily injury and property damage of \$1,000,000 combined single limit for each occurrence (minimum). Excess umbrella liability insurance is required to cover all risks covered by the general liability and automobile liability policies, with a per-occurrence limit of \$5,000,000.
- c) Cyber Liability insurance has minimum limits of \$1,000,000 per occurrence and \$2,000,000 in aggregate.
- d) Each Party shall endeavor to provide notice thirty (30) days in advance of any cancellation or material change in a policy that may become effective. Each Party agrees to require all such policies of insurance, except workers compensation, to include clauses providing that each underwriter shall waive its rights of recovery, under subrogation or otherwise, against the other Party and the other Party's officers, directors, employees, contractors, and agents. All policies shall be on an occurrence basis and obtained only from insurers rated "A-VII" or better in the then-most recent edition of Best's Insurance Reports.

8.5. Notices. Notices hereunder shall be in writing and sufficient and received if delivered in person or when sent via facsimile, pre-paid overnight courier, electronic mail (if an email address is provided below), or sent by U.S. Postal Service (or other applicable postal delivery service), addressed as follows:

IF TO IT&E:
IT&E

122 W. Harmon Industrial Park Rd.
Tamuning, Guam 96931
Attention: Regulatory

IF TO CUSTOMER:

“Company”

Address
City, State Zip
Attention: “Finance”

or to such other address as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. All such notices shall be deemed to have been given on (i) the date delivered if delivered personally, (ii) the business day after dispatch if sent by overnight courier, (iii) the third business day after posting if sent by U.S. Postal Service (or other applicable postal delivery service), or (iv) the date of transmission if delivered by facsimile or electronic mail (or the business day after transmission if transmitted on a weekend or legal holiday). Notwithstanding the foregoing, any notices delivered by IT&E to Customer in the normal course of provisioning of Service hereunder shall be deemed properly given if delivered as described above or via electronic mail to the address listed on any Customer Order.

8.6. Acceptable Use Policy. Customer's use of Service shall at all times comply with IT&E's then-current Acceptable Use Policy and Privacy Policy, as amended by IT&E and communicated in writing to Customer from time to time IT&E will notify Customer of complaints received by IT&E regarding each incident of alleged violation of IT&E's Acceptable Use Policy by Customer or third parties that have gained access to the Service through Customer. The customer agrees that it will promptly investigate all such complaints and take all necessary actions to remedy any IT&E's Acceptable Use Policy violations. IT&E may identify to the complainant that Customer, or a third party that gained access to the Service through Customer, is investigating the complaint and may provide the complainant with the necessary information to contact Customer directly to resolve the complaint. The customer shall identify a representative for the purpose of receiving such communications. IT&E's current Acceptable Use Policy, in effect from time to time, may be viewed at www.IT&E.net.

8.7. Data Protection. During the performance of this Agreement, it may be necessary for IT&E to transfer, process, and store billing and utilization data and other data necessary for IT&E's network operation and for the performance of its

obligations under this Agreement. The transfer, processing, and storing of such data may be to or from the United States. Customer hereby consents that IT&E may (i) transfer, store, and process such data in the United States and (ii) use such data for its own internal purposes and as allowed by law. This data will not be disclosed to third parties.

- 8.8. Contents of Communications.** IT&E shall have no liability or responsibility for the content of any communications transmitted via the Service. Customer shall defend, indemnify, and hold IT&E harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's use of Service. IT&E provides only network access; IT&E does not operate or control the Internet's information, services, opinions, or other content. The customer agrees that it shall make no claim whatsoever against IT&E relating to the content of the Internet or respecting any information, product, service, or software ordered through or provided by virtue of the Internet.
- 8.9. Publicity.** Neither party shall have the right to use the other party's or its Affiliates' trademarks, service marks, or trade names or to refer to the other party in any marketing, promotional, or advertising materials or activities. Neither party shall issue any publication nor press release relating to any contractual relationship between IT&E and Customer, except as may be required by law or agreed between the parties in writing.
- 8.10. Non-Disclosure and Confidentiality of Agreement.** The Parties expressly understand and agree that this Agreement and its contents (including, but not limited to, all terms and conditions thereof, invoices, payments, correspondence, services, disputes, resolutions of disputes or payments thereunder, and all other material aspects of this Agreement) shall remain CONFIDENTIAL and shall not be disclosed to any third party whatsoever, except the Parties' counsel, accountants, financial advisors, tax professionals retained by them, any federal, state, or local governmental taxing or regulatory authority, and the Parties' management, officers and/or Board of Directors, and except as required by law or order of court. Any person identified in the preceding sentence to whom information concerning this Agreement is disclosed is bound by this confidentiality provision and the disclosing party shall be liable for any breaches of confidentiality by persons to whom he/she/it has disclosed information about this Agreement in accordance with this paragraph.

- 8.11. **Confidential Information.** The customer acknowledges that the information communicated verbally will qualify as Confidential Information if designated as confidential or proprietary at the time of disclosure and summarized in writing within thirty (30) days after verbal disclosure. Confidential Information does not include materials or information that (i) is generally known by third parties as a result of no act or omission of the receiving party; (ii) subsequent to its disclosure was lawfully received from a third party having the right to disseminate the information and without restriction on disclosure, (iii) was already known by the receiving party before receiving it from the other party and was not received from a third party in breach of that third party's obligations of confidentiality; (iv) was independently developed by the receiving party without the use of Confidential Information of the disclosing party; or (v) is required to be disclosed by court order or other lawful government action, but only to the extent so ordered, and provided that the receiving party promptly notifies the disclosing party of the pending disclosure in writing so that the disclosing party may attempt to obtain a protective order. In the event of a potential disclosure in the case of subsection (v) above, the receiving party will provide reasonable assistance to the disclosing party where the disclosing party attempts to obtain a protective order.
- 8.12. **Disclosure of Customer Information.** IT&E reserves the right to provide any customer or potential customer bound by a nondisclosure agreement access to a list of IT&E's customers and a description of the Services purchased by such customers. Customers consent to such disclosure, including listing the Customer's name and the Service purchased by the Customer (financial terms relating to the purchase shall not be disclosed).
- 8.13. **Governing Law and Forum.** This Agreement shall be governed by the laws of the Territory of Guam without regard to its choice of law rules. The courts of the Territory of Guam shall be the exclusive forum for any action or proceeding initiated by either Party under or related to this Agreement or the Services or facilities provided hereunder. Each Party expressly consents to the jurisdiction of such Courts over the Parties and the subject matter of this Agreement. The customer agrees to waive its right to trial by jury.
- 8.14. **Entire Agreement.** This Agreement, including any Service Schedule(s) and Customer Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service, which are of no further force or effect. The Service Schedule(s) attached hereto are listed below:

- Service Schedule A IT&E Internet Services
- Service Schedule B IT&E Cloud Services
- Service Schedule C IT&E Ethernet Services
- Service Schedule D IT&E Wavelength Services
- Service Schedule E IT&E Data Center/Colocation License
- Service Schedule F IT&E Managed Edge Solutions
- Service Schedule G IT&E Managed On-Premises or Hosted Unified Communications Solution (UCS)

8.15. **Amendment.** This Agreement and any Service Schedule or Customer Order may only be modified or supplemented by an instrument in writing executed by a duly authorized representative of each party. Without limiting the generality of the foregoing, any handwritten changes to a Customer Order shall be void unless acknowledged and approved in writing by a duly authorized representative of each party.

8.16. **Order of Precedence.** In the event of any conflict between this Agreement and the terms and conditions of any Service Schedule and/or Customer Order, the order of precedence is as follows: (1) the Service Schedule, (2) this Agreement, and (3) the Customer Order.

8.17. **Survival.** The provisions of Article 8 and Articles 4, 6, and 7 and any other provisions of this Agreement that by their nature are meant to survive the expiration or termination of this Agreement shall survive the expiry or termination of this Agreement.

8.18. **Relationship of the Parties.** The relationship between Customer and IT&E shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, without limitation, for federal income tax purposes.

8.19. **No Waiver.** No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s).

8.20. **Severability.** If any provision of this Agreement shall be declared invalid or unenforceable under applicable law, said provision shall be ineffective only to the extent of such declaration. It shall not affect the remaining provisions of this Agreement. In the provision of this Agreement is declared invalid or unenforceable under applicable law, the parties shall negotiate in good faith respecting an amendment hereto that would preserve, to the fullest extent

possible, the respective benefits and burdens imposed on each party under this Agreement as originally executed.

- 8.21. **Joint Product.** The parties acknowledge that this Agreement is the joint work product of the parties. Accordingly, in the event of ambiguities in this Agreement, no inferences shall be drawn against either party based on authorship of this Agreement.
- 8.22. **No Third-Party Beneficiaries.** This Agreement shall be binding upon, inure solely to the benefit of, and enforceable by each party. Their respective successors and assigns hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any right, benefit, or remedy of any nature whatsoever under or because of this Agreement.
- 8.23. **Counterparts.** This Agreement may be executed in one or more counterparts; all taken together, they shall constitute one and the same instrument.
- 8.24. **Incorporation of Tariffs.** The rates, terms, and conditions of IT&E's intrastate tariffs on file from time to time with the State Regulatory Authorities, and IT&E's interstate terms and conditions of service as set forth from time to time on IT&E's website, are adopted and incorporated herein by reference. In the event of any inconsistency between such tariffs or terms and conditions of service and the terms of this Master Service Agreement, the terms of this Master Service Agreement shall apply.
- 8.25. **Cost of Collection or Action.** In the event that IT&E is required to undertake any actions or incurs any costs to enforce any term or provision of this Agreement, whether or not any suit is filed hereon, the Customer agrees to pay, upon demand by IT&E, in addition to any other amounts due under the Agreement or Customer Order, all such costs, including reasonable attorney's fees and other collection charges.
- 8.26. **Third-Party Services.** If IT&E purchases Third-Party Services pursuant to a Third-Party Provider's applicable tariff or contract, Customer is responsible for any incremental charges imposed on IT&E based on changes to the Third-Party Provider's applicable tariff or contract. In the event the Customer cancels a Service enabled by Third-Party Services, it is considered termination for convenience for which Customer must pay the Early Termination Liability (ETL), which includes Third-Party cancellation charges.

- 8.27. **Non-Solicitation.** Where permitted by applicable law, Customer shall not, without the express written consent of IT&E, while the Agreement is in effect and for a period of two (2) years following its termination, knowingly induce or attempt to induce, call upon, solicit, recruit or hire any employees of IT&E without IT&E express written consent. The Customers will not be in violation of the preceding sentence for job postings, job advertisements, and the like that are general in nature and not explicitly targeted at IT&E's employees. The customer further agrees that in the event it violates this provision, then it shall pay IT&E as liquidated damages and not as a penalty of \$75,000 per affected employee. IT&E agrees not to knowingly induce or attempt to induce, call upon, solicit, recruit, or hire any Customer IT employees.
- 8.28. **Product Migration.** For those customers who are migrating from an existing IT&E-provided monthly recurring service to another IT&E-provided monthly recurring service, where both the old and new service will both be in service for a period of time, IT&E will provide a 30-day billing grace period, where only the monthly recurring charge (MRC) for the new service will be due and owing and the MRC associated with the existing service will be credited. This one-time credit is being offered to allow the Customer to plan and migrate their network service and account for the overlap in billing during this transition period. After this 30-day grace period, the Customer will be responsible for the MRC associated with both services unless the Customer has submitted a formal disconnect notice to IT&E to terminate the old service.
- 8.29. **Third-Party Products and Information.** Where Customer is to provide IT&E with information or access to any third-party products or the integration of Products in Customer's network (including without limitation specifications and interface information of interoperating hardware and software in Customer's network), then information or access will be supplied to IT&E in a timely manner at Customer's expense. It will be the Customer's responsibility to obtain any consents and licenses from third parties that may be necessary for the provision of such information or access to IT&E for IT&E's use in its performance of the Agreement. Upon delivery of the information or access, Customer represents and warrants to IT&E that it has obtained all necessary consents and licenses.

Service Schedule A **IT&E Internet Services**

1. **Applicability.** This Service Schedule applies only where the Customer orders IT&E Internet Services and IT&E accepts an order for or has already installed it.
2. **Service Description.** IT&E Internet Service is a dedicated Internet port with a specified bandwidth for data transmission to and from the Internet. IT&E provides service from a specific Customer location to the Internet port and the interface between the IT&E Network and the Internet.
3. **Installation of IT&E Internet Service.** IT&E will exercise commercially reasonable efforts to install Internet Service on or before the Customer Commit Date. The installation date may be affected by Customer Orders that contain incorrect or incomplete information supplied by Customer or Customer Orders that are changed at Customer's request after submission and acceptance by IT&E.
4. **Bandwidth Measurement.**
 - A. **Burstable Maximums:** Available at 3 x CIR (committed information rate) or up to the provisioned port speed or a max of 10 Gbps, whichever is lower.
 1. For example: (a) Customer has a 30Mbps service on a 100Mbps port, and Customer can burst up to 90Mbps; (b) Customer has purchased a 50Mbps service and is on a 100Mbps port. Customers can burst up to 100Mbps; (c) Customer has a 5Gbps service (CIR) on a 10Gbps port; the max is 10Gbps, so no bursting beyond the 10Gbps.
 2. Customers are not guaranteed the bandwidth beyond what they purchased as a base service.
 - B. **Measurement:** When a customer purchases an IT&E Internet Service, which is a burstable service, bandwidth usage will be calculated by IT&E using the 95th percentile of samplings taken at five (5) minute intervals on a monthly basis. IT&E takes samples via SNMP from the IT&E switch or router port the customer is directly connected to, and the results show greater input or output bits per second. The 95th percentile is determined by sorting the sample data from the smallest to the largest and discarding the top 5%, with the remaining largest sample designated as the 95th percentile.
 - C. **Billing:** If, after measurement, it is determined that the Customer bursts beyond their base service, the Customer will pay the Mbps effective base service rate multiplied by two for each additional Mbps beyond their CIR.

1. For example, a customer with 100Mbps service paying a base rate of \$825 per month pays effectively \$8.25 per Mbps. Multiply this rate by two for the burstable Mbps rate. As a result, if the Customer were to burst to 150Mbps, the Customer would pay 50 x \$16.50 that month (additional).

5. Service Levels.

A. Connection Availability Service Level for IT&E Internet Service. The Connection Availability Service Level for IT&E IP Service is 99.6%. If the IT&E-provided connection becomes unavailable as a result of IT&E's fault, error, or omission, and for reasons other than an Excused Outage, the Customer will be entitled to a service credit for the affected Service based on the cumulative unavailability of the affected Service in a given calendar month as set forth in the following table.

Cumulative Unavailability (in hrs:mins:secs)

Service Level Credit	
TIME	CREDIT
00:00:01– 00:05:00	No Credit
00:05:00– 00:45:00	5% of MRC
00:45:01– 04:00:00	10% of MRC
04:00:01 – 08:00:00	20% of MRC
08:00:01 –12:00:00	30% of MRC
12:00:01 –16:00:00	40% of MRC
16:00:01 – 24:00:00	50% of MRC
24:00:01 or greater	100% of MRC

For this section, unavailability means the total inability to transmit or receive packets.

B. Network Latency Service Level. The monthly average Network Latency for packets carried over the IT&E Network on a one-way trip basis from the hand-off point of IT&E's circuit with the Customer through the Customer's Internet port e is ten (10) milliseconds for all fiber-based, on-net Internet Services. After being notified by the Customer of a Network Latency in excess of the rates specified above, IT&E will use commercially reasonable efforts to determine if an excess Network Latency exists, identify the source of the excess Network Latency, and take corrective action to the extent that the source of the excess Network Latency is on the IT&E Network. If IT&E fails to remedy such Network Latency within four (4) hours of being notified of excess Network Latency on the IT&E Network, Customer will receive, at Customer's written request, a service credit equivalent to the time from when the Customer notifies IT&E until the Network Latency is at or below 20 milliseconds continuously for one (1) hour. Customers may obtain no more than one (1) month's worth of MRC for service credits for any given month.

C. Jitter Service Level. The Jitter Service Level is 5 milliseconds from the hand-off point of IT&E's circuit with the Customer, through the Customer's Internet port up to the interface between the IT&E Network. After being notified by the Customer of Jitter in excess of the rates specified above, IT&E will use commercially reasonable efforts to determine if excess Jitter exists, identify the source of any excess Jitter, and take corrective action to the extent the source of the excess Jitter is on the IT&E Network. If IT&E fails to remedy such Network Jitter within four (4) hours of being notified of any excess Network Jitter, Customer will receive, at Customer's written request, a service credit equivalent to the period of the time from when the Customer notifies IT&E until the Jitter is at or below five (5)

milliseconds continuously for one (1) hour. Customers may obtain no more than one (1) month's MRC for service credits for any given month.

D. Packet Delivery Guarantee. The IT&E Network's average monthly Packet Loss is no greater than 0.01% (or the successful delivery of 99.99% of packets).

Packet Loss is defined as the percentage of packets not successfully transmitted between two adjacent network ports between the customer's service demarcation and the interface between the IT&E Network and the transit carrier or peered endpoint, as applicable. IT&E continuously monitors this aggregate packet loss and compiles the collected data into a monthly average measurement for the IT&E Network.

After being notified by Customer of Packet Loss in excess of 0.01%, IT&E will use commercially reasonable efforts to determine if excess Packet Loss exists, identify the source of any excess Packet Loss, and take corrective action to the extent the source of the excess Packet Loss is on the IT&E Network.

If IT&E fails to remedy such excess Packet Loss within four (4) hours of being notified of any excess Packet Loss on the IT&E Network and the average Packet Loss for the preceding 30 days exceeds 0.01%, Customer will receive, at Customer's written request, a service credit equivalent to the time when the Customer notifies IT&E until the average Packet Loss is less than 0.01% continuously for one (1) hour. Customers may obtain no more than one (1) month's MRC for service credits for any given month.

E. Internet Services – Service Level Criteria Table

Availability	Latency (One Way)	Jitter	Packet Loss
99.99% (One-way Trip Basis)	<10 milliseconds	<5 milliseconds	<.01%

6. Specified Service, Term and Pricing. IT&E shall provide term length and pricing for IT&E Internet Service in its service order. Both parties shall sign all service orders before provisioning.

7. Acceptable Use Guidelines. Customer will always comply with and conform its use of the IT&E Internet Service to the IT&E Acceptable Use Policy (set forth on IT&E's website at www.IT&E.net), as updated from time to time and incorporated (including any updates) by reference.

8. Address Space. IT&E will assign Internet addresses to Customers based on APNIC guidelines. Addresses assigned to Customers by IT&E may only be used while an IT&E customer is available if the Customer has a valid address allocation from ARIN, RIPE, or APNIC. The Customer may request IT&E to announce it via BGP.

9. Resale. If Customer resells IT&E Internet Service, (a) Customer remains responsible to IT&E for all of its obligations hereunder, including but not limited to all Service Charges and liabilities arising out of or related to such third-party usage, (b) Customer shall indemnify IT&E for any third party claims arising out of or related to such third party usage and (c) Customer agrees to include and shall include terms and conditions within any contract to resell that is substantially similar to the terms and conditions herein and no less restrictive as to such third party. Upon the expiration or termination of this Agreement, neither Customer nor any third-party resale customer of Customer shall have any rights to use the IT&E Internet Service. Notwithstanding the foregoing, IT&E is not liable to any third-party resale customer of Customer for any claims, losses, or damages of any type or nature (including but not limited to indirect, special, punitive, exemplary, or consequential damages) resulting from such third party's use of the Service.

10. Disclaimer of Third-Party Actions and Control. IT&E does not and cannot control the flow of data to or from the Network and other portions of the Internet. Such flow depends on the performance of Internet services provided or controlled by third parties. Actions or inactions caused by third parties can produce situations in which Customer connections to the Internet (or portions thereof) may be impaired or disrupted. IT&E has no control over such situations and cannot guarantee that such situations will not occur, and accordingly, IT&E disclaims any and all liability resulting from or related to such events. In the event that Customer's use of the Service or interaction with the Internet or such third parties is causing harm to or threatens to cause harm to the Network or its operations, IT&E shall have the right to immediately suspend the Service.

Service Schedule B

IT&E Cloud Services Service Level Agreement (SLA) for IT&E Cloud Services: Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Backup as a Service (BaaS)

This Service Level Agreement (“SLA”) is established between IT&E and the customer and outlines the terms, conditions, and performance metrics for the provision of IT&E's Cloud Services, including Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Backup as a Service (BaaS). This SLA governs the use of these services and defines the obligations of both IT&E and the customer.

1. Service Description

Infrastructure as a Service (IaaS)

IT&E's IaaS offers customers scalable computing resources delivered over the cloud, including virtualized hardware, storage, and networking. This service allows customers to build, manage, and scale their IT infrastructure without the need to invest in physical hardware.

Platform as a Service (PaaS)

IT&E's PaaS provides customers with a complete development and deployment environment in the cloud. This service includes everything needed to develop, test, and deploy applications, such as operating systems, middleware, databases, and development tools, enabling faster and more efficient software development.

Backup as a Service (BaaS)

IT&E's BaaS provides a secure and reliable solution for backing up customer data to IT&E's cloud infrastructure. The service includes backup software, storage infrastructure, and associated support services to ensure data protection and availability.

2. Service Availability

IT&E commits to making IaaS, PaaS, and BaaS available to the customer with a minimum uptime of 99.9%, excluding scheduled maintenance windows. In the event of service disruption, IT&E will work diligently to restore functionality as swiftly as possible.

3. Data Loss Protection

IT&E will take all commercially reasonable precautions to protect customer data from loss due to issues with IT&E's systems or infrastructure across IT&E Cloud Services. However, IT&E cannot be held liable for data loss resulting from customer actions, including but not limited to accidental deletion, misconfigurations, or malicious activities.

4. Customer Responsibilities

The customer is responsible for ensuring that their use of IT&E Cloud services complies with IT&E's requirements and is consistent with their business needs. Customers must also implement appropriate security measures and ensure that their backup and development policies align with their specific business requirements.

5. Support

IT&E Service Coverage Hours. Service and Support is provided on a 24 x 7 x 365 basis. Actual support is provided based on the agreed upon Service Level Agreement (SLA).

6. Service Credits and Remedies

If IT&E fails to meet the 99.9% availability target for IT&E Cloud Services, the customer may be eligible for a service credit. This credit will be calculated as a pro-rated portion of the monthly fee for the affected service(s) corresponding to the period affected by the service disruption.

7. Limitation of Liability

IT&E's liability for any claims arising from or related to this SLA is limited to the total fees paid by the customer for IT&E Cloud Services in the six (6) months preceding the incident that resulted in the liability.

8. Termination

Either party may terminate this SLA by providing written notice if the other party materially breaches any of the terms outlined in this SLA and fails to rectify the breach within thirty (30) days of receiving written notification.

9. Governing Law

This SLA will be governed by and interpreted in accordance with the laws of the jurisdiction in which IT&E is based.

Service Schedule C
IT&E Ethernet Service

1. Description.

This service description sets forth the IT&E Ethernet Service offering. IT&E reserves the right to upgrade and enhance the IT&E Ethernet Service and shall advise the Customer of any additional features.

IT&E Ethernet Service is an OSI Model, Layer 2 network-based service available across the IT&E network. This service provides Customers with connectivity between Customer sites, which are connected to the IT&E network. IT&E Ethernet Service is available as the following service types:

Ethernet Private Line (EPL)

EPL provides connectivity with a point-to-point topology, providing two Ethernet interfaces, one at each service location, dedicated to the delivery of a single service. This enables the Customer to use any VLAN ID and/or no VLAN ID without IT&E coordination.

Ethernet Virtual Private Line (EVPL)

EVPL provides connectivity with a point-to-point topology, providing two Ethernet interfaces, one at each service location. These interfaces may deliver one or more services that require the Customer to utilize a specific VLAN ID per service.

Access Loop. IT&E Ethernet Service requires a connection between the IT&E point of demarcation and the IT&E network, which is referred to as the Access Loop.

2. Customer Responsibilities.

(A) Review and approve, in writing, the Customer Service Order providing IT&E with the Customer's desired network configuration and associated pricing.

(B) Provide reasonable physical access for IT&E technicians to service IT&E-owned equipment and infrastructure on each premise where provided.

(C) Inform IT&E of any internal changes that may affect IT&E Ethernet Service.

(D) Customer shall coordinate with IT&E to arrange site location requirements. There may be various reasons the customer is responsible for coordinating with IT&E, such as, but not limited to, site survey, construction and building entrance to

demarcation point, connectivity testing, or service activation. The customer acknowledges that IT&E may rely on third parties to perform onsite tasks. IT&E will make its best efforts to coordinate the onsite tasks on the scheduled dates. However, the Customer understands that IT&E will not be responsible if the third party is not available on the requested date or for service issues on the Customer's side of the point of demarcation or room readiness issues preventing IT&E equipment and services from activating within reasonable commercial operating conditions.

(E) Customer is responsible for providing an accessible, grounded 120Vac, 20Amp, protected power outlet to power IT&E equipment, if applicable. The customer must promptly notify IT&E of any problems with IT&E equipment and must not voluntarily power down IT&E equipment. IT&E may assess a service charge to restore service in the event the equipment is subject to a loss of power that the Customer could have reasonably prevented.

(F) Customer acknowledges responsibility for installation and maintenance of their Local Area Network (LAN) and data-related wiring on their premise on the Customer's side of the point of demarcation.

3. Service Level Agreements. IT&E Ethernet Service is backed by the following Service Level Agreement ("SLA") guarantees.

(A) Network Availability Guarantee. Suppose the Network Availability Guarantee is not met. In that case, the Customer will receive a credit of 1/30th of the monthly recurring charges for the Ethernet Service at the impacted service location for each calendar day that the Availability did not meet the Availability as listed within Table 1 - Service Level Criteria. Limits on the credit and the reporting procedures are detailed in Section 5 of this Schedule.

The IT&E Network Availability guarantee does not include outages caused by equipment on the Customer's side of the point of demarcation, scheduled maintenance events, Customer-caused outages or disruptions, and Force Majeure events. In the event that any IT&E Ethernet Service becomes unavailable as a result of IT&E faults, errors, or omissions, and for reasons other than an Excused Outage, the Customer will be entitled to a service credit off of the monthly recurring charges for the Ethernet Service at the impacted service location.

(B) Latency Guarantee. The IT&E Ethernet Service is guaranteed to have an average one-way transit time on the IT&E network within a given LATA as listed within Table 1 - Service Level Criteria, measured between IT&E Provider Equipment located at the Customer/End User Premises. IT&E-maintained and

operated network monitoring tools will be used to record one-way latency. The IT&E Latency Guarantee for IT&E Ethernet Service does not include latency resulting from 3rd party Access Loop, equipment on the Customer's side of the point of demarcation, scheduled maintenance events, outages or disruptions caused by the Customer, and Force Majeure events. If the Latency Guarantee is not met, the Customer will receive a credit of 1/30th of the monthly recurring charges for the Ethernet Service at the impacted service location for each calendar day that the latency exceeded the latency as listed within Table 1 - Service Level Criteria. Limits on the credit and the reporting procedures are detailed in Section 5 of this Schedule.

(C) Frame Loss Guarantee. The IT&E Ethernet Service is guaranteed not to exceed the frame loss as listed within Table 1 - Service Level Criteria. The Frame Loss Guarantee does not include outages from the 3rd party Access Loop, equipment on the Customer's side of the point of demarcation, scheduled maintenance events, Customer-caused outages, oversubscription or disruptions, and Force Majeure events. If the Frame Loss Guarantee is not met, the Customer will receive a credit of 1/30th of the monthly recurring charge for the Ethernet Service at the impacted service location for each calendar day that Frame Loss exceeded the guaranteed percentage for that day. Limits on the credit and the reporting procedures are detailed in Section 5 of this Section.

(D) Frame Delay Variation ("FDV") Guarantee. The IT&E Ethernet Service is guaranteed to have the deviation of frame transit time as listed within Table 1 - Service Level Criteria, measured between IT&E Provider Equipment located at the Customer/End User Premises. IT&E-maintained and operated network monitoring tools will record deviations in frame transit time. The IT&E FDV Guarantee does not include FDV resulting from 3rd party Access Loop, equipment on the Customer's side of the point of demarcation, scheduled maintenance events, outages or disruptions caused by the Customer, and Force Majeure events. If the FDV Guarantee is not met, the Customer will receive a credit of 1/30th of the monthly recurring charge for the Ethernet Service at the impacted service location for each calendar day that FDV exceeded the FDV as listed within Table 1 - Service Level Criteria. Limits on the credit and the reporting procedures are detailed in Section 5 of this Schedule.

Table 1
Service Level Criteria – Ethernet Services

Availability	MTTR	Latency	FDV	Frame Loss
99.9% (Single Path)	8	<5 msec intra-lata	<1 msec	<.001%
99.999% (Dual Path)	4	<5 msec intra-lata	<1 msec	<.001%

Availability	MTTR	Latency	FDV	Frame Loss
99.5% (Single Path)	8	<7msec intra-lata	<2 msec	<.01%
99.99% (Dual Path)	4	<7msec intra-lata	<2 msec	<.01%

Availability	MTTR	Latency	FDV	Frame Loss
99% (Single Path)	8	<8 msec intra-lata	<5 msec	<0.1%
99.9% (Dual Path)	4	<8 msec intra-lata	<5 msec	<0.1%

MTTR is the meantime to repair and shall begin when IT&E can safely access the Service facilities.

Latency is measured in the intra-lata as a sample over a 30-minute interval.

IFDV is sampled over a 30-minute interval.

Frame Loss is sampled over a 30-minute interval.

5. SLA Credits. Total credits under the Service Level Agreement (“SLA”) are limited to, unless otherwise required by law, the monthly recurring charge for the affected service for the month the service does not meet the guarantees. The service credits provided under SLAs are the Customer’s sole remedy unless otherwise required by law when IT&E fails to meet an SLA. Customer must make a Performance Claim in writing no more than 14 days after the end of the outage event for which Customer claims that IT&E failed to meet an SLA, or Customer waives its right to make a Performance Claim

for that period. For the SLA, a “Performance Claim” is a written notice sent to the designated representative of IT&E advising of the perceived violation of the SLA. Only one SLA parameter violation may be claimed per event. To submit a performance claim, the customer must be in good standing with IT&E regarding account receivables.

6. Other Services/Customer Specific Terms and Conditions.

IT&E Provided Equipment. IT&E Ethernet Services may provide IT&E-owned equipment used to deliver the Services. All equipment at Customer/End User Premises installed and supplied by IT&E remains the property of IT&E and may only be installed, serviced, and maintained by an authorized IT&E representative. IT&E will coordinate with the customer to schedule service, but IT&E reserves the right to take any action regarding the equipment for any reason. Customers must take precautions to protect such equipment and will be liable for any damage to the equipment subject to normal wear and tear. Customers may use IT&E-provided equipment only for IT&E Ethernet Service. IT&E has the absolute right to unrestricted access to recover any IT&E-provided equipment within ten (10) days of service termination. If the Customer does not provide IT&E with unrestricted access to recover the equipment in a timely fashion, the Customer agrees to pay the original cost of the equipment immediately.

7. Specified Terms of Service and Pricing. IT&E shall provide term length and pricing for all products available in a service order as required. All service orders shall be approved in writing and signed by both parties before provisioning.

Service Schedule D
Wavelength Services

This Service Schedule contains detailed information relating to the provisioning of Wavelength Services (“Services”) as purchased by Customer from time to time by way of an IT&E approved Service Order.

1. Definition. The following additional definition shall apply to Wavelength Services if Customer purchases Encrypted Wavelength Service:
 - a) Certificate Authority (CA) is a trusted third-party organization or company that issues digital certificates that are used to create digital signatures and public-private key pairs.
2. Term of Service and Pricing. IT&E shall provide term length and pricing for all products available in a service order as required. All service orders shall be approved in writing and signed by both parties prior to provisioning.
3. Service Description. Wavelength Services are optical transport circuits enabled by wavelength division multiplexing (WDM) equipment. The bandwidth for each ordered Wavelength will be stated in a Service Order. Wavelengths include, without limitation, the following types:
 - a) Standard Wavelength: One (1) or more optical transport circuits provisioned over a dedicated WDM infrastructure utilizing dedicated optical fibers and dedicated optical transport equipment at each Customer location. Additional configuration options may include, but are not limited to diversity requirements, route specifications, or protection as specified in the applicable Service Order. Additional fees will apply for these configuration options.
4. Service Level Criteria. The types of circuits listed below are offered as services by IT&E.

Table 1: On-Net Service Level Criteria – Wavelength Services

Table 1: On-Net Service Level Criteria – Wavelength Services			
Service	Availability	MTTR	Bit Error Rate
Wavelength (Single Path)	99.6%	8	1 x 10⁻⁹
Wavelength (Protected Path)	99.99%	4	1 x 10⁻⁹

Availability is measured as a percentage monthly.
MTTR is the meantime to repair and shall begin when IT&E can safely access the Service facilities.

Error Free Seconds are measured over a twenty-four (24) hour period.

a) **Network Availability Guarantee.** The IT&E Wavelength Service is guaranteed to be available and capable of passing packets of data at the specified percentage of time as listed within Table 1 On-Net Service Level Criteria, measured as a percent monthly. The IT&E Network Availability guarantee does not include outages caused by Customer equipment (router or switch) or Local Area Network (“LAN”) owned by the Customer, scheduled maintenance events, Customer-caused outages or disruptions, and Force Majeure events.

b) **Network Availability.** For purposes of this Section, “unavailable” or “unavailability” means the duration of a failure of IT&E to pass traffic to a Customer location for reasons other than issues found to be caused by CPE (router or switch) or Local Area Network (“LAN”) owned by Customer, scheduled maintenance events, Customer-caused outages or disruptions and Force Majeure events.

c) **Credit Schedule.** Should the Network Availability guarantee not be met in a calendar month, the Customer will receive a credit (as outlined in the schedule provided in this section) of the monthly recurring charges (“MRC”) for the impacted port and local loop. Limits on the credit and the reporting procedures are detailed below. If any IT&E Protected or Non-Protected Wavelength Service becomes unavailable as a result of IT&E fault, errors or omissions, and for reasons other than an Excused Outage, Customer will be entitled to a service credit off the monthly recurring charges as designated in the associated Credit Schedule.

IT&E Wavelength Service:
Cumulative Unavailability (in hrs:mins:secs)

Service Level Credit	
00:05:00– 00:45:00	5%
00:45:01– 04:00:00	10%
04:00:01 – 08:00:00	20%
08:00:01 –12:00:00	30%
12:00:01 –16:00:00	40%
16:00:01 – 24:00:00	50%
24:00:01 or greater	100%

d) **Performance Claim.** Total credits under the Service Level Agreement (“SLA”) are limited to the monthly recurring charge for the affected service for the month in which the service does not meet the guarantees. The service credits provided under

SLAs are the Customer's sole remedy when IT&E fails to meet an SLA. Customer must make a Performance Claim in writing no more than 14 days after the end of the outage event for which Customer claims that IT&E failed to meet an SLA, or Customer waives its right to make a Performance Claim for that period. For the purpose of the SLA, a "Performance Claim" is a written notice sent to the designated representative of IT&E advising of the perceived violation of the SLA. Only one SLA parameter violation may be claimed per event. The customer must be in good standing with IT&E regarding account receivables in order to submit a performance claim.

1. Service Requests and Delivery

a. **Service Activation.** After IT&E has determined that the Service conforms to the relevant Service Specifications, IT&E will notify Customer that the Service is activated, meets the Service Specifications, and is available for use by Customer ("Service Completion Notice"). The "Service Completion Date" shall be the earlier of (i) the date on which Customer begins using the Service for any purpose other than testing or (ii) the date that IT&E has sent the Service Completion Notice to Customer. IT&E is providing a 2-day testing and acceptance time frame for Customer to activate their Services. The customer agrees that no response within the provided timeframe is deemed an accepted service, and IT&E billing will commence. Suppose the Service Completion Date is delayed due to the Customer's failure to meet its responsibilities under the Agreement. In that case, the Service Completion Date will be deemed to occur as of the Service Completion Notice or the date that IT&E is ready to deliver the related Service, whichever is later.

b. **Incrementally Delivered Services.** Unless otherwise specified in a Service Order, IT&E may incrementally deliver individual Services when ready, resulting in different Service Activation Dates for such incrementally delivered Services. For multipoint Services, IT&E may incrementally deliver Service to each Customer location when ready. The Service Term for incrementally delivered multipoint Service shall begin on the Service Completion Date of the first location and/or circuit delivered and shall end after the period specified as the Service Term from the Service Completion Date of the last location and/or circuit delivered. IT&E shall provide term length and pricing for all products available in a service order as required. All service orders shall be approved in writing and signed by both parties prior to provisioning.

2. Equipment and Installation.

a. **IT&E Equipment.** IT&E, or its agent, may provide, install, maintain, repair, operate, and control IT&E's equipment ("IT&E Equipment"). IT&E's Equipment shall remain the sole and exclusive property of IT&E, and nothing contained herein shall give or convey to Customer, or any other person, any right, title, or interest whatsoever in IT&E's Equipment, notwithstanding that it may be, or become, attached to, or embedded in realty. Customer shall not tamper with, remove, or conceal any identifying plates, tags, or labels identifying IT&E's ownership interest in IT&E's Equipment. Customer shall not adjust, attempt to repair, relocate, or remove IT&E's Equipment, except as expressly authorized in writing by IT&E. Customer shall be liable for any loss of or damage to IT&E's Equipment caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse IT&E for the same, within thirty (30) days after receipt by Customer of a request for reimbursement. At its sole cost and expense, the customer shall be required to obtain rack space and power to support IT&E Equipment for the Service for the duration of the Service Term. Unless specified in a Service Order, Customer shall be responsible for all third-party cross-connections to IT&E Equipment and related costs.

b. **Access and Customer Premise Obligations.** Customer, at its sole cost and expense, shall provide IT&E with access to all Customer locations for purposes of installation, maintenance, repair, and removal of IT&E Equipment on Customer/End User Premises. For purposes of the preceding sentence, "access" shall include without limitation any necessary license(s) to access the building and or property for the duration of the Service Term. However, notwithstanding Customer's responsibility, if IT&E is required by a third party to obtain and maintain any such license to access the building or property, Customer agrees to reimburse IT&E for its Costs related to obtaining and maintaining such licenses during the Service Term. IT&E shall provide reasonable notice under the circumstances to Customer prior to entering Customer's point of presence to install, maintain, repair, or remove any of the IT&E Equipment. The customer will permit IT&E to install software revisions released by the related third-party equipment manufacturers. The customer will provide a safe place to work and comply with all applicable laws regarding the working conditions on the Customer/End User Premises.

c. **Customer Equipment.** The customer is responsible for connecting to the Point of Demarcation specified in the Service Order at its sole cost and expense. Equipment and service beyond the Point of Demarcation and/or interconnection between IT&E's facilities and terminal equipment and the wiring at the Point of Demarcation shall be the responsibility of the Customer ("Customer Equipment"). Customer must procure and maintain, at its sole cost and expense, Customer Equipment which is technically

ASK BLUE.

Connections that matter



compatible with the Service and the IT&E Network. IT&E shall have no obligation to install, maintain, or repair any non-IT&E Equipment, including any Customer Equipment. If, on responding to a Customer-initiated service call, IT&E reasonably determines that the cause of the service deficiency was a failure, malfunction, or the inadequacy of equipment other than IT&E's Equipment, the Customer shall compensate IT&E for Actual time and materials expended during the service call.

3. Unusual Expense. If IT&E, with Customer's approval, incurs unusual expense in the provision of a Service, for example, and without limitation, for securing rights of way or for special construction, Customer will pay for such expenses under the Terms of Service. The customer acknowledges that its refusal to incur such additional expenses may result in IT&E being unable to provision all or part of the Services. Such inability on IT&E's part will not amount to a breach of the Agreement by IT&E.

Service Schedule E **IT&E Data Center/Colocation License**

1. Grant of License.

1.1 General. IT&E or “Licensor” (i) grants to Customer or “Licensee” a license (the “License”) to use the space located at the Guam Exchange, 122 W. Harmon Industrial Park Road, Tamuning, Guam 96913, (the “Facilities”) to collocate Licensee’s computer and communications equipment (the “Equipment”) therein, and (ii) agrees to perform the service(s) outlined in the relevant Service Order (the “Services”), in each case subject to and upon the terms and conditions of this Agreement, and in each case for the applicable Order Term (as set forth in the applicable Service Order). The licensee acknowledges and agrees that any Services may be performed by the Licensor, an affiliate of the Licensor, or an independent contractor or contractors on behalf of the Licensor.

1.2 Rights Reserved to Licensor. To the extent that Licensee is not the sole Licensee in the Facilities, Licensor reserves the right, in accordance with the provisions of this Section 1.2, to relocate any portion of the Facilities within the data center in which the applicable Facilities is located (or within any expansion of such Datacenter located within the Building) without effecting an eviction or disturbance of Licensee’s use or possession or giving rise to any claim for setoffs or abatement of any amount due under this Agreement. Upon the occurrence of any relocation in accordance with such right, (a) the prior Facilities (in the applicable Order) will, upon the completion of such relocation, no longer be deemed to be the “Facilities” under such Order thereunder; and (b) the new Facilities will, upon the completion of such relocation, be deemed to be the “Facilities” under such applicable Order thereunder. The licensor shall use commercially reasonable efforts to effect such relocation or reconfiguration to minimize any interruption or adverse effect on the Licensee’s telecommunications systems. Licensor shall provide Licensee no less than thirty (30) calendar days prior notice of all such relocations or reconfigurations. Following receipt of such notice, if said relocation or reconfiguration requires the movement of any of the Licensee’s equipment or property, the Licensee shall relocate the Licensee’s equipment or property to a new location designated by the Licensor within the Datacenter in which the applicable Facilities is located (or within any expansion of such Datacenter located within the Building). Licensor shall reimburse Licensee for all reasonable out-of-pocket costs incurred by Licensee in relocating its equipment or property. The licensee’s right to reimbursement to the extent provided above in this Section 1.2 shall be the Licensee’s sole remedy in the event the Licensor elects to relocate the Facilities. The Licensee shall not be entitled to any additional compensation or damages for loss of, or

interference with, the Licensee's business or use or access of all or any part of the Facilities resulting from such relocation.

2. **Policies and Procedures.** The Policies and Procedures of the Building in effect as of the Effective Date are attached hereto as Schedule 1 (the "Policies and Procedures") and are hereby incorporated into this Agreement. Licensee shall always comply with the Policies and Procedures during the Term. Licensor reserves the right, from time to time, to amend the Policies and Procedures then in effect, which amendments shall become effective as to Licensee upon written notification by Licensor provided such additions or amendments do not materially diminish Licensee's rights under the Agreement or alter the rates and charges payable by Licensee under this Agreement. If there shall be any inconsistencies between this Agreement and the Policies and Procedures, the provisions of this Agreement shall prevail.

3. **Electrical Power; Environmental Conditions; Service Level Agreement.** Licensor agrees to provide electrical power to the Facilities sufficient to meet the Basic Capacity (the "Basic Capacity Threshold"; also referred to herein as "Basic Capacity"). The obligation of the Licensor to provide electricity to the Facilities shall be subject to the rules, regulations, and requirements of the supplier of such electricity and of any Governmental Authorities regulating electricity providers. It shall be limited to providing power sufficient to meet the Basic Capacity Threshold, except as expressly set forth in the next sentence. For the avoidance of doubt, the Licensee agrees that each of the electrical power circuits for the Facilities is limited to 80% of its rated capacity (e.g., for a 20 Amp 208 Volt electrical circuit (A-primary and B-redundant), the maximum capacity that can be drawn is 3.328 kW). Accordingly, the Licensee agrees that the Licensee shall not draw more than 80% of each such electrical power circuit's rated capacity at any time. Licensor shall furnish heating, ventilation, and air conditioning ("HVAC") to the Datacenter sufficient to cause the average temperature and humidity of the Datacenter to meet the HVAC Specifications, as more particularly described in Schedule 2 (also referred to herein as the "SLA"). The obligation of the Licensor to provide HVAC to the Datacenter shall be limited to providing HVAC sufficient to meet the HVAC Specifications. As it relates to (a) interruptions of electrical power and/or (b) failures concerning environmental conditions of the Facilities, the SLA will exclusively govern and control and shall be the Licensee's sole and exclusive remedies for any such failure; and the Licensee hereby waives any other rights or remedies relating thereto at law, in equity or under this Agreement.

3.1 **Basic Capacity Threshold.** The licensee's actual Basic Capacity for the Facilities, as reasonably determined by the Licensor pursuant to such measurement method or methods as the Licensor shall employ from time to time (including, without limitation, the use of sub-meters, and/or pulse meters, electrical surveys, engineer's estimates and/or

branch circuit monitoring), shall not at any time, exceed the Basic Capacity. The power drawn by all of the Licensee's Equipment shall be included in the calculation of the Licensee's actual Basic Capacity for the Facilities. In the event that the power usage in the Facilities exceeds the Basic Capacity (a "Basic Capacity Overage"), Licensee agrees to take immediate action to cause power consumption in the Facilities to be at or below the Basic Capacity level upon the submission by Licensor of an e-mailed notice to Licensee at the address set forth on the signature page of the Order (without the need for follow-up notice by any other method) from Licensor (which may occur by virtue of Licensor's building management system) notifying Licensee of a Basic Capacity Overage. In addition to Licensor's remedies set forth in Section 10.1 below, if Licensee fails to cure a Basic Capacity Overage within twelve (12) hours (the "BC Cure Period") following Licensee's receipt of such Basic Capacity Overage notification e-mail, then Licensee agrees to pay Licensor the BC Overage Penalty (defined below), within thirty (30) days after Licensee's receipt of written demand therefor. The "BC Overage Penalty" shall mean and refer to the sum of \$500.00 for each twenty-four (24) hour period (or part thereof) following the BC Cure Period, during which any Basic Capacity Overage is continuing.

3.2 Electricity Charges. Electrical power costs are charged to Licensee as set forth in the applicable Order.

4. Condition of Facilities. Licensee understands that, aside from any work and/or installations expressly described in the applicable Order, the applicable Facilities are provided on an "AS-IS" basis, and Licensor makes no representation or warranty that the Facilities are suitable or fit for Licensee's intended purpose. Licensee acknowledges that: (a) Licensee has made such investigations as it deems necessary with reference to such matters and assumes all responsibility therefore as the same relate to its use of the Facilities and Services, (b) neither Licensor, Licensor's agents, nor any broker has made any oral or written representations or warranties with respect to said matters other than as set forth in this Agreement or any Order, and (c) Licensor is under no obligation to perform any work or provide any materials to prepare the Facilities or the Building (as defined in the applicable Order) for Licensee. WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT THOSE EXPRESSLY STATED HEREIN.

5. Equipment; Surrender.

5.1 During Term. Licensee agrees to install and remove Equipment into and out of the Facilities in strict compliance with the Policies and Procedures.

5.2 Termination. Upon the expiration or earlier termination of the applicable Order, Licensee shall quit and surrender possession of the Facilities to Licensor in good order and clean condition, reasonable wear and tear excepted and shall promptly remove all Equipment from the Facilities and from the Building in accordance with the Policies and Procedures. If Licensee fails to do so within five (5) days of such expiration or termination, Licensor may treat the Equipment as abandoned and either charge Licensee for the removal and/or storage costs or dispose of the Equipment in any manner that Licensor shall elect. For the avoidance of doubt, in the case of any sale of the Equipment by Licensor, to the extent permitted by applicable law, Licensee shall not be entitled to receive the proceeds of such sale. Licensor has no duty to preserve or care for any Equipment abandoned or deemed abandoned hereunder, and Licensee hereby waives and releases, and indemnifies Licensor with regard to, any claims it (or any other party) may have in connection with any such removal, storage or sale. Any wiring or other electrical components installed in the subfloor or overhead area of the Facilities to support the operation of the Equipment may be removed by Licensor after the expiration of the Order Term at Licensee's sole cost and expense. The cost of removal of such wiring or electrical components may be deducted by Licensor from any deposits held by Licensor in connection with the Agreement or billed to Licensee. Licensee shall pay any such fees promptly upon receipt of a bill therefor.

5.3 Holdover. Should Licensee not surrender the Facilities in accordance with the terms of this Agreement and the applicable Order on or before the expiration or earlier termination of such Order, Licensee shall be deemed to be occupying the entire Facilities as a tenant-at-sufferance (i.e., Licensor shall be permitted to cause Licensee to surrender and vacate at any time). During such holdover period, Licensee shall pay to Licensor (a) one hundred percent (100%) of the elements of any additional Fees attributable to the Facilities, and (b) monthly Base License Fees attributable to the Facilities in an amount equal to the greater of (i) the then-current rate being charged by Licensor for similar space and services, and (ii) one hundred fifty percent (150%) of the scheduled Base License Fees payable by Licensee to Licensor during the month of the Order Term immediately preceding the expiration date.

5.4 Waiver and Indemnity.

(a) Licensee acknowledges (i) that the total value of the Equipment and its anticipated revenues at, or as a result of its use of, the Facilities far exceed the total consideration payable to Licensor under this Agreement, and (ii) that Licensee has reviewed this indemnification language with legal counsel and is entering into this Agreement understanding the limited liability of Licensor as provided in this Agreement. Licensee agrees and acknowledges that its use of the Equipment and Facilities is at its sole risk, and hereby absolves and fully releases Licensor, its employees, affiliates,

agents and representatives from any and all cost, loss, damage, expense, liability and causes of action, whether foreseeable or not, from any cause whatsoever, that Licensee may suffer to its Equipment or personal property located at the Facilities. Licensee shall indemnify, protect, defend and hold harmless Licensor and its agents, partners and lenders, from and against any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) (collectively, "Claims") arising out of, involving or in connection with (i) the use and/or occupancy of the Facilities or Building by Licensee or its employees, agents, representatives and/or Licensees, and (ii) any negligent acts or omissions of Licensee or its employees, agents, representatives and/or Licensees, in each case, other than to the extent resulting from Licensor's gross negligence or willful misconduct. If any action or proceeding is brought against Licensor by a third party by reason of any of the foregoing matters, Licensee shall upon notice defend the same at Licensee's expense by counsel reasonably satisfactory to Licensor and Licensor shall cooperate with Licensee in such defense. Licensor need not have first paid any such Claim in order to be defended or indemnified.

(b) Licensor shall have no liability or responsibility for the content of any communications transmitted via third party services, and Licensee shall, indemnify, protect, defend and hold Licensor harmless from any and all Claims (including Claims by any Governmental Authority seeking to impose penal sanctions) related to such content or for Claims by third parties relating to Licensee's use of the Facilities.

5.5 Liability with respect to the Facilities; Limitations on Consequential Damages. Licensor shall not be liable for injury or damage to persons or goods, data or other property of Licensee, Licensee's employees, contractors, invitees, Licensees, or any other person in or about the Facilities, whether such injury or damage results from conditions arising within the Facilities, or from other sources or places, other than damages proximately caused by reason of Licensor's gross negligence or willful misconduct. Licensor shall not be liable for any damages arising from any act or neglect of any other Licensee of Licensor. Notwithstanding any other provision of this Agreement, neither Licensor nor Licensee shall be liable to the other party for any first party or third party indirect, special, consequential, exemplary or punitive damages (including, without limitation, damages for lost profits, lost rents or other revenues, lost data, failed communications, or the cost of purchasing replacement services, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring) arising out the performance or failure to perform Licensor's or Licensee's obligations under this Agreement, as applicable, however caused, on any theory of liability, whether in action in contract, strict liability, tort or otherwise, and whether nor not the party has been advised of the possibility of such damage.

6. Casualty and Condemnation.

6.1 In the event of material damage to, destruction of or condemnation of the Building or the Facilities, Licensor shall have the right, in Licensor's sole discretion, to terminate this Agreement upon notice to Licensee. In any such termination by the Licensor, the Licensor shall have no further obligations to the Licensee under this Agreement except for those that expressly survive termination.

6.2 In the event of material damage to, or destruction or condemnation of, the Building or the Facilities, which, according to Licensor, will take longer than 60 days to restore, Licensee shall have the right, in Licensee's sole discretion, to terminate the Agreement upon notice to Licensor within ten (10) days after receipt of notice from Licensor of the estimated amount of time to restore. Upon delivery of such notice, neither party shall have any further obligations to the other under the Agreement except for those that expressly survive termination. Notwithstanding the foregoing, in the event of an occurrence of the type described in this Section 9.2, the Licensee shall be precluded from exercising its rights under the SLA.

6.3 In the event that this Agreement is not terminated pursuant to Sections 9.1 or 9.2, above, Base License Fees shall be abated proportionately during such restoration period, to the extent that the Facilities (i) is unfit for use by Licensee in the ordinary conduct of Licensee's business, and (ii) actually is not used by Licensee.

7. Brokers. Each party hereto represents to the other that it has not engaged, dealt with or been represented by any broker in connection with this Agreement other than the brokers specified in the applicable Order. Each of Licensor and Licensee shall each indemnify, defend (with legal counsel reasonably acceptable to the other), protect and hold harmless the other party from and against all Claims related to any Claim made by any other person or entity for any commission or other compensation in connection with the execution of this Agreement or the leasing of the Facilities to Licensee if based on an allegation that claimant dealt through the indemnifying party. The provisions of this Section 13 shall survive the termination of this Agreement.

8. Liens. Licensee shall keep the Facilities free from any liens and shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Licensee at or for use on or in the Facilities.

9. Miscellaneous.

9.1 Survival. Sections 7 (Removal of Equipment), 8.2 (Indemnity), 9.3 (Liability with respect to the Facilities; Limitations on Consequential Damages), 13 (Brokers), 15.4

(Limitations on Liability) and 16.12 (Attorneys' Fees) shall survive the expiration or earlier termination of the Agreement.

9.2 Subordination; Estoppel Certificates. This Agreement shall be subject and subordinate to any ground lease, mortgage, deed of trust or other hypothecation or security device now or hereafter placed upon the Facilities or the Building (collectively, "Security Device"), to any and all advances made on the security thereof and to all renewals, modifications, and extensions thereof. Licensee agrees that the holders of any such Security Devices shall have no liability or obligation to perform any of the obligations of Licensor under the Agreement. Licensee agrees that, in the event that any such holder of a Security Device or any purchaser at a foreclosure sale or any entity that receives a transfer of the Building by a conveyance in lieu of foreclosure of the Building ("New Owner") and/or otherwise succeeds to the rights of Licensor under this Agreement, then Licensee recognize New Owner as the Licensor under this Agreement for the remainder of the term hereof, and Licensee shall perform and observe its obligations hereunder, provided that such New Owner shall not disturb Licensee's use and occupancy of the Facilities so long as Licensee is not in breach of its obligations under this Agreement. Upon written request from the Licensor or Lender in connection with a sale, financing, or refinancing of the Building, the Licensee shall execute such further writings as may be reasonably required to separately document any subordination provided for herein. In addition, the Licensee shall, within ten (10) days after the written notice from the Licensor, execute, acknowledge, and deliver to the Licensor an estoppel certificate in the form requested by the Licensor or any Lender, together with any additional information, confirmation, and/or statements reasonably requested by Licensor.

Data Center/Colocation Policies and Procedures

1. The Facilities is to be used by Licensee solely for lawful purposes in accordance with these Policies and Procedures and the other terms and conditions of the Agreement.
2. Licensee Access – The Licensee shall designate, in writing, up to three primary contacts (each a "Primary Contact") having authorization to add/remove the Licensee's Parties from the Licensee's Licensee access list. Primary contacts will be provided with a login account to manage the licensee's license access list. Only individuals whose names appear on the Licensee access list (each, an "Authorized Licensee Rep") will be granted access to or permitted to submit work orders or requests to the Licensor relating to the Facilities or the Building. The Licensee is responsible for managing the Licensee access list and informing the Licensor's security personnel if any Authorized Licensee Rep ceases to be a Licensee Party.

3. The licensee acknowledges that the security and access provisions employed by the Licensor or an independent contractor on behalf of the Licensor shall not be construed as the Licensor's acceptance of responsibility or liability for the security of persons or property within the Building or the Facilities. The licensor does not guarantee the security of the Licensee's property or the Equipment. Licensors may require access to the facilities to install or maintain infrastructure systems to support the building and the building systems.
4. The Primary Contact is responsible for adding each Authorized Licensee Rep to the Licensee access list in advance of the Authorized Licensee Rep's visit to the Building. A temporary access card (valid through the next calendar day) will be issued to an Authorized Licensee Rep only once proof of identity has been provided (e.g. by a valid government-issued photo ID) by such Authorized Licensee Rep. Individuals who cannot or do not provide a valid government-issued photo ID will not be permitted access to the Building or the Facilities. Any visitor to the Building or the Facilities whose name does not appear on the Licensee access list must be accompanied at all times by an Authorized Licensee Rep. All Licensor-issued identification must be worn at all times while in the Building. Any access card may be used only by the individual to whom it has been issued to obtain access to the Building and the Facilities. Access cards may not be loaned or exchanged between individuals for any reason. Abuse or misuse of access cards may result in removing the entrant from the Building and denying future access. Except as provided in Paragraph 4, at no time shall the Licensee or any Authorized Licensee Rep grant anyone access to the Building or the Facilities.
5. All authorized individuals must register their entry to a data center by presenting their access card to the card reader controlling such data center's access doors. Visitors will be provided an inactive visitor access card and shall have an Authorized Licensee Rep escort them at all times while in the Building.
6. The licensee shall cooperate in maintaining the security of the Building and the Facilities by restricting access to authorized personnel and complying with all security policies of the Licensor.
7. Licensee, Authorized Licensee Reps, authorized visitors, and guests shall not obstruct corridors, halls, stairways, sidewalks, building entrance ramps, or site driveways at any time. Corridors, halls, stairways, sidewalks, building entrance ramps, and site driveways shall be used for egress and ingress only. There shall be no congregating in hallways.
9. No Unauthorized Photography – Any person wishing to take photographs inside the Building or of any electrical or mechanical equipment located outside the Building

must obtain permission from the Licensor in advance. Authorization may be obtained by sending an email to the Licensor's Network Operations Center at noc_guam@itehq.net (or such other email address designated by the Licensor from time to time). Security personnel will escort any person authorized to take photographs to ensure that only images of authorized areas and equipment are captured.

9. Parking – To the extent that the Licensee is expressly granted parking rights under the Agreement, only the Licensee and the Licensee's Parties may access the Building parking areas. Parking is permitted on a first come first serve basis while conducting business in the Building only. Over-sized vehicles are prohibited from parking in the parking areas for safety purposes. Licensee vendors and/or contractors shall not have access to the parking areas unless otherwise approved by the Licensor. The licensee and its employees shall not allow unauthorized persons access to the parking area. Licensee and Licensee's Parties shall park in the designated parking spaces. Any vehicles parked outside the designated areas will be subject to removal from the parking area at the owner's expense.

10. The licensee is responsible for the installation of the Equipment. All of the Equipment must fit inside the Facilities. All equipment must be positioned in a way that complies with the Licensor's established hot and cold aisle configurations. All Equipment must be UL-approved. All cabling used by Licensee must meet national electrical and fire standards. All cables must be clearly labeled. The licensee shall not place or leave any Equipment or other items outside the Facilities without the express written consent of the Licensor.

11. The licensee shall maintain the Facilities neat and orderly and promptly remove all trash, packing materials, boxes, etc., that the Licensee has brought or had delivered to the Building.

12. Upon the expiration or earlier termination of the Agreement, the Licensee shall remove all Equipment from the Facilities and shall repair or reimburse the Licensor for the reasonable costs to repair any damage caused by the Licensee during any such removal.

13. The following items are banned from the Building, and Licensee agrees not to bring these items into the Building or the Facilities: alcohol, controlled substances, explosives, flammable liquids, gases or chemicals, tape recorders, chemical agents, weapons of any kind, wet cell batteries and all similar equipment and materials. Additionally, Licensee shall not allow Authorized Licensee Reps or visitors to take pictures or record video with a phone or any other device with the functionality of a camera, except as provided in Section 8 above. No smoking is permitted in the

building. No smoking is also permitted within 25ft of the front entrance to the Building. There will be a designated smoking area adjacent to the loading dock. No food or drink will be allowed in the Facilities.

14. Building entrants are prohibited from accessing or in any way altering the Licensor's equipment, systems, or infrastructure without the express written consent of the Licensor. Licensor reserves the right to remove and deny future access to any entrant who has, in Licensor's sole judgment, violated this provision.

15. The licensee shall maintain and operate the Equipment safely to avoid physical or electronic interference with other occupants of the Building and their equipment and with the Licensor's equipment. The licensee shall not disrupt, adversely affect, or interfere, physically or electronically, with other Licensees of space in the Building or with any other Licensee's use and enjoyment of such Licensee's facilities. Additionally, the Licensee shall not disrupt, adversely affect, or interfere, physically or electronically, with the Licensor's equipment or any of the common areas of the Building.

16. Any interference, physical or electronic, with the Licensor's equipment and/or the equipment of other Licensees of the Building due to the installation, operation, maintenance replacement, or repair of the Equipment may result in the immediate disconnection and removal of such Equipment by Licensor, at Licensee's sole risk, cost, and expense. Licensor reserves the right to take other reasonable actions to prevent such interference.

17. The Licensor may, in the Licensor's sole discretion and at the Licensor's expense, change the configuration of the common areas of the Building. The licensor and Licensee shall cooperate in good faith to minimize any disruption in the Licensee's operations that such changes in the configuration of the Building might cause.

18. Work Orders – The licensee will be required to send an e-mail request to sales@GuamExchange.com (or such other email address designated by the Licensor from time to time) in connection with any proposed changes to the Licensee's use or configuration of the Facilities. Upon submission of such request, Licensor will evaluate the request and return a written estimate and schedule for the work. All work orders requiring changes to the existing Agreement will require an Amendment to the Agreement, which may be in the form of a written change or "add on" order, and must be approved by the Licensee and executed by the Licensee and Licensor before any work being performed in the Facilities.

19. Remote Hands - The licensee shall access Remote Hands by contacting the Licensor's Licensee Services Center (or other email address designated by the Licensor occasionally). All written instructions shall be submitted along with the ticket.

20. Licensee Services Center Call-In—The Licensor shall provide the Licensee Services Center phone number to the Licensee. The Licensee Services Center will create a ticket that will be sent via e-mail to the Licensee and to the data center technician on site. The Licensee Services Center will monitor the ticket and notify the Licensee when the ticket item is closed or escalated to the appropriate level based on escalation procedures.

21. Shipping and receiving – The Licensee is responsible for notifying the Licensor of the impending receipt of any shipments addressed to the Licensee. The Licensor, or an independent contractor on behalf of the Licensor, will receive Licensee-supplied equipment for a limited time and store it in a holding area subject to size, weight, and availability. The Licensor, or an independent contractor on behalf of the Licensor, will release a shipment to an Authorized Licensee Rep only upon obtaining an authorized signature and verifying identity. Security personnel shall use commercially reasonable efforts to monitor incoming and outgoing packages to ensure that goods entering and leaving the holding area are accompanied by duly completed documentation. Once the Licensor has released a shipment to the Licensee or an Authorized Licensee Rep, the Licensor is no longer responsible for tracking the shipment, and it becomes the Licensee's responsibility. All shipments must be provided to the Licensor or an independent contractor designated by the Licensor, ready to ship. Once the Licensor has released a shipment to the Licensee's approved carrier, the Licensor shall have no further responsibility for the shipment or the tracking of the shipment, and all liability and responsibility thereafter shall be the Licensee's.

22. The licensee shall not inscribe, paint, or affix advertisements, identifying signs, or other notices on any part of the corridors, doors, public areas, common areas, the Facilities, or any portion thereof without prior approval of the Licensor.

23. Subject to terms of the Agreement, Licensee shall be allowed to use the common areas of the Building (bathrooms, coffee station, hallways, etc.). Licensee and Licensee's Parties shall not conduct activities in common areas that interfere with the activities of other Licensees of the Building or Licensor. The licensee shall make a concerted effort to keep all such areas clean and neat at all times. Licensee and Licensee's Parties shall use the common areas of the Building only for their designated purposes.

24. Failure by the Licensee or Licensee's Parties to materially comply with the Policies and Procedures in effect from time to time may result in (a) removal of the Licensee or any Licensee Party from the Building, (b) restriction of Licensee's access to the Building, (c) impositions of additional charges, and/or (d) termination of the Agreement.

Data Center/Colocation Service Level Agreement (SLA)

This Service Level Agreement (this "SLA") provides specific abatement to the Licensee in the event of inevitable Failures (as defined below). This SLA applies only to the Space outlined in this MSA and applicable Order and applies only to the dedicated suite, cage, and cabinet Space (and not to conduit or inner-duct or other Space). An individual cage or cabinet that is part of the Space under this MSA and applicable Order is sometimes referred to herein as the "Individual Space." Notwithstanding anything to the contrary, the abatement described in this SLA shall be the Licensee's sole and exclusive remedy in connection with the Failures (as defined below). The licensee shall not have any other Claims, rights, or remedies in law or equity. Licensor shall not have any other liabilities; in connection with any Failures, Licensee hereby waives all other Claims, rights, and remedies. Under no circumstances shall the Licensor have any liability to a third party and shall be indemnified fully as to any such claims consistent with the terms of the Parties' MSA.

I. Power Availability.

A. Power Failure.

(i) Redundant UPS-Level 1 Power Failure. A "Redundant UPS-Level 1 Power Failure shall be deemed to have occurred on a particular day if any particular Redundant UPS Power Circuit (as defined below) licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately prior to the unavailability) is unavailable to Licensee (on both the A Circuit and B Circuit) for more than one (1) second at the demarcation point (i.e., the receptacle to which the applicable licensed electrical service is delivered) in the applicable Equipment (the "Demarcation Point), provided that such unavailability simultaneously occurs and continues with respect to both the primary A power circuit (the "A Circuit") and the redundant B power circuit (the "B Circuit") at all times in question. A Redundant UPS Power Circuit" is defined as an A Circuit together with its corresponding B Circuit (not including any panel redundant circuits).

(ii) Redundant UPS-Level 2 Power Failure. A "Redundant UPS-Level 2 Power Failure" shall be deemed to have occurred in a particular calendar month if any particular Redundant UPS Power Circuit licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately prior to the unavailability) is unavailable to Licensee (on both the A Circuit and B Circuit) for more than twenty-six (26) cumulative seconds in any calendar month at the Demarcation

Point, provided that such unavailability simultaneously occurs and continues with respect to both the A Circuit and the B Circuit at all times in question.

(iii) Single/Panel Redundant-Level 1 Power Failure. A "Single/Panel Redundant-Level 1 Power Failure shall be deemed to have occurred in a particular calendar month if any particular single power circuit (with only an A Circuit, and no B Circuit) (a "Single Circuit) licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately prior to the unavailability) or any particular redundant panel power circuit with both an A Circuit and a B Circuit (a panel "Redundant Circuit"), licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately prior to the unavailability), is unavailable to Licensee for more than twenty-six (26) cumulative seconds in any calendar month at the Demarcation Point, provided that, with respect to any such Panel Redundant Circuit, such unavailability simultaneously occurs and continues with respect to both the A Circuit and the B Circuit at all times in question.

(iv) Single/Panel Redundant-Level 2 Power Failure. A "Single/Panel Redundant-Level 2 Power Failure shall be deemed to have occurred in a particular calendar month if any particular Single Circuit licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately prior to the unavailability), or any particular Panel Redundant Circuit licensed by Licensee from Licensor (and otherwise used by Licensee in the ordinary course of business immediately before the unavailability), is unavailable to Licensee for more than two hundred seventy (270) cumulative seconds in any calendar month at the Demarcation Point, provided that, with respect to any such Panel Redundant Circuit, such unavailability simultaneously occurs and continues with respect to both the A Circuit and the B Circuit at all times in question.

A Redundant UPS Level 1 Power Failure, Redundant UPS- Level 2 Power Failure. Single/Panel Redundant-Level 1 Power Failure and Single/Panel Redundant-Level 2 Power Failure are each referred to herein as a "Power Failure."

B. Abatement to Licensee.

(i) Redundant UPS-Level 1 Power Failure. In the event any Redundant. UPS-Level 1 Power Failure occurs on any particular day, then, with respect to the Redundant UPS Power Circuit that is the subject of the Redundant UPS-Level 1 Power Failure, Licensee's pro rata Monthly License Fees for the affected Individual Space for that particular day shall be partially abated by the Daily Circuit Abatement Amount (as defined below). The "Daily Circuit Abatement Amount is defined as the pro rata

Monthly License Fees for the affected Individual Space for that particular day, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the Total Power Circuits (as defined below). Total Power Circuits is defined as the total number of power circuit pairs (i.e., an A Circuit and its corresponding B Circuit would equal 1 circuit pair), plus the total number of Single Circuits licensed by Licensee from Licensor in connection with such Individual Space.

(ii) Redundant UPS-Level 2 Power Failure. In the event any Redundant UPS-Level 2 Power Failure occurs on any particular day (a "Redundant UPS-Level 2 Power Failure Day"), then, with respect to the Redundant UPS Power Circuit that is the subject of the Redundant UPS-Level 2 Power Failure, Licensee's pro rata Monthly License Fees for the affected Individual Space for the particular calendar week in which the Redundant UPS-Level 2 Power Failure Day occurs shall be partially abated by the Weekly Circuit Abatement Amount (as defined below). The "Weekly Circuit Abatement Amount" is defined as the pro rata Monthly License Fees for the affected Individual Space for that particular calendar week, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the Total Power Circuits.

(iii) Single/Panel Redundant-Level 1 Power Failure. In the event any Single/Panel Redundant Level 1 Power Failure occurs on any particular day, then, with respect to each Single Circuit (if any), or each Panel Redundant Circuit (if any), that is the subject of the Single/Panel Redundant-Level 1 Power Failure, Licensee's pro rata Monthly License Fees for the affected Individual Space for that particular day shall be partially abated by the Daily Circuit Abatement Amount.

(iv) Single/Panel Redundant- Level 2 Power Failure. In the event any Single/Panel Redundant-Level 2 Power Failure occurs on any particular day (a "Single Panel Redundant-Level 2 Power Failure Day") then, with respect to each Single Circuit (if any), or each Panel Redundant Circuit (if any), that is the subject of the Single/Panel Redundant-Level 2 Power Failure, Licensee's pro rata Monthly License Fees for the affected Individual Space for that particular calendar week in which the Single/Panel Redundant-Level 2 Power Failure Day occurs shall be partially abated by the Weekly Circuit Abatement Amount.

(v) Total Abatement. Notwithstanding anything to the contrary set forth in this SLA, (i) in no event shall the total abatement in any one (1) calendar month under this Article I for any Individual Space exceed the Monthly License Fees payable for that Individual Space for that calendar month (notwithstanding the amount or length of any Power Failures in that month or otherwise); in the event there would otherwise be abatement under this Article I in excess of such Monthly License Fees for that month, then the excess shall not carry over to any subsequent period and shall be deemed extinguished

and of no force or effect; (ii) in no event shall the total abatement under this Article I for the applicable Individual Space on any one (1) day exceed the pro rata Monthly License Fees payable for that Individual Space for that day (notwithstanding the amount or length of any Power Failures on that day or otherwise); in the event there would otherwise be abatement under this Article I In excess of such Monthly License Fees for that day, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect; (iii) in no event shall the total abatement under this Article I in any one (1) calendar month for any individual power circuit exceed the Monthly Circuit Cap (as defined below) (notwithstanding the amount or length of any Power Failures relating to that power circuit or otherwise); in the event there would otherwise be abatement with respect to a particular power circuit in excess of the Monthly Circuit Cap, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect; and (iv) in no event shall the total abatement with respect to any individual power circuit on any one (1) day exceed the Daily Circuit Cap (as defined below) (notwithstanding the amount or length of any Power Failures relating to that Power Circuit or otherwise); in the event there would otherwise be abatement with respect to a particular power circuit in excess of the Daily Circuit Cap, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect. The "Monthly Circuit Cap" is defined as the Monthly License Fees for -the Individual Space In question for the applicable calendar month, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the Total Power Circuits. The "Dally Circuit Cap" is defined as the pro rata Monthly License Fees for the Individual Space In question for the applicable day, multiplied by a fraction, the numerator of which is one (1) and the denominator of the Total Power Circuits.

II. Environmental Stability.

A. ES Failure.

(i) Humidity-Level 1 Failure. A "Humidity- Level 1 Failure" shall be deemed to have occurred on a particular day if (A) conditioned air provided by Licensor on that day to a cold aisle reasonably designated by Licensor in the applicable Individual Space (a "Cold Aisle") exceeds 70% relative humidity for more than twenty-four (24) consecutive hours, or is below 30% relative humidity for more than twenty-four (24) consecutive hours, all as measured by Licensor's humidity sensors, and (B) the Equipment In the applicable Individual Space (which Is then being used by Licensee in the ordinary course of business) Is materially and adversely affected thereby.

(ii) Humidity-Level 2 Failure. A "Humidity- level 2 Failure" shall be deemed to have occurred on a particular day if (A) conditioned air provided by Licensor on that day to a

Cold Aisle exceeds 80% relative humidity or is below 20% relative humidity, all as measured by Licensor's humidity sensors, and (B) the Equipment in the applicable Individual Space (which is then being used by Licensee in the ordinary course of business) is materially and adversely affected thereby.

(iii) Temperature-Level 1 Failure. A "Temperature-Level 1 Failure" shall be deemed to have occurred on a particular day if (A) sustained temperatures in a Cold Aisle exceed 80.6 degrees Fahrenheit, as measured by the Licensor's temperature sensors, and such temperatures in -such Cold Aisle in excess of 80.6 degrees Fahrenheit continue for a period of more than twenty-four (24) consecutive hours, and (B) the Equipment in the applicable Individual Space (which is then being used by Licensee in the ordinary course of business) is materially and adversely affected thereby.

(iv) Temperature-Level 2 Failure. A "Temperature-Level 2 Failure" shall be deemed to have occurred on a particular day if (A) sustained temperatures in a Cold Aisle exceed 89.6 degrees Fahrenheit, as measured by the Licensor's temperature sensors, and (B) the Equipment in the applicable Individual Space (which is then being used by Licensee in the ordinary course of business) is materially and adversely affected thereby.

A Humidity-Level 1 Failure, Humidity-Level 2 Failure, Temperature-Level 1 Failure, and Temperature-Level 2 Failure are each referred to herein as an "ES Failure."

B. Abatement to Licensee.

(i) Humidity-Level 1 Failure. In the event any Humidity Level 1 Failure occurs on any particular day, then Licensee's Monthly License Fees for the affected Individual Space in question shall be partially abated for that particular day by the Daily ES Abatement Amount (as defined below). The "Daily ES Abatement Amount" is defined as the Monthly License Fees for the affected Individual Space in question for that particular day multiplied by a fraction, the numerator of which is the square footage of the portion of the affected Individual Space that is the subject of the ES Failure (as Licensor reasonably determines such portion), and the denominator of which is the total square footage of the affected Individual Space.

(ii) Humidity-Level 2 Failure. In the event, any Humidity-Level 2 Failure occurs on any particular day (a "Humidity-Level 2 Failure Day"). The licensee's Monthly License Fees for the affected Individual Space for the specific calendar week in which the Humidity-Level 2 Failure Day occurs shall be partially abated by the Weekly ES

Abatement Amount (as defined below). The "Weekly ES Abatement Amount" is defined as the pro rata Monthly License Fees for the affected Individual for that particular calendar week, multiplied by a fraction, the numerator of which is the square footage of the portion of the affected Individual Space that is the subject of the ES Failure (as Licensor reasonably determines such portion), and the denominator of which is the total square footage of the affected Individual Space.

(iii) Temperature-Level 1 Failure. In the event any Temperature-Level 1 Failure occurs on any particular day, then the Licensee's pro rata Monthly License Fees for the affected Individual Space in question shall be partially abated for that particular day by the Daily ES Abatement Amount.

(iv) Temperature-Level 2 Failure. In the event any Temperature-Level 2 Failure occurs on any particular day (a "Temp-level 2 Failure Day"), then the Licensee's pro rata Monthly License Fees for the affected Individual Space for the specific calendar week in which the Temp-Level 2 Failure Day occurs shall be partially abated by the Weekly ES Abatement Amount.

(v) Total Abatement. Notwithstanding anything to the contrary set forth in this SLA, (A) in no event shall the total abatement under this Article II for the applicable Individual Space in any one (1) calendar month exceed the Monthly License Fees payable for that Individual Space for that calendar month (notwithstanding the amount or length of any ES Failures in that month or otherwise); in the event there would otherwise be abatement under this Article II in excess of such Monthly License Fees for that month, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect and (B) in no event shall the total abatement under this Article II for the applicable Individual Space on any one (1) day exceed the pro rata Monthly License Fees payable for that Individual Space for that day (notwithstanding the amount or length of any ES Failures on that day or otherwise); in the event there would otherwise be abatement under this Article II in excess of such pro rata Monthly License Fees for that day, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect.

III. Connectivity Availability.

A. Connectivity Failure. A "Connectivity Failure" shall be deemed to have occurred on a particular day if (A) Licensor fails to use commercially reasonable efforts to ensure that all of the Licensor's critical pathways and Main Distribution Frame equipment in the Data Center are correctly operating, and (B) as a result of such failure, either (i) a redundant cross connection licensed by Licensee from Licensor in the applicable Individual Space is unavailable and interrupted on both the primary and

redundant connections (simultaneously) for more than twenty-six (26) cumulative seconds within a calendar month after Licensor receives notice of any such failure.

B. Abatement to Licensee.

(i) Connectivity Failure. In the event any Connectivity Failure occurs on any particular day (a "Connectivity Failure Day"), then Licensee's Monthly Service Fees for the affected cross connection, or the affected connection, as applicable, for the particular calendar month in which the Connectivity Failure Day occurs shall be abated.

(ii) Total Abatement. Notwithstanding anything to the contrary outlined in this Article III, (A) in no event shall the total aggregate abatement under this Article III for any particular cross connection in any one (1) calendar month exceed the Monthly Service Fees payable by Licensee for that month for the cross-connection in question (notwithstanding the amount or length of any Connectivity Failures with respect to such cross-connection or otherwise); in the event there would otherwise be abatement under this Article III in excess of such Monthly Service Fees for that month for that cross connection, then the excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect.

IV. SLA Applicability

A. For purposes hereof, a Power Failure, ES Failure, and Connectivity Failure shall each be referred to herein as a “Failure.” Notwithstanding anything to the contrary in this SLA, Licensee Shall not be entitled to any abatement whatsoever (and shall have no rights or remedies under this SLA or otherwise), and no Failure of any kind shall be deemed to have occurred, if any of the following exists:

1. The Licensee Is In breach or default under this MSA at the time of the Failure in question;
2. The Failure in question results from any of the following: (i) any equipment (including, without limitation, any Equipment) or applications of (or otherwise used by or in possession of) Licensee or any of the other Licensee Parties; (ii) any act or omission of Licensee or any of the other Licensee Parties, or (iii) Force Majeure Event.

B. Notwithstanding anything to the contrary in this SLA, (i) in no event shall Licensee be entitled to abatement under more than one of Articles I through III above In connection with the same event that caused the applicable Failures; In the event the same event causes more than one (1) Failure, then Licensee shall receive abatement only with respect to one (1) single Failure (and not with respect to multiple Failures), which abatement shall be calculated based on the Failure that would yield the highest abatement to Licensee (and if more than one (1) of such Failures exists, Licensor shall stipulate which Failure shall apply for purposes of calculating the abatement), and (ii) in the event a particular Failure continues, only one (1) Failure shall be deemed to have occurred (and shall be deemed to have occurred on the day that the Failure first comes into effect), regardless of the length of such Failure.

C. Notwithstanding anything to the contrary in this SLA, (i) in no event shall the total aggregate abatement for a Power Failure or ES Failure under this SLA exceed an aggregate amount equal to three (3) months’ worth of Monthly License Fees for the Space under this MSA and applicable Order (calculated at the average rate payable during the initial Term for such Space); and (ii) In no event shall the total aggregate abatement for a Connectivity Failure under this SLA exceed an aggregate amount equal to three (3) months’ worth of Service Fees under this MSA and applicable an Order (calculated at the average Service Fee payable during the initial Term for the Services). In the event, there would otherwise be abatement under this SLA in excess of the aggregate amounts set forth herein. The excess shall not carry over to any subsequent period and shall be deemed extinguished and of no force or effect.

V. Facilities Management

ASK BLUE.

Connections that matter



The licensor shall use commercially reasonable efforts to maintain its physical facilities and functionality in accordance with all agreed-upon specifications of the data center. Licensee shall notify the Licensor of any Facilities Management issues, including but not limited to Licensee access. Licensor shall respond to Licensee within two (2) hours and endeavor to cure such problems within a four-hour interval.

Service Schedule F

IT&E Managed Edge Solutions – Managed Router, Firewall, and Edge Network Solutions

1. Applicability.

1.1 This Service Schedule is applicable only where Customer orders and IT&E accepts an order for IT&E Managed Edge Solutions are managed network solution(s) within the domestic United States consisting of network device management services which include but is not limited to the provisioning of an IT&E network device (“Router”, “Firewall,” or other devices), provisioning of management software, provisioning of security software, monitoring of network devices and software, alerting customers of fault events, providing upgrades (at the discretion of IT&E) of software, providing engineering support, and professional services set forth on an IT&E provided Statement of Work (SOW). IT&E shall specify service terms and pricing for all products requested in a service order form. All service orders shall be approved in writing and signed by both parties prior to provisioning and installation.

2. Service Description.

2.1 IT&E Managed Edge Solution is a router, firewall, and security solution managed, maintained, monitored, and deployed by IT&E that leverages IT&E’s Internet and transport services.

2.2 IT&E will evaluate, design, provision, maintain, and manage the service based on a configuration accepted by the customer in writing before the installation. The customer acknowledges and agrees that IT&E’s service provisioning is predicated on the accuracy and timeliness of the Customer’s responses to IT&E’s service delivery worksheet and questionnaires. IT&E will not be held liable for any installation delays or any reduction in or failure of the service as a result of any inaccuracy in the Customer’s responses or any material changes to the customer’s environment that would render such information inaccurate.

2.3 IT&E will provide the service to routers on both IT&E and non-IT&E networks pursuant Section 9.0

3. Suspension, Termination and Cancellation Charges

3.1 IT&E may suspend the service immediately: (i) when a customer or end-user uses the service in any way that exposes imminent harm to (a) IT&E’s network or other necessary IT&E facilities or systems; or (b) IT&E’s ability to provide services to other

customers, and the customer does not (or fails to cause its end users to) immediately cease the activity causing harm upon receiving notice from IT&E of such imminent harm; or (ii) when Customer or End Users are unlawfully using the Services and the customer does not (or fails to cause its end users to) immediately cease upon receiving notice of such unlawful use from IT&E.

3.2 In the event of suspension under Subsection 3.1 above, IT&E shall provide the customer with an opportunity to cure as outlined in the Agreement.

3.3 Customer will remain responsible for any applicable early termination charges if Customer chooses to terminate Service as a result of IT&E's discontinuations of service for cause.

4. Service Requirements and Restrictions

4.1 To receive Service, the Customer must provide the following:

4.1.1 Customer-acknowledged/approved detailed network documentation required to facilitate the service including, but not limited to, network inventory including model name, serial number, location address, equipment maintenance contracts (e.g., Cisco SmartNet), current configurations, and other information related to network and security policies as requested by IT&E Desired configuration parameters including, but not limited to IP address schema, VLAN schema, routing protocols, access control lists, network address translations, quality of service markings, application policies, and security policies.

4.1.2 Supporting documentation is required to be submitted with the customer-acknowledged network order.

4.1.3 Customer contact information that includes telephone number and valid email address.

5. Customer-provided equipment.

IT&E will not provide material support to customer-provided equipment as part of this contract. The customer will provide support for customer-provided equipment, including any configuration necessary for that equipment to interface with the service. Service rendered by IT&E to provide configuration or material support for customer-provided equipment will result in a time and material fee per the schedule below:

		Part I - Time & Material	
	Service Level	Standard Labor Rate	After Hours, Weekends, & Holidays
Billable Rates	Advanced Design	\$325.00	\$337.50
	Senior Network Engineer	\$275.00	\$262.50
	Network Engineer	\$245.00	\$217.50
	NOC Engineer	\$210.00	\$165.00

5.1 IT&E will not provide service to or support customer-provided equipment, hardware, or software. If, after diagnosing a problem with the Service, IT&E determines that the customer-provided equipment, hardware, or software is the cause of the problem, the customer will be responsible for servicing such equipment, hardware, or software.

5.2 For the customer-provided equipment, the customer acknowledges and accepts the following:

5.2.1. The customer-provided equipment or any of the customer's previously purchased and installed manufacturer-specific software or features will not be guaranteed to work with the Service.

5.2.2. All customer-provided equipment must be in sound working order. The IT&E technician will notate any defective components that impact the proper configuration, testing, and operation of the Service and must replace them at the customer's expense.

6. Device Monitoring and Alerting

6.1 To monitor the Service quality and diagnose the root cause of Service-impacting issues, IT&E provides proactive monitoring of all devices deployed as part of the service 24 hours a day, seven days a week. IT&E will perform internet control message protocol ("ICMP") ping operation at intervals determined by IT&E after device installation at the customer Premise is complete. The ICMP ping operation is performed to determine whether the device runs without fault. IT&E will monitor the devices deployed as part of the service through simple network management protocol ("SNMP") trap/polling to obtain detailed performance status of devices and provide performance-based troubleshooting and monitoring.

6.2 IT&E will notify the customer when a Router is malfunctioning (i.e., a fault event). IT&E's network operation center ("NOC") will create a trouble ticket and take commercially reasonable measures to notify the customer promptly. The IT&E NOC will verify, troubleshoot, and resolve issues if they are related to the IT&E network and/or provided service(s). If it is determined that the issue is related to a Foreign Network, it is the customer's responsibility to notify its Foreign Network provider for resolution.

7. Third Party Providers.

7.1 Third Party Networks. IT&E will provide the configuration of the devices deployed to support third-party networks. Third-party networks must operate within the United States and its Territories. Upon IT&E's request, the customer must provide the service provider of the Foreign Network with a Letter of Authorization to permit IT&E to work with the service provider of the Third Party to provide the Services described herein. IT&E will not be liable for any issues, installation delays, any reduction in or failure of the Service, or any material changes from the third-party network or provider.

7.2 Letter of Authorization. While providing Service to the customer, IT&E will possess the customer account information from third parties that the customer contracts with in conjunction with the Router to be managed by IT&E. The customer grants IT&E permission to contact such third parties on behalf of the customer when IT&E requires network and security information from the third parties.

8. Service Levels.

8.1 Installation Service Level. IT&E will exercise commercially reasonable efforts to install any IT&E Managed Edge Solution on or before the Customer-specified Firm Order Commit Date. This Installation Service level may be affected by Customer Orders that contain incorrect information supplied by Customer or Customer Orders that are altered at Customer's request after submission and acceptance by IT&E or by equipment availability from the manufacturer and/or distributor of IT&E's choosing at the time of order.

8.2 Service Level Agreement. IT&E will provide material support and ongoing hardware and software maintenance as part of the service. A Basic service level is included with the monthly service fee per device deployed. Service levels featuring enhanced response times and support availability are available and may be quoted in addition to the included Basic service level.

This material support and maintenance is subject to the following schedule:

	Feature					
Support Level	Incident Response	Problem Response	Configuration change response	Performance monitoring	Device replacement	Software and Hardware Maintenance
Basic (included)	8x5 4-hour response	8x5, 8-hour response	48-hour completion of requested changes.	Included	8x5 Next Day	Included
Enterprise	24x7, 2-hour response	24x7, 4-hour response	12-hour completion of requested changes	Included	24x7, 4-hour	Included

9. Customer Representations and Warranties

In addition to the representations and warranties, as outlined in the Agreement, Customer acknowledges that the Service governed by the Agreement is subject to U.S. export laws and regulations and that any use or transfer of the Service must be authorized under those laws and regulations. Further, use of the Service outside of the U.S. may subject Customer and/or Customer's End Users to export or import regulations in other countries. Without limiting the foregoing, goods, software or technical data related to the Service are prohibited for export or re-export to Cuba, Iran, Sudan, North Korea, Syria or foreign nationals thereof, or any other country that is subject to U.S. economic sanctions or comprehensive export controls restricting such export or re-export, as well as to persons or entities barred from engaging in export transactions by the U.S. Departments of Commerce, State or Treasury (see Country Group E at http://www.export.gov/ecr/eg_main_023148.asp, as such list may be updated from time to time). Customer represents and warrants that it will comply with such export controls set forth above. Customer is responsible for notifying its End Users of such restrictions and agrees to be responsible for End Users' use. Customer will not use, distribute, transfer or transmit, directly or indirectly, information or any immediate product (including processes and services) utilizing the Service, except in compliance with U.S. export laws and regulations.

10. Disclaimers and Limitation of Liability

In addition to the limitation of liability as set forth in the agreement, IT&E disclaims any and all liability arising out of the delivery, installation, support, or use of any software. IT&E assumes no obligation to correct errors in any software. The customer understands and accepts all responsibility for any software meeting the customer's requirements or expectations.

11. Service and Support

11.1 ROUTER AND SERVICES SUPPORT.

After the Service is activated, the customer must contact IT&E's Network Operations Center to request moves, additions, or changes to the Service. Only authorized customer representatives may request changes to the IT&E Service.

11.2 IT&E Service Coverage Hours. Service and Support is provided on a 24 x 7 x 365 basis. Actual support is provided based on the agreed upon Service Level Agreement (SLA).

11.3 ROUTER ADMINISTRATION

11.3.1 Router Administration. IT&E will retain all administrator privileges for hardware and software delivered under the Service.

11.3.2 Customer Router Administration. IT&E can grant the customer limited administrator privileges upon request to self-administer the Router. IT&E shall have no liability for failure to provide the Service if the failure is related to actions taken by the customer. The customer shall defend, indemnify, and hold IT&E, its principals, officers, directors, agents, and employees harmless from and against any loss, cost, damage, liability, claims, and expenses of any kind arising directly or indirectly from the installation, operation, support of Router, or from the customer's or any of the customer's subcontractors' or agents' acts or omissions including, but not limited to, reasonable attorneys' fees and court costs, except to the extent such loss, damage, cost or expense is due to the gross negligence or willful misconduct of IT&E, its employees or agents.

The customer administrators and users are responsible for the security of all user ID and password information. This agreement applies to all IDs and passwords associated with the Services account. By enrolling for and using the Services, the customer accepts sole responsibility for the security and confidentiality of all passwords, including immediately updating temporary passwords sent to users via email for their initial portal login.

Accidental or unauthorized disclosure of passwords, user IDs, or inappropriate use may have serious consequences, and IT&E shall have no liability for failure to maintain this information securely. Additionally, the customer remains responsible for the use of each of its accounts, whether used under any name or by any person, and for ensuring full compliance with this agreement by all users of the account. In case of a security breach through the customer's account, immediately contact IT&E customer service.

11.4 Only authorized customer contacts can request changes to the Service that cannot be performed via the portal. Note that specific remote changes may require rebooting the Router to take effect.

12.0 Configuration and Installation

12.1 Responsibilities of the Parties

12.1.1 Project Management:

12.1.1.1 IT&E responsibilities:

Provide a single point of contact ("IT&E project manager") for all issues relating to the implementation Services. Such person shall be available during regular business hours.

Designate a backup contact when the IT&E project manager is not available.

Develop a project schedule.

Coordinate the project kickoff meeting to discuss the Statement of Work and reserve engineering resources needed to complete the project within an agreed-upon, scheduled timeframe.

Participate in regularly scheduled meetings with the Customer to discuss the status of the implementation (if applicable).

Provide Customer satisfaction & feedback surveys to Customers.

Coordinate work with 3rd party carriers for access circuits (If Applicable).

12.1.1.2 Customer responsibilities:

Designate a single point of contact to whom all IT&E communications may be addressed and who has authority to act on all aspects of the Services. Such primary contact shall be identified in Section 1.6 and shall be available during normal business hours.

Designate a backup when the Customer contact is not available. This person should have the authority to act on all aspects of the Services in the absence of the primary contact.

Unless otherwise agreed to by the parties, provide information and documentation required by IT&E within two (2) business days of IT&E's request.

Notify IT&E of any hardware and/or software upgrades or any other changes within the Customer's network at least thirty (30) business days prior to the upgrade.

Notify IT&E of any scheduled Implementation activities within ten (10) business days of the scheduled activity.

Notify IT&E of any Installation scheduling change at least seventy-two (72) hours prior to the originally scheduled installation date. Scheduling changes and/or cancellations made after this 72-hour window may be subject to IT&E's change management procedure, and additional charges may apply.

When requested by IT&E, provide Customer site building layouts, including floor plans and the location of cables and power sources.

Supply the workplace policies, conditions, and environment in effect at the customer site.

12.1.2 Network Design Review

12.1.2.1 IT&E responsibilities:

Perform a network discovery assessment to determine the current network environment. This includes IP addressing, VLAN schema, routing requirements, current physical topology, device inventory, software versions of equipment, etc.

Based on customer requirements for the project, a design configuration of the network is created and reviewed with the customer. This includes interface configuration, routing topology layout, routing protocols, QoS, COS, physical plant, cabling considerations, power, security requirements (ACLs), business continuity/failover, management interface, reporting considerations, and authentication requirements.

Provide design review recommendations based on the existing network design specifications and any new information collected during the survey and discovery process. IT&E shall not be liable for damages resulting from errors in the network design specifications or damages caused by the Customer's implementation of IT&E's recommendations.

12.1.2.1 Customer responsibilities:

Provide in a timely manner and network design specifications, which shall include but not be limited to the following information:

Existing network diagrams listing existing size, capacity, utilization, and traffic requirements for all current network facilities to be utilized in the solution.

Identify and/or procure all third-party networking equipment impacted by the implementation.

Identify equipment expected to pass traffic and identify any Classes of Service, path restrictions (if any), split tunnel design, load balancing, failover, and requirements for all users.

Provide information on network protocols being used. IE: BGP, GRE, SIP, etc.

Provide information relative to existing Customer equipment ("CPE"), model, features, software and hardware releases, available interfaces and specifications, cable distances, and routes between the equipment. This information should be provided for the existing and planned network requirements.

Specify site power requirements if they deviate from the supported power requirements of the installed equipment.

Identify all equipment that will be managed & monitored by IT&E.

12.1.3 System Configuration:

12.1.3.1 IT&E responsibilities:

Develop the Implementation-specific network diagram with input from the Customer and/or IT&E.

Configure equipment (IE: NID, Router, Firewall) to work with existing/new circuits and the proposed network

IT&E will provide the following configurations for Managed Edge managed router subscriptions:

Managed Edge Routing Packages:

Configure supported routing protocols: static, OSPF, EIGRP, PIM Sparse Mode

Configure Network Address Translation and Port Address Translation as necessary

Configure QoS and CoS markings and queues

Configure 802.1q VLAN Trunking as necessary

Configure VPN over the internet as necessary

Medium, Large, Extra Large, and Enterprise

Configure connectivity failover with IPSLA as necessary

Configure as VPN hub in point to point, or point-to-multipoint VPN topology

Configure outbound load balancing

Redundant Packages

Configure both appliances

Configure HSRP as the active/passive failover protocol

IT&E will provide the following configurations for Managed Edge perimeter security subscriptions:

Managed Security (firewall) Packages:

Configure supported routing protocols: static or OSPF

Configure Network Address Translation and Port Address Translation as necessary

Configure 802.1q VLAN Trunking as necessary

Configure client VPN as necessary

Configure access control rules

Configure content filtering to block security threats and standard non-business-related content.

Configure intrusion protection

Configure application visibility and control

Configure advanced malware protection

Medium, Large, Extra Large, and Enterprise

Configure web optimization

Redundant Packages

Configure both appliances

Configure high availability

12.1.3.2 Customer responsibilities:

Provide a technical single point of contact to coordinate solution efforts.

Provide feedback to IT&E on the development of network and/or equipment configurations.

Provide security levels and access privileges to define the system administration functions, security policies and any other special requirements to be implemented in the Product.

Provide configuration detail and support necessary to integrate with the existing local area network and/or other customer-controlled network infrastructure hardware/software. Provide adequate power, rack or wall space for equipment and cooling per IT&E and manufacture's specifications for the provided equipment.

Provide all material support for integration to the customer owned network assets

12.1.2 Implementation & Testing

12.1.2.1 IT&E responsibilities:

Develop an implementation plan and coordinate implementation with the customer.

Receive equipment, inventory, label, and perform general hardware logistical tasks at IT&E location.

Ship or transit configured equipment to customer location/s.

Cutover from existing routed network and/or carrier network services and verify traffic flows operate as expected.

Test if internet-facing routers can communicate with the internet via ICMP ping request a public IP address.

Test if WAN routers can successfully communicate with each other via ICMP ping request.

Test if firewalls installed for internet access control can successfully communicate to the Internet via ICMP ping requests to a public IP address and if expected protocols/applications can communicate to the public Internet as defined in the "Total System Planner."

Test any failover or redundancy features to ensure successful business continuity.

Set up monitoring & management VPN for equipment during the onboarding process.

If the cutover testing fails to meet the pre-defined performance criteria, IT&E shall compile an action plan outlining any agreed-upon deficiencies and provide a time frame for resolution. IT&E will conduct repeat tests as required until the test results meet the agreed-to criteria.

Create documentation detailing the network design and implementation, including CPE configurations, network drawing, IP addressing,

12.1.2.2 Customer responsibilities:

Provide feedback for IT&E to develop the criteria used in the implementation test/s.

Make available any personnel at the Customer site as necessary for IT&E to perform the Implementation and testing phase of the project.

Verify the operation of all equipment, ensuring it will pass traffic.

Assist in developing the action plan for correcting deficiencies, if any, in the expected results.

13.0 Proof of Performance

13.1 IT&E will consider the solution fully installed and in production when all equipment and services are installed and operational. The solution(s) is(are) considered to be operational when the following criteria are met:

- All equipment has been installed
 - Routers installed for internet routing can successfully communicate to the internet via ICMP ping request(s) to a public IP address.
 - Firewalls installed for internet routing can successfully communicate to the internet via ICMP ping request(s) to a public IP address.
 - Routers installed for WAN routing can successfully communicate with each other over IT&E-provided circuits via ICMP ping request(s) using their outside interfaces.
- After fulfilling these conditions, IT&E shall consider the fully installed and operational solution and begin billing.

IT&E will issue a completion notice upon successful testing of the above conditions.

Service Schedule G

IT&E Managed On-Premise or Hosted Unified Communications Solution (UCS)

1. Applicability

1.1. Initiation and Services. Provisioning of the IT&E Mitel Services will begin only after we receive and accept your Service Order. We will provide any implementation services set out in the service order and/or SOW. You agree that your purchase of the Entitlements is neither contingent upon our delivery of any future functionality or features nor dependent upon any discussions, oral or written comments made by IT&E with respect to future functionality or features.

2. Service Description.

2.1. IT&E Managed On-Premises or Hosted UCS is a managed PABX, PBX, or VoIP Solution managed, maintained, monitored, and deployed by IT&E that leverages IT&E's UCS partner authorization, certification, and skillset. of the Service.

3. Term.

3.1. The terms of the agreement shall adhere to the Master Service Agreement outlined in Article 3.

4. Exclusions.

- 4.1. Noncompliance with the provisions of IT&E's Terms of Service (including its payment terms)
- 4.2. Failure of power at the Customer's premise
- 4.3. Failure of Customer's premise equipment (CPE) or other Hardware
- 4.4. Failure of equipment, systems, connections, or services (including service interruption by Customer's Internet or Circuit Provider)
- 4.5. Circumstances or causes beyond the reasonable control of IT&E

5. Service Levels.

	Feature					
Support Level	Incident Response	Problem Response	Configuration change response	Performance monitoring	Device replacement	Software and Hardware Maintenance
Basic (included)	8x5, 4 hour first response	8x5, 8 hour response	48 hour completion of requested changes.	Included	8x5 Next Day	Included
Enhanced	24x7, excluding holidays 4 hour response	24x7, excluding holidays 8 hour response	24 hour completion of requested changes.	Included	24x7, 4 hour	Included
Enterprise	24x7, 2 hour response	24x7, 4 hour response	12 hour completion of requested changes	Included	24x7, 4 hour	Included

6. Escalation.

Managed UCS	
24-Hour Hotline From any IT&E Phone: Dial 611 CNMI: (670) 682-4483 Guam: (671) 922-4483 For Portal Support and Live chat please visit https://store.ite.net/live-support/	
Level 1	CNMI Helpdesk (670) 682-4483 neat@itehq.net
	Guam Helpdesk (671) 922-4483 helpdeskquam@itehq.net
Level 2	Manager ??? (670) 287-2760 jojo.santos@itehq.net
Level 3	Sr. Director Rob Harrell (670) 285-7622 rob.harrell@itehq.net
Level 4	CEO David Gibson (671) 727-1569 david.gibson@itehq.net

7. Cumulative Unavailability (in hrs:mins:secs)

Service Level Credit

0:00:01 – 24:00:00 No Credit

24:00:01 – 30:00:00 2.5%

30:00:01 – 36:00:00 5%

36:00:01 – 42:00:00 7.5%

42:00:01 or greater 10%

**ASK
BLUE.**

Connections that matter

