



## NETWORK SERVICES SCHEDULE

This NETWORK SERVICES SCHEDULE (this "Schedule") is made between Cologix US, Inc. with offices located at 2300 15th Street, Suite 300, Denver, CO 80202 ("Cologix") and \_\_\_\_\_ with offices located at \_\_\_\_\_ ("Customer") as of the latest dated signature below and incorporates and is governed by the terms and conditions of the Master Services Agreement (the "MSA") entered into by the parties. Any terms used herein and not defined herein shall have the meaning given to such terms in the MSA.

1. **Cologix Duties and Obligations.** As more particularly set forth in a Service Order, Cologix shall, subject to the terms and conditions hereof, provide Customer with access to the Internet. Any and all access to any network(s) via Cologix must be in compliance with all policies and rules of those networks. Cologix exercises no control whatsoever over the content of any information passing through its networks. Cologix makes no guarantee of end-to-end bandwidth on the Internet. Cologix cannot guarantee the peering sessions between non-Cologix companies (including, without limitation, Cologix's customers and vendors) and/or networks.
2. **Acceptable Use Policy.** Customers ordering network services pursuant to a Service Order represent and warrant to Cologix that they will at all times comply with Cologix' Acceptable Use Policy, as amended from time to time (the "Network Services AUP"), by publishing at [www.cologix.com](http://www.cologix.com).
3. **Cologix Supplied Hardware/Software.**
  - a. All hardware and software purchased by Cologix for Customer pursuant to a Service Order in connection with the Services is covered by the original manufacturer's warranty only.
  - b. Administration for hardware and software is covered by Cologix when Customer is purchasing managed services as set forth in a Service Order. In the absence of a specific hardware service contract and/or Service Order for managed services, all work requested and instructed by Customer to be performed by Cologix on Customer hardware or software, will be performed as a "Remote Hands" (defined below) service by Cologix on a time and materials basis, at Cologix's then current Remote Hands rates. In addition, any items not specifically listed on a Service Order will be on a time and materials basis.
  - c. As used herein, "Remote Hands" shall mean technical tasks performed by Cologix on Customer's equipment. Typical activities provided by the Remote Hands services include, without limitation, rebooting or power-cycling Customer equipment, testing or swapping defective cables, visual reporting on status indicators, reseating or replacement of modular equipment and modem connections for remote access. Remote Hands services may be purchased in monthly blocks of time or ad hoc.
  - d. Although Cologix technicians are skilled in troubleshooting and repairing a variety of hardware and/or software, prior knowledge of, or training on, a particular system utilized by Customer cannot be guaranteed. Cologix shall not be liable for any losses or damages due to any failure of the equipment or for any loss of data or damages resulting from Remote Hands service.

#### 4. **Non-Cologix Supplied Hardware/Software.**

- a. Physical equipment and/or software products that are not purchased by Cologix for Customer pursuant to a Service Order are the responsibility of Customer. Cologix will not be responsible for the installation and/or service of equipment and/or software that was not provided by Cologix. Customer is responsible for the use and compatibility of hardware and software not provided by Cologix. In the event that Customer uses hardware and software not provided by Cologix that impairs Customer's use of Cologix' services, Customer shall nonetheless be liable for all payments to Cologix. Upon notice from Cologix that the hardware and/or software not provided by Cologix is, in the reasonable opinion of Cologix, causing or is likely to cause, hazard, interference, or service obstruction, Customer shall eliminate the hazard, interference, or service obstruction immediately. Customer will, if necessary, pay Cologix to troubleshoot problems caused by such equipment and/or software not provided by Cologix. Cologix will not be responsible if any changes in hardware, software or services, cause equipment not provided by Cologix to become obsolete, require modification or alteration, or in any other way affect the total performance of Cologix network services end-to-end. If any non-Cologix provided equipment or software adversely impacts the Cologix backbone network or networks attached to the Cologix network, Cologix reserves the right to take any and all action necessary to remediate such impact. In the case of Customer owned hardware and/or software connected to the Cologix network, Customer is responsible for any and all service to that equipment.
- b. Cologix, at its option, can supply technical services in the form of consulting and/or service to Cologix customers at their request. Such services are billed at rate of \$150/hour during Business Hours, \$240/hour on a Business Day not during Business Hours, or \$300/hour on any day that is not a Business Day. Cologix has the right to refuse to provide any such technical services at its sole option.
- c. WITH RESPECT TO LEASED TELEPHONE LINES, NO MATTER WHO THE LEASING PARTY IS, COLOGIX MUST HAVE FREE AND OPEN ACCESS TO SUCH LINES. This will allow Cologix' operations people to test and isolate any type of trouble that Customer and/or Cologix might experience.

#### 5. **Burstable Billing Calculation and Charges.**

- a. For burstable billing, the Total Utilized Bandwidth (defined below) is derived from a 95<sup>th</sup> percentile (95%) calculation as described below. The bandwidth utilized by Customer over and above the committed bandwidth amount set forth in the applicable Service Order (the "Bursted Bandwidth"), will be billed by Cologix to Customer at 100% of the committed bandwidth rate set forth in the applicable Service Order pursuant to the calculation set forth below in this Section 5.
- b. At the end of each calendar month during the term of a Service Order, Cologix shall calculate the Bursted Bandwidth Charge (defined below) for such calendar month of all circuits for which Customer has ordered burstable billing, pursuant to the following formula:
  - (i) "Bursted Bandwidth Charge" = (Total Utilized Bandwidth – the total committed bandwidth set forth in the applicable Service Order) x (the specified burst rate set forth in the applicable Service Order per Mbps for Circuits (or, if none specified, the committed

bandwidth rate set forth in the applicable Service Order per Mbps for Circuits).

(ii) **"Total Utilized Bandwidth"** shall be calculated as follows: Cologix shall poll the Cologix routers for ingress and egress usage on each respective circuit approximately every five minutes. The ingress and egress numbers for each poll shall be stack ranked. At the end of each calendar month during the term of a Service Order, the top 5% of the aggregate ingress and egress usage numbers shall be discarded. The next highest measurement, the greater of the ingress or egress, shall constitute the Total Utilized Bandwidth for the applicable circuits for the applicable calendar month.

c. Volume price breaks do not apply if the volume threshold is surpassed due to Bursted Bandwidth.

6. **24x7 Customer Support.** Cologix provides for the coordination and resolution of problems associated with the Service(s) on a 24x7 basis. Support is limited to the product features included in the Service(s) purchased.

7. **Network Service-Level Agreement.**

a. The purpose of this network service-level agreement (this "SLA") is to define the managed network service levels and operational specifications that Cologix will provide to Customer. Specifics as to the managed network Services to be provided to the Customer are set forth in the applicable Service Order, which is incorporated into and made a part hereof.

b. Cologix managed network environments consist of LAN and WAN infrastructures. Cologix managed network environments will be available on a 7 (day) x 24 (hour) x 365 (day) basis, except for Excluded Outages (defined below).

c. Latency measurements will be total round trip durations in milliseconds (ms) of network transmissions. Latency will be measured from Customer equipment wherever located ("CPE") ingress to the Cologix network to destination router point.

d. Availability will be calculated monthly using total actual minutes available divided by total possible minutes available, but shall exclude, in all instances, any Excluded Outages. Performance measurements will exclude CPE.

d. Cologix' performance levels for managed network availability and latency are as follows:

LAN Performance	
Latency	Availability
< 40ms	>99.50%

WAN Performance			
External Gateway to Internet (Domestic)	VPN (Only when provided and managed by Cologix)	Private Network (Domestic)	
Latency	Latency	Latency	Avail
<60ms	<100ms	<70ms	>99.50%

e. If, as a direct result of Cologix' actions or inactions, the managed network Service levels provided by Cologix fail to

meet the specified performance levels stated above, then, as Customer's sole and exclusive remedy, and Cologix' sole obligation, for such failure, Customer shall receive a Service credit equal to 15% of the monthly recurring charge for the affected Service (i.e. network Service charge only) for the affected month in accordance with the Service Order for such affected Service. Customer is limited to receiving an aggregate credit of 30% (15% for failure to meet LAN performance levels plus 15% for failure to meet WAN performance levels) of the monthly recurring charges due to Cologix for the applicable calendar month for the affected network Service.

f. To request a credit, Customer must deliver a written request to Cologix within thirty (30) days of the end of the month for which a credit is requested. The request must detail the time period of the outage and include all appropriate documentation evidencing the outage. Customer shall open a trouble-ticket with Cologix in connection with any such outage.

g. If at any time Customer is in default under the Agreement, Customer will not be entitled to any credit.

h. Notwithstanding anything herein to the contrary, credit will not be issued under this SLA for any outage that, as determined by Cologix in its reasonable judgment, results from any of the following: (i) scheduled maintenance announced at least forty-eight (48) hours in advance; (ii) emergency maintenance (for security or router instability (or related) type patches or modifications); (iii) a violation of the Network Services AUP in existence on the date of such circumstances giving rise to such credit; (iv) any other event or condition not wholly within the control of Cologix; (v) any act or omission, directly or indirectly, of Customer or its employees, agents, contractors or representatives or by Customer's or its employees, agents', contractors' or representatives' equipment; (vi) viruses; (vii) any failures that cannot be corrected because Customer is inaccessible; or (viii) any attack against Customer equipment/servers (clauses (i) through (viii) above, collectively, the "Excluded Outages").

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

8. **Customer Non-Interference; Indemnification.** Without limiting anything set forth in Section 7 hereof, Cologix shall not be responsible for acts or omissions of Customer or its employees, agents, contractors or representatives that result in failure of, or disruption to, the Services unless such acts or omissions were done in accordance with instructions given to Customer by Cologix. Customer agrees that neither Customer nor its employees, agents, contractors or representative shall attempt in any way to circumvent or otherwise interfere with any security precautions or measures of Cologix relating to the Cologix facilities or any Cologix equipment. Any such attempts may, among other things, cause disruption to the Services. Any disruption to the Services resulting from a violation of Cologix's security precautions or measures shall be an Excluded Outage for all purposes under Section 7 hereof and Customer shall not be entitled to any Service credit pursuant to Section 7 hereof or any other remedy with respect to such disruption. Customer will be responsible for, and will indemnify Cologix for, any damage or service interruptions caused by Customer or its employees, agents, contractors or representatives in violation of these provisions, including,



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without limitation, any damage to any Cologix provided equipment. Further, Customer will pay Cologix, at Cologix' then current remote hands rates, for all remedial services resulting from Customer's actions.

**IN WITNESS WHEREOF**, the parties have executed this Schedule by their duly authorized representatives.

**COLOGIX:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**CUSTOMER:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)