



## HOSTING AND MANAGED SERVICES SCHEDULE

This HOSTING AND MANAGED SERVICES SCHEDULE (this "Schedule") is made between Cologix Canada, Inc. with offices located at 156 Front Street West, Suite 401c, Toronto, Ontario M5J 2N1 ("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 Provided Hardware and Software.** Any Cologix-provided hardware or software relating to the Services shall be purchased by Cologix for Customer as set forth in the applicable Service Order. Any such Cologix-provided hardware and software shall be covered by the original manufacturer's warranty only. If the Service Order stipulates specific hardware or software which is no longer available or supported by Cologix, a more current product with equal or better specifications will be substituted and the same shall not constitute a breach or default by Cologix under the terms of such Service Order.
2. **Locations and Access.** Cologix reserves the right, from time to time, to make changes as to how and where various Services are distributed from. Therefore, unless otherwise specified in a Service Order, specific locations and access to the Services may be altered, changed, or otherwise modified in Cologix' sole discretion and without liability, but subject in all instances to Section 14 hereof.
3. **Maintenance and Ongoing Services.** Cologix shall support any and all hardware and software provided by Cologix, as stipulated in the Service Order, which is necessary for Customer to fully access and utilize the Services in accordance with any applicable SLA set forth herein. Cologix shall deliver or provide access to the Services to Customer, with the functionality and appearance specified in the Service Order. If at any time Customer makes any changes to Cologix supplied content, code, software, or hardware, or Cologix is denied access to the hardware, software, or related equipment, Cologix shall not be responsible for any maintenance, regardless of whether such changes were authorized, inspected, or confirmed by Cologix.
4. **Professional Services.** Cologix may, although it is under no obligation to, assist Customer, by providing remote hands services ("Remote Hands") or technical support, in repairing or remedying any issues with respect to the Services not otherwise covered by an applicable SLA or Service Order. Customer shall pay for any Remote Hands or technical support requested by Customer at Cologix' then current rates for such work. Cologix makes no guarantee of work performed for Remote Hands or technical support services and shall not be liable for any losses or damages due to the performance of such Remote Hands services or technical support. All Remote Hands and technical support shall be provided by Cologix to Customer on an "As Is" "As Available" basis.
5. **Access to Cologix Equipment.** Customer acknowledges that the use of the Services may periodically require updates and/or changes to certain licensed software resident in the Cologix equipment used to support the Services. If Cologix has agreed to provide updates and changes, Cologix may perform such updates and changes remotely or on-site, at Cologix' sole option. Customer hereby agrees and consents to provide Cologix free access for such updates deemed reasonably necessary by Cologix. If for any reason, Cologix does not have access to the Cologix equipment supporting the Services, including that Customer does not provide Cologix with access, Cologix shall not be liable for any and all maintenance, upgrades, or changes. If Customer denies access for any reason to Cologix equipment, and Cologix, in Cologix' sole discretion, requires access to provide contracted Services, maintenance or upgrades, Cologix may, in Cologix' sole discretion, suspend or terminate Customer Services, and Customer shall owe to Cologix what Customer would have otherwise owed Cologix for the suspended Services if they had not been suspended and/or an amount equal to one hundred percent (100%) of the monthly recurring charges due under the terminated Service Order(s) for the remainder of the term of such Service Order(s).
6. **Acceptable Use Policy.** Customers ordering hosting and managed 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 "Managed Services AUP"), by publishing at [www.cologix.com](http://www.cologix.com).
7. **Time and Quantity Measured Services.** Any measured services are recorded in whole units (e.g. hours, months, gigabytes, etc.), with partial units rounded up to the next whole unit.
8. **Preservation of Customer Data.** Customer acknowledges and agrees that, unless stipulated otherwise in a Service Order, (i) Customer is responsible for developing and maintaining procedures (apart from any applicable Services) to protect Customer's content, including, without limitation, making appropriate backup copies of Customer content as may be necessary for reconstruction of any data, files, informational materials, or electronic messages; (ii) Cologix is not responsible for backup and restoration of Customer content or data; and (iii) Cologix' responsibility is limited to the provided Services and not ensuring the integrity or completeness of any Customer content, data, or code.  
  
If Customer's Service Order provides for the availability of backup services, Cologix is responsible for the Services themselves and not for the completeness or integrity of Customer content. It is Customer's responsibility to ensure that any and all backups occur regularly. Cologix is limited to providing the Services as stipulated in the Service Order.
9. **Unauthorized Access to Data or Use of the Services.** Cologix is not responsible for unauthorized access to Customer data or the unauthorized use of the Services. Customer is responsible for the use of the Services by any Affiliate, employee, sub-contractor, or other party granted access by any of Customer employees, or any person Customer has granted access to the Services, and any person who gains access to Customer data or the Services as a result of Customer failure to use reasonable security precautions, even if such use was not authorized by Customer. By using the Services to publish, transmit or distribute material or content, Customer (i) represents and warrants to Cologix that the

material or content complies with the provisions of the Agreement, (ii) authorizes Cologix, its agents and Affiliates to reproduce, publish, distribute, and display content solely in accordance with any applicable Service Order and (iii) represents and warrants to Cologix that it has the right to provide such authorization to Cologix. Customer acknowledges that due to the inherent nature of the Internet and beyond the control of Cologix, material posted or transmitted using the Services may be copied, republished or distributed by third parties, and agree to indemnify, defend and hold harmless Cologix, its agents and affiliates for any harm resulting from such actions.

10. **Monitoring of Content.** Cologix shall have no obligation to monitor postings, content or transmissions made in connection with the Services. Cologix, without Customer's prior approval, will not monitor or grant access to any postings, content, or transmissions unless required by law, valid subpoena, or other legal requirement. Cologix may use and disclose such monitoring and postings as required.
11. **Removal of Data.** In the event that Cologix becomes aware of any content, code, scripts, software, or other data provided or transmitted by Customer or equipment provided or owned by Customer, which is being used in violation of any applicable law or regulation, including but not limited to the CAN-SPAM Act and the DMCA ("Infringing Material"), Cologix reserves the right to remove, destroy, or restrict access to the Infringing Material, solely to comply with applicable law. Customer agrees that it is solely responsible for any and all use of the Services provided by Cologix, and that Cologix may deem it necessary to remove all content or terminate any and all Services to Customer if Customer fails to follow any and all applicable laws and regulations. Customer shall hold Cologix harmless for any and all good faith efforts by Cologix to comply with any and all laws and regulations.
12. **Licensed Software.** Customer agrees that they will not violate the license attributed to any software licensed to Customer in connection with the Services (the "Licensed Software"), which license may restrict Customer's ability to (i) copy the Licensed Software (or any upgrades thereto or related written materials), except as permitted by the express written consent of Cologix; (ii) reverse engineer, decompile, or disassemble the Licensed Software; (iii) sell, lease, license, or sublicense the Licensed Software to any third party; or (iv) create, write, or develop any derivative software or any other software program based on the Licensed Software.
13. **Export Laws and Regulations.** Customer acknowledges that any products, software, and/or technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations, and any foreign use or transfer of such products, software, and technical information must be authorized under those regulations. Customer agrees that it will not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Cologix, Customer also agrees to sign written assurances and other export-related documents as may be required for Cologix to comply with U.S. export regulations.

14. **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

15. **Hosting and Managed Services Service Level Agreement.**

- a. Cologix shall maintain the availability of the Hosting and Managed Services as set forth in this Section 14. For any billing month in which Cologix fails to meet the applicable SLA set forth below with respect to the applicable Service below, Customer will, subject to the "Excluded Outages" (as defined below), receive, as its sole and exclusive remedy and Cologix' sole obligation for such failure, credit to its account based on the actual duration of the interruption of such Service. Cologix' maintenance logs and trouble-ticketing systems will be used for calculating any SLA credits. The amount of credit is stated below as a percentage of the monthly recurring charges due to Cologix for such affected Service for the applicable calendar month.
- b. **Dedicated Hardware SLA:** Cologix provided hardware, including servers, switches, load balancers, firewalls, power distribution units and storage arrays will be free of hardware problems. If a hardware device suffers full or partial hardware-level failure that causes a device to stop operating, Cologix will replace the device, in whole or in part. Cologix will use commercially reasonable efforts to replace the device, in whole or in part, within four (4) hours after the hardware has been determined by Cologix, acting reasonably, to have failed and, if not replaced within such four (4) hour window, Customer shall be entitled to receive credit for such failure to replace pursuant to the below chart, in each case other than in connection with an SLA failure hereunder caused by an Excluded Outage. The replacement and credit set forth herein are Customer's sole and exclusive remedy, and Cologix' sole obligation, relating to any such hardware SLA failure.

| <u>Service</u>       | <u>Credit Amount</u>  | <u>Maximum Credit</u> |
|----------------------|---|-----------------------|
| Hardware Replacement | 5% of monthly recurring charge for the affected Service for every full 0.1% reduction in Service availability | 100%                  |



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- c. Cloud and Hosted Services SLA: Cologix provided cloud services, including Virtual Private Cloud, Hosted Backup, Shared Storage, Disaster Recovery as a Service, Shared Load Balancing, and other multitenant services will be free from interruption 99.50% of the time (the "Cloud and Hosted Services Availability Threshold"). If a Cloud and Hosted Services SLA failure has occurred, as determined by Cologix, Customer shall be entitled to receive credit for such failure pursuant to the below chart, other than where such SLA failure was caused by an Excluded Outage. The credit set forth below is Customer's sole and exclusive remedy, and Cologix' sole obligation, relating to any such Cloud and Hosted Services SLA failure.

| <u>Service</u>            | <u>Credit Amount</u>   | <u>Maximum Credit</u> |
|---------------------------|--|-----------------------|
| Cloud and Hosted Services | 5% of monthly recurring charge for the affected Service for every full 0.1% reduction in Service availability beyond the Cloud and Hosted Services Availability Threshold above. | 100%                  |

- d. Managed Services and Software SLA: Cologix managed devices, managed server operating systems, and managed server software will be free of configuration problems caused by Cologix and be free of known, avoidable security risks with vendor-provided stable patches. The configuration or software issues that cannot be automatically repaired will be responded to by Cologix staff within one (1) hour.

Cologix guarantees no more than .5% downtime of its managed services and software per month (the "Managed Services Downtime Threshold"). Downtime of Managed Services and Software occurs when a managed process stops running, a client cannot successfully connect (as determined by Cologix), and the processes have not exceeded hardware or network limitations. If a Managed Services and Software SLA failure has occurred, as determined by Cologix, other than as a result of an Excluded Outage, Customer shall be entitled to receive credit for such failure pursuant to the below chart. The credit set forth below is Customer's sole and exclusive remedy, and Cologix' sole obligation, relating to any such Managed Services and Software SLA failure.

| <u>Service</u>                | <u>Credit Amount</u>  | <u>Maximum Credit</u> |
|-------------------------------|---|-----------------------|
| Managed Services and Software | 5% of monthly recurring charge for the affected Service for every full 0.1% of downtime beyond the Managed Services Downtime Threshold. | 100%                  |

- e. 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.
- f. If at any time Customer is in default under the Agreement, Customer will not be entitled to any credit. Customer is limited

- g. 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) Customer-initiated changes, whether implemented by Customer or Cologix on behalf of Customer; (ii) a violation of the Managed Services AUP in existence on the date of such circumstances giving rise to such credit; (iii) any other event or condition not wholly within the control of Cologix; (iv) viruses; (v) any Cologix scheduled maintenance announced at least forty-eight (48) hours in advance, up to an accumulated total of eight (8) hours per month; (vi) any emergency maintenance announced at least sixty (60) minutes in advance, up to an accumulated total of two (2) hours per month; (vii) any failures that cannot be corrected because Customer is inaccessible; (viii) Customer exceeding the performance parameters of the hardware, software or network in Customer's specific installation; (ix) circumstances beyond Cologix' reasonable control, including, without limitation, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications; (x) DNS failures or errors outside of the control of Cologix; and (xi) failure of access circuits to the Cologix network, unless such failure is caused by Cologix (clauses (i) through (xi) above, collectively, the "Excluded Outages").
- d. Customer acknowledges that multiple service credits cannot be overlapped on the same Service (i.e. failure to meet multiple metrics during the same period of time cannot be stacked).

- 16. Termination of Use. Cologix shall have the right to terminate Customer's use of the Service(s) delivered therein in the event that: (a) Cologix's rights to use the facility in which the Customer is located terminates or expires for any reason; (b) Customer is in default hereunder; (c) Customer makes any material alterations to Services without first obtaining the prior written consent of Cologix; or (d) Customer violates the Policies and Procedures and/or the Managed Services AUP. With respect to (b), (c), and (d) above, unless, in Cologix' sole opinion, Customer's actions interfere or have the potential to interfere with other Cologix customers or present significant operational risks, Cologix shall provide Customer with notice and a thirty (30) day opportunity to cure before terminating Customer's Services.

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

**COLOGIX:**

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

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

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

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(Date)

**CUSTOMER:**

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(Signature)

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(Name)

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(Title)

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(Date)