

## 1 SERVICE DESCRIPTION, POLICIES AND EXTERNAL SERVICE PROVIDERS

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### SERVICE DESCRIPTION

- 1.1 The Colocation service provides you with:
- (a) Colocation Space for you to install, host and operate your Equipment;
  - (b) Power;
  - (c) Remote Hands Service; and
  - (d) Cross Connects,
- each, a Service.

The Data Centre specific terms and conditions are further set out in Appendix 1, Appendix 1A and Appendix B.

### POLICIES

- 1.2 We may amend or supplement any service guides, policies or handbooks provided to you from time to time. We will inform you of any such material amendment to such guides, policies or handbooks. You will be provided a reasonable time to comply with such amendment of the said guides, policies or handbooks thereafter.

### EXTERNAL SERVICE PROVIDERS

- 1.3 An external service is any service provided by non-Telstra network elements or facilities, including, without limitation, network elements or facilities operated by third parties that were not directly contracted with Telstra, the public internet backbones and networks, any server on the internet, customer premises equipment, or local access service of any type not directly contracted by Telstra. If a customer uses a Telstra interconnection service to connect to an external service, the Telstra Service Levels do not apply to the external service or to Service Level breach caused by the external service.

## 2 TERM

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### COLOCATION SPACE AND POWER

- 2.1 Notwithstanding any provision to the contrary in any Agreement entered into between you and us, after the Initial Period, Colocation Space and Power will automatically extend for successive 12 month periods on the existing terms, unless either party notifies the other (at least 30 days before any automatic extension) that it does not wish the Initial Period to extend automatically. We will provide you with reasonable advance notice that your Service is about to be renewed. After your Service has renewed, you can terminate your Service at any time in which case we will not charge you the standard Early Termination Charges, but we may charge you an amount equal to the actual third party costs and expenses that we have incurred or committed to in anticipation of providing the Service to you and that cannot be reasonably avoided by us as a result of the termination. If we fail to provide you with reasonable advance notice, you may terminate your Service at any time after your Service has renewed without having to pay any early termination charges (including the charges contemplated in the previous sentence).

### REMOTE HANDS SERVICE AND CROSS CONNECTS

- 2.2 After the Initial Period, Remote Hands Service and Cross Connects will automatically renew on a month-to-month basis on the existing terms, unless either party notifies the other (at least 30 days before any automatic extension) that it does not wish the Initial Period to extend automatically.

## 3 POWER

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- 3.1 We will provide you with Allocated Power to each Colocation Space (or portion thereof) where your Equipment is installed. Subject to availability, you may request additional power (in one kVA or kW increments) for an additional charge which we will agree with you beforehand.
- 3.2 You must ensure that your actual Power use does not exceed your Allocated Power. If your actual Power use exceeds your Allocated Power: we may:
- (a) charge you at a rate not to exceed USD2,000 for each kVA (or part thereof) that exceeds your Allocated Power with effect from the first day you exceeded your Allocated Power; or

(b) disconnect some of your Equipment, or suspend your Service, in accordance with the relevant suspension clauses in this Agreement.

3.3 You acknowledge that any consumption by you in excess of your maximum Allocated Power may adversely:

- (a) affect the supply of power to you;
- (b) affect the supply of power to another customer;
- (c) impact upon the proper operation of the Data Centre cooling system; and
- (d) impact upon our ability to meet the service levels.

3.4 If your actual Power use exceeds your Allocated Power on two or more occasions in any rolling 60 days' period, we may cancel your Service by giving you at least 7 days' notice.

3.5 If we suspend or cancel your Service under clauses 3.2 or 3.4, we may charge you a reconnection charge if we reconnect the Service, and any other associated costs.

## **4 REMOTE HANDS SERVICE**

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4.1 The Remote Hands Service provides you with 24x7x365 remote access to on-site technicians at the Data Centre, who will perform the relevant Equipment support tasks set out in the Colocation Facilities Guide, including:

- (a) performing Equipment resets / reboots at your request;
- (b) checking alarm / indicator status on your Equipment; and
- (c) observing / describing Equipment fault and operational behaviours based on visual inspection.

4.2 You accept that all Remote Hands Service will be performed at your direction and will be at your sole risk. We will not advise on the potential consequences of implementing your instructions.

4.3 Notwithstanding any provision to the contrary in any Agreement entered into between you and us, and only in relation to this Remote Hands Service, our aggregate liability for any loss or damage, howsoever caused suffered by you in relation to the Remote Hands Service is limited to an amount equal to the Remote Hands Service fee paid by you to us in relation to the Remote Hands Service immediately preceding the event that gave rise to such loss or damage.

## **5 CROSS CONNECTS**

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5.1 If specified in your Service Order Form with complete order details, we will install cross connects between your Equipment located in your Colocation Space and:

- (a) other Equipment located within the same Colocation Space; or
- (b) the Network which terminates within the same Data Centre as your Colocation Space.

5.2 All connections between the Network and your Equipment must be supplied by us or otherwise agreed by us.

## **6 EQUIPMENT**

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### **EQUIPMENT REQUIREMENTS**

6.1 You must ensure that your Equipment complies with all relevant technical standards and specifications, including the requirements set out in the Colocation Facilities Guide.

6.2 You acknowledge that the Data Centre and its facilities (including your Equipment) may be subject to laws, regulations and guidelines governing environmental impact, electromagnetic interference and compatibility, hazardous materials, labelling and the like. You must comply with our reasonable requirements in this respect in relation to your Equipment, as advised by us from time to time.

### **DELIVERY, INSTALLATION AND MAINTENANCE**

6.3 You are responsible for delivery, installation and maintenance of your Equipment, at your cost.

6.4 You are responsible for:

- (a) arranging shipment and paying all the associated costs incurred in the shipment of the Equipment to the Data Centre;
  - (b) obtaining all necessary governmental authorisation or clearances of the Equipment, including the payment of all taxes or duties imposed on the Equipment; and
  - (c) paying for all penalties or other charges resulting from your failure to comply with sub-clause (a) or (b) above.
- 6.5 We may agree to receive Equipment on your behalf, on an “as-is” basis and only upon advance arrangement and notification. Unless otherwise agreed, it is your sole responsibility to check and inspect the Equipment. We will not be held liable or responsible for any loss, damage, cost, action, claim or demand, arising from or in connection with the Equipment, except to the extent that the loss, damage, cost, action, claim or demand was caused or contributed to by us.
- 6.6 You acknowledge that the Colocation Space may be shared with our other customers.
- 6.7 We may, upon reasonable written notice to you, change the exact location of the Colocation Space within the Data Centre as we deem appropriate. If this change causes more than a minor detriment to you, you may terminate the Service for the affected Colocation Space without the payment of any Early Termination Charges.
- 6.8 You represent and warrant that you will obtain and maintain throughout the Service Term, consent from your subcontractors, third party providers, vendors, sublicensees and any other parties necessary to permit us, or our Service Provider (including any contractors or others acting at our or our Service Provider’s request) to access your Equipment to provide the Services. You indemnify us from and against any and all loss, damages, liability, claims, costs and expenses (including reasonable attorney’s fees) (**Loss**) which arise naturally (that is, according to the usual course of things) in connection with your failure to comply with the provisions of this clause 6, except to the extent the Loss is caused or contributed by us. We will take reasonable steps to mitigate our Loss suffered in connection with your failure to comply with the provisions of this clause 6.

## REMOVAL AND REINSTATEMENT

- 6.9 You must, at your cost:
- (a) remove your Equipment from the Colocation Space and Data Centre; and
  - (b) deliver the Colocation Space in a condition that is consistent with you having complied with your obligations under this Agreement,
- on or before the effective date of termination of this Service Schedule. But you may not remove any of your Equipment from the Data Centre until you have paid any outstanding balance of undisputed charges then due.
- 6.10 If there is any damage to the Colocation Space or Data Centre caused by the removal of your Equipment, we will repair the damage at your cost.
- 6.11 If there are any works carried out on your Colocation Space (e.g. cage, high density cooling deployment etc.), we will reinstate the Colocation Space to the condition it was in prior to the works being carried out and charge you the reinstatement fee.
- 6.12 You must not remove any equipment from the Data Centre other than your Equipment, unless otherwise agreed by us in writing.
- 6.13 If you do not remove your Equipment within 10 days from termination of the Service Order Form, including where you are not permitted to do so because you have an outstanding balance of undisputed charges then due, you are deemed to have abandoned your Equipment. Title to the abandoned Equipment will pass to us under this Agreement at the end of this period, without further notice from us. You will continue to be liable for any storage costs and agree to reimburse us any costs for the removal and disposal of such abandoned Equipment. You are not entitled to make any claims against us for disposing the abandoned Equipment.

## TITLE AND RISK

- 6.14 You always retain title to your Equipment except as provided in clause 6.13 above. Title to the Colocation Space and other equipment and related materials that support the Colocation Space (including any Cross Connects), remains with us or our Service Provider at all times.
- 6.15 You will not file a mechanic’s or similar lien on, or in connection with the Colocation Space. You are responsible for the immediate satisfaction, payment or bonding of such lien.
- 6.16 We are not liable for any loss or damage to your Equipment (including any other property of yours) while it is in the Data

Centre, except to the extent that the loss or damage was caused by our gross negligence or breach of contract caused or contributed to by us.

## 7 ACCESS

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### ACCESS

- 7.1 You will have access to the Colocation Space where your Equipment is located 365 days per year, subject to the Colocation Facilities Guide or any directions advised by us, or the relevant building owner or manager in relation to the Data Centre.
- 7.2 We and our Service Providers will have access the Colocation Space at any time and are entitled to review, inspect and maintain the Colocation Space or assess whether you are complying with your obligations under this Service Schedule (including assessing any installation and maintenance work performed by you or your Authorised Personnel).

### COLOCATION FACILITIES GUIDE

- 7.3 You must ensure that your Authorised Personnel and Accompanying Person, comply with the Colocation Facilities Guide which forms part of this Service Schedule, and any directions advised by us, or the relevant building owner or manager in relation to the Data Centre.
- 7.4 You acknowledge either receiving, or having had the opportunity to review, a copy of the Colocation Facilities Guide. You can obtain a copy of the Colocation Facilities Guide from us.
- 7.5 If there is any inconsistency between the Colocation Facilities Guide and this Service Schedule, this Service Schedule will prevail to the extent of the inconsistency.

### NO PROPERTY RIGHTS

- 7.6 This Service Schedule does not grant any property rights or interest, or create any lease or sublease, in any real property, including the Data Centre. You acknowledge and agree that you have only been granted a limited and non-exclusive licence to access and use the Colocation Space and the Data Centre for the purpose of installing / removing, operating and maintaining your Equipment in accordance with this Service Schedule.

### CONFIDENTIALITY

- 7.7 For purposes of clarification, the design of the Data Centres, the Services provided and equipment used at the Data Centres and the configuration, interconnection, switching and routing of telecommunication cables, networks and services at the Data Centres, all will be considered our and/ or our Service Providers' Confidential Information.

## 8 CHARGES

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- 8.1 The charges payable by you for each Service are specified in your relevant Service Order Form, and will consist of:
- (a) fixed non-recurring charges;
  - (b) fixed monthly recurring charges; and
  - (c) variable usage charges (where applicable).
- 8.2 The charges for the Remote Hands Service will be billed in 60-minute increments (rounded up to the closest hour) and be based on the actual time taken to complete the required task multiplied by the pre-agreed manhour rate.
- 8.3 If the cost of supplying the Services increases due to a material change in the cost of power to us or the Service Provider (determined by us in our reasonable opinion), we may, by providing reasonable notice in writing to you, adjust the charges. If the updated charges cause you more than a minor detriment, you may cancel the Service without payment of any Early Termination Charges by providing us with written notice delivered within 45 days from our written notice to you under this clause 8.3.
- 8.4 On the Review Date, the charges will increase as set out in the Service Order Form.

## 9 EARLY TERMINATION CHARGES

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- 9.1 If a Service is cancelled or terminated for any reason other than for our material breach, including any termination by us as a result of your material breach, you must pay Early Termination Charges to an amount equal to the actual costs and expenses that we have incurred or committed to in anticipation of providing the Services to you and that cannot be reasonably avoided by us as a result of the termination, which will not exceed an amount equal to 85% of MRC multiplied by the number of months (or part of a month) remaining in the Service Term.

## 10 SERVICE LEVELS

### ENVIRONMENTAL AVAILABILITY

10.1 We aim to keep Environmental Availability at 100%. We calculate Environmental Availability using the following formula:

$$\frac{(\text{Total hours in the relevant month} - \text{Environmental Unavailability} - \text{Exclusion Event time})}{\text{Total hours in the relevant month} - \text{Exclusion Event time}} \times 100\%$$

10.2 Environmental Unavailability means:

- (a) the temperature drops below 18°C or exceeds 27°C; or
- (b) humidity drops below 20% or exceeds 80%,

If Environmental Availability is below 99.99% during any month for a Service at a Data Centre managed and operated by us, you may claim a service level credit (not cumulative) as a percentage of the MRC for the affected Service for that month, as follows:

Environmental Availability		Downtime for reference purposes only	Credit
From (%)	To (%)		
99.99	<100	0 to 4.38 minutes	0% of MRC
99.45	< 99.99	> 4.38 minutes to 240.9 minutes	10% of MRC
98.90	< 99.45	> 240.9 minutes to 481.8 minutes	20% of MRC
< 98.90		> 481.8 minutes	30% of MRC

### POWER AVAILABILITY

10.3 We will aim to provide Power Availability at 100%. We calculate Power Availability using the following formula:

$$\frac{(\text{Total hours in the relevant month} - \text{Power Unavailability} - \text{Exclusion Event time})}{\text{Total hours in the relevant month} - \text{Exclusion Event time}} \times 100\%$$

10.4 If your Service has Power Unavailability in a month, you may claim a service level credit (not cumulative) as a percentage of the MRC for the affected Service for that month, as follows:

#### Data Centres managed and operated by us

Power Availability		Downtime for reference purposes only	Credit
From (%)	To (%)		
99.999	<100	0 to 26.28 seconds	0% of MRC
99.99	< 99.999	> 26.28 seconds to 4.38 minutes	5% of MRC
99.45	< 99.99	> 4.38 minutes to 240.9 minutes	10% of MRC
98.90	< 99.45	> 240.9 minutes to 481.8 minutes	20% of MRC
< 98.90		> 481.8 minutes	30% of MRC

## Data Centres managed and operated by our Service Providers

Power Availability		Downtime for reference purposes only	Credit
From (%)	To (%)		
99.99	<100	0 to 4.38 minutes	0% of MRC
99.45	< 99.99	> 4.38 minutes to 240.9 minutes	5% of MRC
98.90	< 99.45	> 240.9 minutes to 481.8 minutes	10% of MRC
< 98.90		> 481.8 minutes	20% of MRC

## SERVICE CREDIT CAP

10.5 The aggregate service level credits payable in a month for a Service is capped at 30% of the MRC for the affected Service in that month.

## EXCLUSION EVENTS

10.6 Without limiting the definition of Exclusion Events in the Agreement Terms, the following events will also be considered Exclusion Events:

- (a) in respect of Power Unavailability, any period of Power Unavailability that occurs when your Equipment exceeds your Allocated Power; or
- (b) security breaches of the Network, including denial of service attacks, mail "bombs", spamming, network floods, hacking or other security lapses on your systems, equipment and network.

## 11 INSURANCE

11.1 You must, at your cost, effect and maintain adequate insurance policies with reputable insurers during the Service Term, including:

- (a) all risks property damage insurance;
- (b) workers' compensation/employer's liability insurance in accordance with applicable law; and
- (c) third party liability insurance, including coverage for public liability and occupier liability, product liability and independent contractor's coverage.

11.2 At our request, you must provide us with copies of certificates of insurance evidencing your compliance with clause 11.1 above.

## 12 RISK

12.1 If in our reasonable opinion, your use of the Service or use of your Equipment is causing, or is likely to cause, any interference or adverse impact to the Data Centre, its maintenance or other customers' use of the Data Centre, the Network or any equipment, we will notify you to such effect (except in the case of an emergency) and, without limiting any other rights we may have, we will:

- (a) in the first instance, provide you with an opportunity to remedy the situation (at your cost); or
- (b) if you do not take remedial action in accordance with clause 12.1(a), remedy the situation ourselves (at your cost);

but if there is:

- (c) an emergency; or

- (d) the situation cannot be remedied in accordance with clauses 12.1(a) or 12.1(b) within the time notified by us to you,

we or our Service Providers may remedy the situation (at your cost) and/ or temporarily suspend the Service and disconnect your Equipment.

12.2 If we consider it necessary for:

- (a) the protection of the Data Centre, the Data Centre Space, other property of ours, or of the Service Provider, or of any third party;
- (b) the safety or health of any person; or
- (c) compliance with any requirement of any government agency, any applicable law or any obligation owed to any third party,

we may suspend the Service without first being required to issue a notice or waiting for you to rectify a breach.

12.3 If we suspend the provision of the Services, we will also be entitled to deny access and removal of you Equipment from the Data Centre. In addition, we will have a right to terminate the Service Order Form if a breach under clause 12.1 continues for at least 5 days or occurs more than 3 times in any 12 month period.

12.4 You are responsible and liable for all acts or omissions of your Personnel, Accompanying Persons, and Associated Entities and for any equipment or services not provided by us or our Service Providers, and all such acts or omissions will be attributed to you for all purposes under this Agreement.

12.5 You indemnify us and our Service Providers for all losses, damages, costs and expenses (including reasonable legal costs) incurred or suffered, arising naturally (that is, in the usual course of things) from or in connection with:

- (a) any injury to, or death of any person, and any loss of or damage to the real or personal property of a third party caused by any act or omission of you or your Personnel;
- (b) any negligent or unlawful act or omission of you or your Personnel, your Authorised Personnel, Accompanying Persons, and Associated Entities;
- (c) any claim by any of your:
  - (i) Authorised Personnel, Accompanying Persons or Associated Entities;
  - (ii) any of your employees; or
  - (iii) any of your end users and customers (other than a claim based on our gross negligence or wilful misconduct); and
- (d) any claim brought by your customers or end users or other third parties to the extent directly arising out of your, or any of your customers', services, equipment (including your equipment), your use of the Services in breach of this Agreement (including claims relating to interruptions, suspensions, failures, defects, delays, impairments or inadequacies) in any of the aforementioned services, including our Services, except to the extent the losses, damages, costs and expenses are caused or contributed by us.

. We will take reasonable steps to mitigate our loss, damages, cost or expenses suffered in connection with (a)-(d).

12.6 You acknowledge and agree that we may change the Service due to any requirements, new laws or regulations issued or enacted by the government or any other lawful authority where the Data Centre is located, by giving you reasonable notice.

12.7 You acknowledge that all or part of the Service may be provided by our Service Providers. If a Service Provider ceases or suspends the supply of anything that is necessary for us to provide the Service, we may:

- (a) migrate you to a modified or an alternative service which is substantially similar to the Services; or
- (b) cancel the Service if we are not able to offer you a modified or alternative service which is substantially similar to the Service, or which otherwise does not meet the requirements for the relevant Service as described in your Service Order Form.

If the service to which we propose you migrate is detrimental to you, you may cancel the Service prior to any migration

without the payment of any Early Termination Charges.

12.8 If we migrate you to a modified or an alternative service under clause 12.7(a) during the Initial Period or during a 12 month automatic extension, we will pay the reasonable once-off costs:

- (a) of installing equipment in a new colocation space where your Equipment will be located, which is required to provide you with services substantially similar to the Services or any Additional Services (as the case requires). For example, the once-off cost of installing the same, or substantially similar, cage or rack equipment in a colocation space; and
- (b) required to relocate the Services to a new physical Colocation space. For example, the once-off costs of relocating local loops or connections from the previous colocation space to a new colocation or the once-off costs of transporting and installing your Equipment from the previous colocation space to a new colocation space.

(each a 'Migration Cost')

The parties will agree on any additional fees and charges which are not Migration Costs prior to the migration.

12.9 Despite any other term in this Agreement, you agree that we may by written notice to you novate all or any part of the Data Centre Services we provide to you to a third party.

## 13 DEFINITIONS

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13.1 In this Service Schedule, unless otherwise stated:

**Allocated Power** means with respect to the Service, the Power set out in your Service Order Form that is allocated to each Colocation Space (or portion thereof) in respect of your Equipment.

**Accompanying Persons** means each person (other than an employee of the Data Centre) who is accompanied by an Authorised Personnel while at a Data Centre.

**Associated Entity** means each individual, company, partnership or other entity of any type which employs, contracts with, or is otherwise associated or affiliated with any of your Authorised Personnel or Accompanying Persons.

**Authorised Personnel** means those Personnel authorised by you to access the Data Centre and your Equipment.

**CPI** means the Consumer Price Index published by the relevant Bureau of Statistics (or equivalent) in the country in which the Data Centre is located for the period that most recently precedes the current Review Date.

**Colocation Facilities Guide** means the Colocation Facilities Guide, setting out the technical, operational, security and access standards, policies and procedures relating to the Service and the Data Centre(s), as amended from time to time.

**Colocation Space** means the specific location within a Data Centre where your Equipment will be located, including racks (or partial space in a rack), cabinets, cages and private rooms depending on the Data Centre, as set out in your Service Order Form.

**Customer** means you or your.

**Data Centre** means the facility set out in your Service Order Form, in which the Service is provided.

**Equipment** means your equipment and hardware (including any embedded software) which is installed in the Colocation Space at the Data Centre.

**Environmental Availability** means a temperature between 20°C and 25°C, and a humidity between 30% and 70%.

**Environmental Unavailability** is defined under clause 10.2 above.

**Installation Period** means the period between the date of acceptance of a Service Order Form by us for a Service, and the Service Start Date for that Service.

**Month** or **month** means a calendar month.



**MRC** means the fixed monthly recurring charges for the Colocation Space, excluding any charges for the Remote Hands Service and charges for third party services.

**Network** means a system or series of systems that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic or optical energy.

**Power** means the electricity power (kVA or kW) supplied to your Equipment through the Power Feeds.

**Power Availability** means the Power is not subject to Power Unavailability.

**Power Feed(s)** means an electrical power cable between the nearest local power distribution point for the power system of the Data Centre to the cabinet where your Equipment is located.

**Power Unavailability** means a total interruption to the Power supplied to your functioning Equipment, commencing at the time it is reported by you to us. If the Power is supplied by means of dual Power Feeds, Power Unavailability only occurs during the period when there is a simultaneous interruption of both of the Power Feeds.

**Remote Hands Service** means the remote support we provide in respect of your Equipment, as described in clause 4 of this Service Schedule.

**Review Date** means the anniversary of the date on which we commence billing you for the Service.

**Telstra** means us, our or we.

## APPENDIX A: EQUINIX DATA CENTRE

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### TERM

- 1.1 Notwithstanding clause 2.1 above, each must notify the other at least 100 days before any automatic extension if it does not wish the Initial Period to extend automatically.

### POWER

- 1.2 For Services provided in an Equinix Data Centre, clause 3.2 above is replaced by the following:

If your actual Power exceeds the Allocated Power, we will notify you and you must reduce Power draw to be equal to or less than the Allocated Power within 72 hours (or as otherwise agreed) or we may, in our sole discretion, either charge you for the power overage at a maximum of twice the kVA rate for the Colocation Space, or suspend your Power to return to Allocated Power compliance.

### LIABILITY

- 1.3 To the extent permissible at law, we exclude liability for personal injury, death and property damage, except to the extent caused by our gross negligence, intentional misconduct or breach of contract.

### SERVICE LEVEL AGREEMENT

- 1.4 The following are the exclusive service level agreements that will apply to the Service provided at an Equinix Data Centre. The service levels included in clauses 10.1 to 10.6 above, both included, do not apply.

### POWER SERVICES

- 1.5 **Redundant Power at 99.999+% availability.** This is met by achieving less than five (5) minutes of Redundant Power Unavailability over a twelve (12) month period ("Redundant Power SLA Threshold") per cabinet. Subject to clause 1.9(c) below, if Redundant Power Unavailability exceeds the Redundant Power SLA Threshold, you will be entitled to a service level credit equal to 1/30th of the Monthly Recurring Charges ("MRC") for the affected power circuits and Colocation Space MRC for the cabinet attached thereto ("Loaded Cabinet MRC"). Further, you will be entitled to an additional service credit equal to 1/30th of Loaded Cabinet MRC for the affected Loaded Cabinet for every full hour of Redundant Power Unavailability beyond the Redundant Power SLA Threshold.
- 1.6 **Non-Redundant Power at 99.99+% availability.** This is met by achieving less than fifty-two (52) minutes of Non-Redundant Power Unavailability over a twelve (12) month period ("Non-Redundant Power SLA Threshold") per cabinet. Subject to clause 1.9(c) below, if Non-Redundant Power availability exceeds the Non-Redundant Power SLA Threshold, you will be entitled to a service level credit equal to 1/30th of the Loaded Cabinet MRC for the affected Loaded Cabinet. Further, you will be entitled to an additional service credit equal to 1/30th of Loaded Cabinet MRC for the affected Loaded Cabinet for every full hour of Non-Redundant Power Unavailability beyond the Non-Redundant Power SLA Threshold.

### COLOCATION SPACE ENVIRONMENTAL SERVICES

- 1.7 **Temperature at 99.99+% availability.** This is met by achieving less than fifty-two (52) minutes of Temperature Unavailability over a twelve (12) month period ("Temperature SLA Threshold") per cabinet. Subject to clause 1.9(c) below, if Temperature Unavailability exceeds the Temperature SLA Threshold, you will be entitled to a service level credit equal to 1/30th of the Loaded Cabinet MRC for the affected Loaded Cabinet. Further, you will be entitled to an additional service level credit equal to 1/30th of Loaded Cabinet MRC for the affected Loaded Cabinet for every full hour of Temperature Unavailability beyond the Temperature SLA Threshold.
- 1.8 **Humidity at 99.99+% availability.** This is met by achieving less than fifty-two (52) minutes of Humidity Unavailability over a twelve (12) month period ("Humidity SLA Threshold") per cabinet. Subject to clause 1.9(c) below, if Humidity Unavailability exceeds the Humidity SLA Threshold, you will be entitled to a service level credit equal to 1/30th of the MRC for the affected Loaded Cabinet. Further, you will be entitled to an additional service level credit equal to 1/30th of Loaded Cabinet MRC for the affected Loaded Cabinet for every full hour of Humidity Unavailability beyond the Humidity SLA Threshold.

### GENERAL

- 1.9 For avoidance of doubt, we measure Temperature and Humidity Unavailability between three (3) and five (5) feet from the floor and no closer than twelve (12) inches from the cool air intake side of a cabinet. You shall not be entitled to a service credit:

- (a) if you do not request a credit from us in writing within thirty (30) days after the end of the month in which the incident entitling you to a credit has been remedied;
- (b) if the event or condition that would have otherwise given rise to the credit was caused by any Exclusion Event, as defined in the Agreement Terms; and
- (c) in any of the following events:
  - (ii) in respect of Power Unavailability, any period of Power Unavailability that occurs when your Equipment exceeds your Allocated Power; and
  - (iii) security breaches of the Network, including denial of service attacks, mail “bombs”, spamming, network floods, hacking or other security lapses on your systems, equipment and network.

The aggregate service level credits payable in a month for a Service is capped at 30% of the MRC for the affected Service.

## **PAYMENT**

- 1.10 You may only make a claim that the charges on an invoice for the Services are incorrect within 180 days of receipt of the initial invoice.

## **SUSPENSION AND TERMINATION**

- 1.11 For the purposes of clause 12.1 above, you must within a reasonable time, not to exceed 4 hours or such shorter time as is necessary in the event that the interference threatens the life or physical safety of any person in the Equinix Data Centre:
- (a) cease such interference;
  - (b) provide a plan acceptable to us and our Service Provider to cease such interference; or
  - (c) authorise our Service Provider to take action to cease such interference.

- 1.12 If a material breach of this Service Schedule (other than where you fail to cure a non-payment) cannot be remedied within 30 days, the breaching party shall be given a reasonable time, but not to exceed 60 days after receipt for the notice, to remedy the breach, provided that the breaching party acts promptly and diligently to remedy the same.

- 1.13 Not Used.

## **NO PUBLICITY**

- 1.14 Neither party may publicly refer to the other party (nor to our Service Providers), orally and in writing, as a customer or vendor of services of or to the other party, as the case may be without the other party's prior written consent.

## **INSURANCE**

- 1.15 You agree to maintain at all times the following insurance, at your expense, for each Equinix Data Centre during the Service Term, with insurers having a minimum AM Best rating of A- VII: (i) Commercial General Liability or Public Liability Insurance with a limit of US\$1,000,000 per occurrence, US\$2,000,000 in the aggregate or the local currency equivalent. Such insurance will include coverage, for bodily injury, death and property damage; (ii) Workers' Compensation and Employer's Liability insurance where required by local statute with a minimum limit of US\$1,000,000 or the local currency equivalent; (iii) Umbrella or Excess Liability insurance with a limit of no less than Two Million U.S. Dollars (US\$2,000,000) or the local currency equivalent; (iv) All Risks Property Insurance on a replacement cost basis with limits adequate to cover the value of your Equipment.
- 1.16 Not Used.
- 1.17 Total required limits may be a combination of primary and excess policies. No policies mentioned above will have a deductible or self-insured retention greater than US\$100,000, or the local currency equivalent. You will furnish us with certificates of insurance upon request that evidence the minimum levels of insurance set forth herein and which list Equinix as an additional insured on the Commercial General Liability policy and designate that your insurance is primary and non-contributory. You will add Equinix's landlords as additional insureds upon the request of Equinix. You waive your insurer's rights of subrogation on all policies referenced in clause 1.15 above. You shall provide thirty (30) days' prior written notice of any cancellation, non-renewal or failure to renew the insurance policies in clause 1.15 above.

## DEFINITIONS

1.18 For the purposes of this clause, the following definitions mean:

**Equipment** includes all network, computer and other equipment provided, owned or controlled by you (or your Authorised Personnel).

**Humidity Unavailability** occurs when the humidity drops below twenty five percent (25%) or exceeds sixty-five percent (65%).

**Non-Redundant Power Unavailability** occurs when a functioning cabinet is powered by one (1) power circuit, and the power circuit experiences an interruption in electrical power such that the cabinet experiences an interruption in electrical power.

**Redundant Power Unavailability** occurs when a functioning cabinet that includes automatic failover capability provided by you is powered by two (2) power circuits from different power busses, and both power circuits experience a simultaneous interruption in electrical power such that the cabinet experiences an interruption in electrical power

**Temperature Unavailability** occurs when the temperature drops below 64.4 F (18 C) or exceeds 80.6 F (27 C).

## 2 ORDER OF PRECEDENCE

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2.1 Unless otherwise expressly stated in this Appendix, capitalised terms used in this Appendix have the same meaning as terms defined in the Agreement Terms or Colocation Service Schedule.

2.2 This Agreement is subject and subordinated to the leases for the Data Centres and all superior instruments to such leases.

2.3 In relation to the provision of your Service at the Data Centres referred to in this Appendix, and notwithstanding any provision in the Service Order Form, Service Schedules or Agreement Terms, or any other document attached to or referenced in the said documents that form part of the Agreement, including any Data Centre guide or policies, if there is any inconsistency or conflict between:

(a) the Data Centre-specific terms and conditions above, and

(b) any part of the Agreement,

the Data Centre-specific terms and conditions above shall prevail and control to the extent of such inconsistency or conflict.

## Appendix A1: CORESITE DATA CENTRE

- 1.1 The following Data Centre-specific terms and conditions shall apply to the Service provided at CoreSite's NY2Data Centres managed by our Service Provider, which is located at 2 Emerson Lane, Secaucus, NJ07094, USA.

### SERVICE LEVELS – ENVIRONMENTAL AVAILABILITY

- 1.2 For the avoidance of doubt, the following are the exclusive service level agreements for environmental availability that will apply to the Service provided at CoreSite's NY2 Data Centre. The service levels included in clause 10.1 to clause 10.6 above do not apply.
- 1.3 If your Service at the Data Centre encounters temperature or humidity issues as described in Table 1 in any month, you may claim a service level credit (not cumulative) as a percentage of the MRC for the affected Service for that month in accordance with Table 1.

**Table 1**

	Service Description	Service Level	Measurement Period	Service Level Credit
Temperature	Average temperature at the Data Centre, over a full calendar day period, is less than 19°C or more than 25°C (as measured by our Service Provider at 48" from the floor in the Cold Aisle), provided that the Equipment in the applicable individual Space is being used by you in the ordinary course of business	100% Service Availability	Monthly	10% of MRC for the affected Service
	Average temperature at the Data Centre, over a one-hour period, is less than 15°C or more than 32°C (as measured by our Service Provider at 48" from the floor in the Cold Aisle), provided that the Equipment in the applicable individual Space is being used by you in the ordinary course of business	100% Service Availability		25% of MRC for the affected Service
Humidity	Average Relative Humidity at the Data Centre, over a full calendar day period, is less than 35% or more than 60% (as measured by our Service Provider at 48" from the floor in the Cold Aisle), provided that the Equipment in the applicable individual Space is being used by you in the ordinary course of business	100% Service Availability	Monthly	10% of MRC for the affected Service
	Average Relative Humidity at the Data Centre, over a one-hour period, is less than 20% or more than 80% (as measured by our Service Provider at 48" from the floor in the Cold Aisle), provided that the Equipment in the applicable individual Space is being used by you in the ordinary course of business	100% Service Availability		25% of MRC for the affected Service

### POWER

- 1.4 You must ensure that your actual Power use does not exceed your Allocated Power. If your actual Power use exceeds your Allocated Power, you must reduce your Power use within 5 Business Days of us notifying you to do so. If you fail to reduce your Power use as required by us, we may:
- charge you USD500.00 per day for your excessive use of Power from the first day, included, in which you exceeded your Allocated Power; or
  - disconnect some of your Equipment, or suspend your Service, by giving you at least 7 days' notice.

## DEFINITIONS

1.5 For the purposes of this clause, the following definitions mean:

**Cold Aisle** means a cold aisle designed by the Data Centre in the applicable individual Space.

**Space** means colocation space in a Data Centre

## 2 ORDER OF PRECEDENCE

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2.1 Unless otherwise expressly stated in this Appendix, capitalised terms used in this Appendix have the same meaning as terms defined in the Agreement Terms or Colocation Service Schedule.

2.2 This Agreement is subject and subordinated to the leases for the Data Centres and all superior instruments to such leases.

2.3 In relation to the provision of your Service at the Data Centres referred to in this Appendix, and notwithstanding any provision in the Service Order Form, Service Schedules or Agreement Terms, or any other document attached to or referenced in the said documents that form part of the Agreement, including any Data Centre guide or policies, if there is any inconsistency or conflict between:

(c) the Data Centre-specific terms and conditions above, and

(d) any part of the Agreement,

the Data Centre-specific terms and conditions above shall prevail and control to the extent of such inconsistency or conflict.

## APPENDIX B: DIGITAL REALTY DATA CENTRE

### TERM

- 1.1 Notwithstanding clause 2.1 above, each must notify the other at least 100 days before any automatic extension if it does not wish the Initial Period to extend automatically.

### POWER

- 1.2 For Services provided in this Appendix B, clause 3.2 above is replaced by the following:

The Customer shall:

- (a) not exceed the Basic Capacity described in a Service Order Form, or exceed the maximum cabinet or rack power density for, or draw more than, 80% of each electrical power circuit's rated capacity at any time;
- (b) ensure that the total power draw of any power circuit (A-side, B-side or A-side and B-side combined) does not exceed 80% of the primary (A-side) capacity;
- (c) properly use the "A+B" or dual corded power circuit delivery so that Equipment can continue to operate during an interruption of one of the dual power circuits;
- (d) balance the loading of any redundant circuit pair evenly (50%) of the load on the primary, and 50% of the load on the secondary, as applicable; and
- (e) balance its loading across phases of any three-phase circuits provisioned to the Cabinet(s) or rack(s). If Telstra notifies the Customer that the Customer has violated any of the requirements of this clause, the Customer must take immediate action to remedy such non-compliance.

Telstra may measure the Customer's actual electrical usage using methods and systems, including sub-meters, pulse meters, electrical surveys, engineer's estimates, or branch circuit monitoring. If Telstra notifies the Customer that the Customer has exceeded the applicable Basic Capacity, the Customer will take immediate action to reduce its power consumption to be at or below the applicable Basic Capacity within 3 days. In addition to any other remedies Telstra may have under the Agreement, if the Customer exceeds the Basic Capacity during any month for more than 3 days, then Telstra may charge the Customer a fee equal to 150% of the product of (i) the MRCs on a per kW basis and (ii) the kW/hour/month in excess of the Basic Capacity in such month.

### SERVICE LEVEL

- 1.3 The Service Levels and Service Level Credits for the Services in this Appendix B are set out below.

### CALCULATION OF SLA CREDITS

- 1.4 The Service Level Credits are calculated as follows:

Monthly metrics are calculated according to the following formula:

$$\text{Availability} = \frac{(\text{Total Period Time} - \text{Maintenance Time}) - \text{Downtime}}{(\text{Total Period Time} - \text{Maintenance Time})} * 100\%$$

- 1.5 A Service Level Credit of 1 day is defined as 1/30 of the MRC whereby the Service Level Credit is calculated by applying the portion (1/30) of the MRC attributable to the affected Cabinet (for power, temperature and humidity) or interconnection service. The following shall have the following meanings:

- (a) **Total Period Time:** is the average total time in one month (30 days).
- (b) **Maintenance Time:** is the scheduled shutdown which is Service affecting and for which Customer has been notified.
- (c) **Downtime:** is the time during which the respective Services are not available due to unscheduled or unplanned outages.
- (d) **Response Time:** is the period of time between the moment Telstra has logged Customer's request and the moment an engineer has contacted the Customer to report that the engineer is ready to start work.
- (e) **Mixed Cabinet Environment:** is an area with one or more Cabinets.

## SERVICE LEVEL AC POWER AND DC POWER

- 1.6 Except as otherwise stated herein, Telstra will use commercially reasonable efforts to ensure that critical data centre power infrastructure supporting the Services will be available 100% of the time. If Customer has purchased power circuits of the same size that are designated as primary and redundant power services and both services are unavailable at the same time within the Customer's environment due to a failure of the data centre's critical infrastructure, Customer shall be entitled to a credit in accordance with the chart below:

Service Level	Length of Service Level breach	Service Level Credit
100% Availability	Up to 30 minutes	Two days' MRC of the affected Cabinet.
	31 to 60 minutes	Four days' MRC of the affected Cabinet.
	Greater than 60 minutes	Seven days' MRC of the affected Cabinet.

- 1.7 The point of demarcation for the Customer's environment for the purposes of power availability will be the first power plug receptacle after the breaker on any power circuit deployed at a Customer's cabinet, rack, cage or suite and does not include Customer's electrical connections within the cabinet, rack, cage or suite.
- 1.8 Unless otherwise agreed between Customer and Telstra, Service Level power is subject to Customer complying with the Agreement including any policies relating to equipment layout and power usage, including:
- properly using the "A+B" circuit delivery so that the Equipment can continue to operate during an interruption of one of the dual power feeds;
  - ensuring that total power draw of any A-Side or B-Side power circuit or A-side, B-side pair of power circuits combined does not exceed 80% of the primary (A-side) allotment and balancing the loading of any redundant circuit pair evenly (50% of the load on the primary, and 50% of the load on the secondary), as applicable;
  - balancing its loading across phases of any three-phase circuits provisioned to their Cabinets;
  - drawing only its contracted amount of power; and
  - drawing only up to the maximum Cabinet power density of the Customer Area.

In addition to the above, Telstra recommends the use of an in-rack static transfer switch to support single corded devices (devices with a single power supply). The purchase and installation of these static transfer switches remain the Customer's responsibility at all times and any failure of a static transfer switches to operate correctly during a power interruption is not considered to be a Service Level breach. Telstra requires the Customer to select an appropriate make and model of static transfer switch to ensure compatibility and to prevent any potential interference with Telstra's or its vendor's upstream electrical infrastructure. Telstra may provide guidance on the installation and set-up of these devices if required.

- 1.9 Telstra shall provide to the Customer monthly reports of the Service Levels which will include, but not limited to, the total power drawn of all A-Side and B-Side power circuit, the total power drawn across each phase of the circuits provisioned to the Cabinets and the contracted power.

## COLOCATION SPACE ENVIRONMENTAL SERVICES

- 1.10 Telstra will use commercially reasonable efforts to ensure the average supply air temperature in the designated cold aisle in the data centre will remain between 15 °C to 32 °C (59 °F to 89.6 °F) and similarly, that the relative humidity of the supply air in the designated cold aisle of the data centre will remain between 20% and 80%.

In the event of any Service Level breaches of the above, the Service Level Credits are set out below:

Service Level	Length of Service Level breach	Service Level Credit
100% Availability	Up to 90 consecutive minutes	Nil
	91 to 120 consecutive minutes	Three days' MRC of the affected Cabinet.
	Greater than 120 consecutive minutes	Five days' MRC of the affected Cabinet.

- 1.11 A breach of the Service Level shall be defined as temperature or humidity conditions being continuously outside the temperature or relative humidity range for more than the time mentioned in the table above (on average, measured



across vendor installed sensors either in the cold aisle or under the raised floor (as applicable)).

1.12 Temperature and humidity-related Service Levels do not apply:

- (a) if the Customer has not complied with any policies (unless as agreed otherwise between the parties) and requirements including but not limited to the required deployment of blanking panel;
- (b) air pressure loss due to improper closure of the closed aisle containment door;
- (c) lack of deployment of hot aisle containment in a non-raised floor environment;
- (d) relating to equipment deployment, such as, improperly positioned Equipment venting heated air into designated cold aisles, changes to the layout by Customer that were not submitted to Telstra for advice regarding airflow and cooling before implementation of such changes; and
- (e) during the initial implementation time of Customer (e.g. Customer installing servers in the Equipment as this period will be used for mutual fine tuning of perforated tiles and air flow). Customer will inform Telstra by written notice when the initial implementation by the Customer is finalized. Subsequently Telstra will inform the Customer by written notice from which date and time the Service Level is applicable.

1.13 Parties acknowledge that climate control is a critical variable, which can be influenced by changes to the infrastructure and layout. Therefore, parties agree that optimizing airflow and cooling is a mutual responsibility. Nonetheless, the availability of sufficient cooling capacity in terms of kW is the sole responsibility of Telstra.

1.14 In order to maintain the Service Level, the use of a closed corridor setup and blanking panels as needed for specific hot spot issues, is mandatory. Customer has to connect its Equipment in such a way that no warm air is blowing into the cold aisle.

1.15 Service Levels and Service Level Credits do not apply to service interruptions or Service Level breaches associated with or caused by:

- (a) scheduled, emergency or Customer-requested service interruptions or maintenance windows;
- (b) new installations;
- (c) a claim based on Customer or third-party measurements and that have not been verified by Telstra;
- (d) trouble tickets opened by Customer for service monitoring purposes only, or opened erroneously;
- (e) for circuit releases required by Customer for testing;
- (f) acts or omissions of anyone other than Telstra, Telstra's employees, contractors, agents or others acting on Telstra's behalf including (i) Customer; (ii) Customer's customers, employees, contractors, agents, or others acting on Customer's behalf; or (iii) third party carriers or other third-party service providers which are not acting under Telstra's instructions or on Telstra's behalf;
- (g) use of Telstra's products, services, and networks, contrary to applicable contract requirements or any policies, including electrical consumption overage;
- (h) that are erroneously reported as a result of outages or errors of any Telstra or vendor measurement system;
- (i) Force Majeure Events;
- (j) an event of casualty or condemnation (as defined below);
- (k) failure or malfunction of equipment, applications or systems not owned or controlled by Telstra, including equipment owned by Customer, or third party service providers;
- (l) Customer's failure to allow entry by Telstra or make facilities or components available to Telstra for testing or repair, or failure to otherwise comply with Telstra's reasonable instructions and service requirements;
- (m) during any period that Customer is in default at the time a Service Level breach occurred, or an Service Level Credit is requested;
- (n) Customer's failure to take advantage of the redundant electrical design of the data centre (e.g., Customer "single-cords" its equipment in a scenario where "dual-cording" of Customer's equipment is available); and

(o) to anyone other than a Customer with a current and valid agreement with Telstra.

For the purposes of item (j) above, casualty or condemnation means the following:

If there is material damage to, destruction of or condemnation of the data centre or the Customer Area preventing the use thereof or the provision of the Services, (i) Service Level Credits and remedies will not apply; (ii) Customer's obligation to pay for the Services not provided shall abate as of the date of the occurrence of such material damage, destruction of or condemnation of the data centre or Customer Area; (iii) we may, in our discretion, terminate the impacted Service Order Form (or Services) upon notice to Customer, thereby terminating all further obligations between the parties with respect to the impacted Service Order Form (or Services), provided that any obligations that accrued prior to the date of termination shall remain in force; and (iv) Customer may terminate the impacted Service Order Form within 10 (ten) calendar days after receipt of notice from Telstra that the estimated amount of time to restore would be greater than 60 (sixty) calendar days. If the impacted Service Order Form is not terminated, the MRCs will be reduced proportionately during the restoration period to the extent that the Customer Area is unfit for use by Customer in the ordinary course.

For the purposes of clause 1.15 of this Appendix B, "Customer" shall include, without limitation, Customer's employees, agents, partners, members, contractors, invitees and customers.

## INSURANCE

1.16 Commencing as of the earlier of (a) the commencement of the Term, or (b) the date Customer first places any Equipment or personal property in the data centre, and continuing until the expiration of the Term thereafter, Customer will maintain at Customer's expense the following insurance at the minimum limits shown (Required Insurance).

Liability Insurance – General Liability insurance written on an occurrence basis (or local equivalent) and, if necessary, umbrella/excess liability covering third party liability for bodily injury, property damage and personal injury arising out of its operations or its contractors	\$5,000,000 USD per occurrence or equivalent sum in local currency
Workers' Compensation and Employers Liability insurance, or local equivalent, to the extent required by applicable law	Workers Compensation for full statutory benefits and Employers Liability, greater of \$500,000 USD per accident or equivalent sum in local currency or the minimum required by law
Property insurance covering owned and leased property and equipment written on a broad perils insurance policy form such as a special causes of loss or local equivalent.	Full replacement cost value, which may be met through "blanket limits"

## ADDITIONAL INSURED/WAIVERS

1.17 The Required Insurance shall name: "Telstra Singapore Pte Ltd" (or any other Telstra entity as informed by us to you) and its affiliated and subsidiary entities; the owner of the data centre; and all of their respective directors, officers, employees, members, managers, agents, partners, mortgagees and lenders and other reasonably designated parties as additional insured (or local equivalent) for ongoing and completed operations and such coverage shall be primary to and non-contributory with any insurance carried by the aforementioned parties. To the maximum extent permitted by applicable laws, and notwithstanding anything in this Agreement to the contrary, Customer waives and will cause its insurers to waive against the aforementioned parties, all rights of recovery (by way of subrogation or otherwise), for claims that are or would have been customarily covered by Required Insurance.

## CERTIFICATES OF INSURANCE

1.18 Prior to storing or installing any Equipment in, or otherwise accessing, the data centre or Customer Area, and upon renewal of Required Insurance, Customer must provide Telstra with evidence of Required Insurance, including certificates of insurance or other policy documentation, confirming full compliance with the terms of these insurance clauses. Copies of the additional insured, primary and non-contributory, and waiver of subrogation endorsements shall be attached to the certificates of insurance and any self-insured retention levels shall be disclosed.

## GENERAL

1.19 Required Insurance herein shall be issued by financially sound insurers authorized to conduct business in the jurisdiction where the data centre is located and having a minimum AM Best rating of A-, VIII, or if not rated by AM Best, a comparable financial rating by Fitch, Moody's, S&P, Kroll or other reputable rating agency. Customer shall notify Telstra at least 10 calendar days prior to cancellation or reduction of Required Insurance.

## CUSTOMER CONTRACTOR/SUBLICENSEE INSURANCE

- 1.20 Customer shall cause any of its contractors accessing the data centre or Common Area and any of its sublicensees to maintain levels and types of insurance as required by Telstra or its vendor. At a minimum, such contractors and sublicensees shall maintain:
- (a) Liability Insurance written on an occurrence basis with minimum limits of USD \$1,000,000 or equivalent sum in local currency and shall include the parties designated in clause 1.17 above as additional insureds (or local equivalent) for ongoing and completed operations;
  - (b) workers compensation insurance as required by applicable law, and
  - (c) automobile/motor vehicle liability insurance if work involves use of motor vehicles. Customer's contractors and sublicensees shall be required to waive all rights of recovery against, and to cause its insurer to waive all rights of subrogation against, the parties designated in clause 1.17 above. Upon request, Customer shall provide to Telstra a certificate of insurance for any contractor or sublicensee.
- 1.21 Notwithstanding the insurance clauses above, Customer shall have the right to not maintain the Required Insurances and satisfy its insurance obligations by providing Telstra with at last thirty (30) days' prior notice of Customer's election to self-insure, provided that:
- (a) any self-insurance permitted under this clause shall be deemed to contain all of the terms and conditions applicable such insurance as required hereunder, including but not limited to a waiver of subrogation (i.e., the terms that would apply to insurance otherwise purchased through a commercial provider);
  - (b) Customer shall, during the period Customer elects to self-insure, shall have and maintain an S&P credit rating of at least BBB- or a net worth of at least AUD \$10 Billion;
  - (c) Customer administers its self-insurance in a commercially reasonable and prudent manner, with adequate cash reserves set aside for claims; and
  - (d) Customer shall be deemed to have assumed all of the obligations that a commercial carrier of the applicable insurance would have otherwise reasonably assumed if Customer had not elected to self-insure.
- 1.22 Customer's election to self-insure shall not reduce or limit Customer's indemnity obligations set forth in the this Service Schedule or the Agreement and Customer hereby agrees to indemnify, defend, waive, release and hold harmless Telstra from any and all claims, losses, expenses, damages and liability (including associated court costs and reasonable attorney's fees) for which Telstra is or may be held liable based on or arising out of any act, occurrence or inaction that would have been covered by such insurance had Customer maintained the same. For the avoidance of doubt, if Customer's self-insurance is not maintained as required under this clause, Customer shall be required to carry and maintain such insurance policies in the required minimum amounts (i.e. Required Insurance).

## EVENTS OF DEFAULT

- 1.23 Telstra is entitled to recover from the Customer all damages Telstra may suffer by reason of any termination and all reasonable costs (including reasonable court costs and attorneys' fees) to exercise its remedies and recover amounts due hereunder. In addition, Telstra may declare due and payable immediately the aggregate MRCs and other charges and assessments that would otherwise become due and payable during the remainder of the Term (the Customer and Telstra agreeing that Telstra's actual damages in such event are impossible to ascertain and the amount set forth above is a reasonable estimate thereof). The Customer shall not be permitted to remove any Equipment from the Customer Area at a time when the Customer is delinquent in meeting its payment obligations or is in breach of any other material term of the Agreement.

## VACATING THE CUSTOMER AREA.

- 1.24 If the Customer does not surrender the Customer Area by the end of the applicable Term, the Customer shall pay 150% (one hundred and fifty percent) of the MRCs payable during the last month of the Term for each month, or part thereof, beyond the end of the applicable Term, and all other fees attributable to the Customer Area and Services until the Customer complies with the terms. During any holdover period, the Customer will be required to surrender the Customer Area at any time following notice from Telstra.

## DEFINITIONS

- 1.25 For the purposes of this Appendix B, the following definitions mean:

**Basic Capacity** means the basic power capacity described in a Service Order Form.

**Business Hours (if any)** means the hours from 09.00 to 17.00 on a Business Day.

**Cabinet** means the cabinet or rack that can hold Equipment in the data centre.

**Customer Area** or **Premises** or **Licensed Area** means the location in the data centre, licensed under an order to Customer, where the Equipment can be placed.

**MMR** or **Connectivity Area (if any)** means a Meet-Me Room or POP Room as designated by Telstra. The terms MMR, Meet-Me-Room, Interconnection Area and/or POP Room may be used interchangeably in the Agreement.

**NRC** (if any) means the non-recurring (or "one time") fees for Services, as specified in the Service Order Form, including, but not limited to, installation/deinstallation fees and technical support/remote hands fees.

## **2 ORDER OF PRECEDENCE**

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- 2.1 Unless otherwise expressly stated in this Appendix, capitalised terms used in this Appendix have the same meaning as terms defined in the Agreement Terms or Colocation Service Schedule.
- 2.2 This Agreement is subject and subordinated to the leases for the Data Centres and all superior instruments to such leases.
- 2.3 In relation to the provision of your Service at the Data Centres referred to in this Appendix, and notwithstanding any provision in the Service Order Form, Service Schedules or Agreement Terms, or any other document attached to or referenced in the said documents that form part of the Agreement, including any Data Centre guide or policies, if there is any inconsistency or conflict between:
- (e) the Data Centre-specific terms and conditions above, and
  - (f) any part of the Agreement,

the Data Centre-specific terms and conditions above shall prevail and control to the extent of such inconsistency or conflict.

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