



TELECOMMUNICATIONS LICENSE TERMS AND CONDITIONS

The following terms apply to fiber and related products licensed by Planet Networks, Inc. or any Affiliate thereof, where incorporated by reference in a contract or order form executed by any of those provider entities and by the customer or licensee. For purposes of this Agreement, the term “Planet” shall mean the entity identified as the “Planet” or “Company” on the Order Form, or the Affiliate of Planet actually licensing the Product pursuant to Section 1.3 below.

PART I—GENERAL TERMS APPLICABLE TO ALL FIBER PRODUCTS

The following terms apply to all products licensed by Planet:

1. PRODUCTS, ORDER FORMS, AND SUPPLEMENTS.

1.1 Products and Order Forms. This Agreement applies to each telecommunications facility, or product, provided or licensed by Planet to Licensee (each a “Product”). Each Product will be specified in an order form executed by the Parties (each an “Order Form”). Purchase orders issued by Licensee shall not be deemed to amend, modify or supplement this Agreement or any Order Form issued hereunder and shall not be legally binding on Planet unless otherwise agreed in writing by Planet. The term “Customer” or “Licensee” shall mean the entity identified on the Order Form. Planet and Licensee are collectively referred to as the “Parties” or individually as a “Party”.

1.2 Supplemental terms. As further detailed herein, specific types of Services are subject to additional terms and conditions as detailed in Parts II, III, IV, V and VI of these terms and condition (each of Part II, Part III, Part IV, Part V and Part VI is sometimes referred to herein as a “Supplement”).

1.3 Planet Affiliates. At Planet’s option, Products may be provided or licensed by Planet, or by an Affiliate of Planet. Any charges or other amounts received by Planet under this Agreement, to the extent attributable to Products provided or licensed by an Affiliate of Planet, shall be received by the Planet in its capacity as an agent on behalf of such Affiliate. Internet access may be provided by Planet’s affiliates, Planet Fiber NJ LLC (NJ), or Planet Fiber NY LLC (NY), or Planet Fiber PA LLC (PA). In addition, Order Forms may be executed by an Affiliate of Planet, and in such event, any and all references to “Planet” herein shall be deemed to be a reference to the applicable Affiliate of Planet that executed such Order Form. The term “Affiliate” as used hereunder shall mean, with respect to either Party, any entity controlled by, in control of, or under common control with such Party.

2. TERM.

2.1 Product Term. The term (each a “Product Term”) for each Product begins on the Acceptance Date (as defined below) applicable to such Product, and remains in effect until the expiration of the initial Product Term specified in the applicable Order Form unless earlier terminated as provided herein. The Product Term shall automatically extend for consecutive one-year renewal terms, unless either Party notifies the other of its intent not to renew at least ninety (90) days prior to the expiration of the then-current initial or renewal Product Term.

2.2 Acceptance Date. The “Acceptance Date” for each Product shall be the earliest of (a) the date on which Licensee delivers written notice of acceptance, (b) the date on which Licensee begins to use the

Product, other than for testing purposes, or (c) the second (2nd) business day following Planet’s delivery of notice of the installation of the Product (such notice, a “Connection Notice”), unless Licensee notifies Planet in writing within said two-day period of a Defect in the Product, specifying in detail the nature of such Defect. A “Defect” exists if the Product fails to perform materially in accordance with its technical specifications as set forth in the applicable Supplement (“Specifications”). Upon receipt of notice of a Defect, Planet and Licensee shall work cooperatively to promptly remedy such Defect, and Planet shall deliver another Connection Notice, whereupon the process described in the first sentence of this Section shall apply again. If the Acceptance Date is delayed as a result of any failure, act or omission of Licensee, Planet will give Licensee written notice to cure such failure within five (5) calendar days. If Licensee fails to cure within such period, the Acceptance Date will be deemed to be the end of such five (5) calendar-day period.

3. PAYMENT TERMS.

3.1 Charges. Planet will invoice Licensee for any non-recurring charge (“NRC”) associated with the Product upon or after execution of the applicable Order Form. The monthly-recurring charge (“MRC”) associated with the Product shall begin to accrue on the Acceptance Date of such Product. Planet will invoice Licensee the MRC associated with the Product in advance, except Planet will invoice Licensee usage based charges (if any) associated with the Product in arrears. An MRC for a partial month will be pro-rated. Licensee shall be responsible for payment of the MRC for the entire Product Term specified in the applicable Order Form.

3.2 Payments; Late Payments. Licensee shall pay each invoice within thirty (30) days of the date of the invoice (the “Due Date”), without setoff or deduction. In the event Licensee fails to make any payment by the Due Date, Licensee shall pay a late charge on all past due amounts at the rate of one and one-half percent (1.5%) per month, compounded monthly (or, if lower, the maximum rate allowed by law). Further, Planet shall be entitled to recover from Licensee all collection costs, including attorney fees.

3.3 Disputed Payments. Licensee may in good faith dispute charges set forth in an invoice, provided Licensee notifies Planet of such dispute in writing no later than sixty (60) days after the date of the invoice. Failure of Licensee to so notify Planet of any dispute shall constitute a waiver by Licensee of any dispute. In the event Licensee so disputes any amount in good faith, Licensee must submit a documented claim in writing for the disputed amount and pay the undisputed amounts in accordance with Section 3.2. Licensee shall submit all documentation as may reasonably be required to support the claim. If the dispute is resolved in favor of Licensee and Licensee previously paid the disputed amount to Planet, Planet will apply a credit to Licensee’s account in the amount of the dispute. If the dispute is resolved in Planet’s favor and Licensee has withheld the disputed amount, Licensee must pay the disputed amount

(together with the late payment charge pursuant to Section 3.2) within five (5) business days following notice of the resolution of the dispute.

4. TAXES AND FEES.

4.1 Taxes and Fees. All charges set forth in an Order Form(s) are exclusive of, and Licensee shall be responsible for and agrees to pay, any and all applicable international, federal, state and local use, excise, sales, value added, consumption, gross receipts, access, franchise and other taxes, fees, assessments, duties and surcharges (including, without limitation, any universal service fund surcharge) levied or imposed upon Planet or Licensee in connection with the provision, sale or use of the Product or facility furnished to Licensee and which Planet is required or permitted to collect from Licensee (collectively referred to as "Taxes"). Licensee shall not be responsible for, and Taxes will not include, taxes on Planet's net income. If Licensee believes it is exempt from Taxes, Licensee shall provide Planet with a valid and duly executed exemption certificate and any other information with respect to such exemption as Planet may require; such certificate will be honored from the date that Planet receives such certificate and additional information from Licensee. If any such exemption is ruled invalid by the tax or governmental authority for any reason, Licensee shall reimburse Planet for any Taxes, including without limitation any penalties and interest, arising from or in connection with such invalid claim of exemption.

5. PLANET EQUIPMENT AND NETWORK; LICENSEE EQUIPMENT.

5.1 Planet Equipment; Planet's Network. The telecommunications devices, apparatus and associated equipment owned, leased, or otherwise obtained by Planet to provide Products ("Planet Equipment") and Planet's fiber optic cable network and associated optical/electronic equipment used to deliver Products, whether owned, leased or otherwise obtained by Planet (the "Planet's Network") shall remain the sole and exclusive property of Planet notwithstanding that it may be or become attached or affixed to real property, and nothing contained herein or in any Order Form grants or conveys to Licensee any right, title or interest in any Planet Equipment or Planet's network. Licensee may not, and may not permit others to, alter, adjust, encumber, tamper, repair, rearrange, change, remove, relocate, or damage any Planet Equipment or Planet's network without the prior written consent of Planet. Licensee may not cause any liens to be placed on any Planet Equipment or Planet's network, and will cause any such liens to be removed within ten (10) days of Licensee's knowledge thereof. Licensee shall be liable to Planet for any loss or damage to the Planet Equipment or Planet's Network caused by Licensee or Licensee's employees, contractors, agents or end users. Nothing herein shall prevent Planet from using Planet's network and Planet Equipment to provide products to other customers.

5.2 Extension of Network. To the extent an Order Form requires Planet to complete construction, extend Planet's network and/or obtain additional Underlying Rights, Licensee shall use commercially reasonable efforts to assist Planet in obtaining such Underlying Rights as necessary to provide the Product. Planet may, without liability to either Party, terminate a Product prior to delivery, if Planet encounters unexpected construction costs, or unavailability of or excess costs for Underlying Rights, that make the construction economically or legally unfeasible. Following the Acceptance Date of the Product, in the event that Planet is unable to maintain any necessary Underlying Rights without incurring additional costs, unless Licensee bears the costs of obtaining such Underlying Rights, Planet may cancel the applicable Order Form and shall incur no liability to Licensee hereunder. Without limiting the foregoing, Planet shall not be deemed to be in breach of this Agreement for its failure to meet any anticipated Product installation or delivery date if such failure is caused, in whole or in part, by (i) a Force Majeure Event, (ii) failure to obtain, or delay in obtaining, any required Underlying Rights, (iii) construction delays, or (iv) any other circumstances beyond the control of Planet. "Underlying Rights" means any and all agreements, licenses, conduit use agreements, pole attachment agreements, leases, easements, rights-of-way, franchises, permits, governmental and regulatory approvals and authorizations, and other rights, consents, and approvals that are necessary to construct, install, maintain, operate, and repair Planet's network and/or for Planet to provide a Product other than building access rights described in Section 7.1. Without limiting the foregoing, Underlying Rights include agreements for Off-Net Products that are necessary for Planet to provide a Product. "Off-Net Products" shall mean any products provided by a third-party. "On-Net Products" shall mean Products that use transmission and related facilities owned and controlled by Planet.

5.3 Licensee Equipment. Licensee shall, at its own expense, procure any equipment necessary to implement or receive each Product ("Licensee Equipment"). Planet will have no obligation to install, maintain, or repair Licensee Equipment. Promptly upon notice from Planet, Licensee shall eliminate any hazard, interference or Product obstruction that any such Licensee Equipment is causing or may cause as reasonably determined by Planet.

6. MAINTENANCE.

6.1 Scheduled Maintenance. Planet will endeavor to conduct (or cause to be conducted) scheduled maintenance that is reasonably expected to interrupt the Product between 12:00 midnight and 6:00 a.m. local time or, upon Licensee's reasonable request, at a time mutually agreed to by Licensee and Planet. Planet will use commercially reasonable efforts to notify Licensee of scheduled maintenance that is reasonably expected to interrupt the Product via telephone or e-mail, no less than five (5) days prior to commencement of such maintenance activities. Licensee shall provide a list of Licensee contacts for maintenance and escalation purposes, which may be included on the Order Forms, and Licensee shall provide updated lists to Planet, as necessary.

6.2 Emergency Maintenance. Planet may perform emergency maintenance in its reasonable discretion, with or without prior notice to Licensee, to preserve the overall integrity of Planet's network. Planet will notify Licensee as soon as reasonably practicable of any such emergency maintenance activity that materially and adversely impacts a Product.

6.3 Product Issues. Licensee may notify Planet's Network Operating Center ("NOC") of Product problems by telephone 833-3PLANET, or at the contacts listed in Planet's Customer Support Information provided to Licensee, which may be updated by Planet from time to time. If Planet dispatches a field technician to Licensee or an end-user location and the problem is caused by (i) the Licensee Equipment or any end-user's equipment or (ii) any acts or omissions of Licensee or its end user, or of any of its or their invitees, licensees, customers or contractors, Licensee will pay Planet for any and all associated time and materials at Planet's then-standard rates.

7. IMPLEMENTATION REQUIREMENTS.

7.1 Access to Premises. Unless otherwise provided for in the applicable Order Form, Licensee, at its own expense, shall secure throughout the Product Term any easements, leases, licenses or other agreements necessary to allow Planet to use pathways into and in each building at which Licensee's or its end-user's premises is located, to the Demarcation Point. Such access rights shall grant to Planet the right to access such premises to the extent reasonably requested by Planet to install, maintain, repair, replace and remove any and all equipment, cables or other devices Planet deems necessary to provide the Product. Upon expiration or termination of the applicable Product Term, Licensee shall grant Planet access to its premises as necessary to enable Planet to remove the Planet Equipment. Planet, its employees, contractors and agents shall have access to any Planet Equipment or facilities at a Licensee or end user premises. Notwithstanding anything to the contrary herein, Planet shall have no liability for any delay or failure in its performance to the extent caused by any delay or failure of Licensee (including, but not limited to, the failure to provide Planet prompt access) and/or caused by any notice or access restrictions or requirements. "Demarcation Point" shall mean the network interface point where Planet hands off the Product to Licensee. The Demarcation Point delineates where responsibility for the Parties' respective networks, equipment and/or maintenance obligations begin and end. Licensee is responsible, at its sole cost and expense, for connecting to the Demarcation Point.

7.2 Space and Power. Licensee shall procure and make available to Planet, at Licensee's locations and at end user locations where a Product is provided or licensed, at Licensee's sole cost and expense, adequate space, AC power and HVAC for Planet Equipment.

7.3 Property Owner Not Liable. Neither Licensee nor any of Licensee's end-users shall have any recourse against any property owner or property manager of any premises to which any Product is delivered and/or at which Planet's Network or Equipment is located, as a result of or in reliance upon this Agreement. Without limiting the foregoing, this provision shall not be construed to impose any liability on Planet, nor shall Planet have any liability, for or on behalf of such property owner or property manager.

8. DEFAULT & REMEDIES

8.1 Default by Licensee; Suspension. In the event (i) Licensee fails to timely and fully make any payment required hereunder, and such payment breach is not cured within five (5) days after written notice thereof, or (ii) Licensee breaches any other provision of this Agreement and such breach is not cured within thirty (30) days after receipt of written notice thereof, then Planet may, at its sole option, either (a) terminate any and all Products, (b) suspend the

affected Product to which the breach is related without further notice to Licensee, and/or (c) pursue any other remedies available to Planet at law, or in equity.

8.2 Default By Planet. Licensee may terminate a Product in the event Planet breaches this Agreement with respect to such Product and such breach is not cured within thirty (30) days after Planet's receipt of written notice thereof, provided that if a breach subject to this Section 8.2 cannot be cured within thirty (30) days, but is capable of being cured within a reasonable time thereafter, then Licensee may not terminate the Product if Planet commences to cure within said thirty (30) days and thereafter diligently and continuously pursues such cure to completion, or Planet provides Licensee reasonable assurance that the same breach to the same Product will not subsequently occur.

9. INSURANCE.

9.1 Insurance. Each Party shall procure and maintain the following insurance coverage:

- Commercial General and Umbrella Liability Insurance. Commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 for each occurrence. CGL insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. Each Party shall name the other Party as an additional insured to provide coverage for the additional insured on a primary and non-contributory basis. The coverage provided to the additional insured shall apply to the extent of the indemnification obligation identified in paragraphs 10.2.
- Workers Compensation Insurance. Workers compensation and employer's liability insurance as required by the laws and regulations applicable to the employees who are engaged in the performance of any activities hereunder or under an Order Form.

9.2 Type and Proof of Insurance. The insurance coverage required by this Section 9 shall be obtained on an occurrence basis from carriers having a Best Rating Product rating of A- or better. Upon request, a Party will provide the other Party a certificate of insurance or other proof of such insurance.

10. LIMITATION OF LIABILITY; INDEMNIFICATION.

10.1. LIMITATION OF LIABILITY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF USE OR DATA, OR LOST BUSINESS, REVENUE, PROFITS OR GOODWILL, ARISING IN CONNECTION WITH THIS AGREEMENT OR ANY PRODUCT OR ANY ORDER FORM, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. PLANET'S TOTAL LIABILITY TO LICENSEE IN CONNECTION WITH THIS AGREEMENT FOR ANY AND ALL CAUSES OF ACTION AND CLAIMS, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS, SHALL BE LIMITED TO THE LESSER OF: (A) PROVEN DIRECT DAMAGES OR (B) THE AGGREGATE

AMOUNT OF PAYMENTS MADE BY LICENSEE TO PLANET FOR THE AFFECTED PRODUCT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE MONTH IN WHICH THE CIRCUMSTANCES GIVING RISE TO THE CLAIM OCCURRED. IN NO EVENT SHALL PLANET BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE ACTS OR OMISSIONS OF UNAFFILIATED THIRD PARTIES, INCLUDING UNDERLYING PRODUCT PROVIDERS, OR ANY THIRD-PARTY EQUIPMENT OR PRODUCTS NOT PROVIDED OR LICENSED BY PLANET.

10.2. Indemnification. Except to the extent of the other Party's negligence or willful misconduct, each Party shall indemnify, defend, release, and hold harmless the other Party, its Affiliates, directors, members, officers, employees, managers, agents, representatives, and contractors (collectively, "Indemnitees") from and against any third-party action, claim, suit, judgment, damage, demand, loss, or penalty, and any cost or expense associated therewith (including but not limited to reasonable attorneys' fees, expert fees and costs) (collectively, "Claims") imposed upon such Indemnitee(s) by reason of damage to real or tangible personal property or for bodily injury, including death, as a result of any willful misconduct or negligent act or omission on the part of the indemnifying Party in connection with the performance of this Agreement. In addition to the foregoing, Licensee shall indemnify, defend, release, and hold harmless Planet and its Indemnitees from and against any third-party Claims brought against such Planet and its Indemnitees arising from or in connection with Licensee's (or its end users') unlawful use of a Product.

10.3. Indemnification Process. If a Party ("Indemnifying Party") is required to indemnify the other Party ("Indemnified Party") pursuant to Section 10.2, the Indemnified Party shall promptly notify the Indemnifying Party. The Indemnifying Party will be permitted to assume primary control of the defense of the action with counsel of the Indemnifying Party's choice. The Indemnified Party will cooperate in the defense of the action as requested by the Indemnifying Party. The Indemnified Party may, but shall not be required to, participate in the defense of the action with its own counsel, at its own expense. The Indemnifying Party will assume the cost of the defense on behalf of the Indemnified Party and its Affiliates (other than the expense of Indemnified Party's counsel pursuant to the immediately preceding sentence) and will pay all expenses and satisfy all judgments which may be incurred or rendered against the Indemnified Party or its Affiliates in connection therewith, provided that without the Indemnified Party's written consent, the Indemnifying Party shall not enter into or acquiesce to any settlement containing any admission of or stipulation to any guilt, fault, or wrongdoing on the part of the Indemnified Party, which would otherwise adversely affect the Indemnified Party, or which results in less than a full release of all claims.

11. REPRESENTATIONS AND WARRANTIES.

11.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, PLANET MAKES NO REPRESENTATIONS AND WARRANTIES UNDER THIS AGREEMENT, EITHER EXPRESS, IMPLIED OR STATUTORY, AND PLANET HEREBY EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, (i) NON-INFRINGEMENT, (ii) IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND (iii) PERFORMANCE OR INTEROPERABILITY OF THE PRODUCT WITH ANY LICENSEE OR END-USER EQUIPMENT. NO WARRANTY IS MADE OR PASSED ON WITH RESPECT TO ANY PRODUCTS

OR SERVICES PROVIDED BY OR FURNISHED BY ANY THIRD PARTY.

11.2 Each Party represents and warrants to the other that (a) it has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement, (b) it will comply with all applicable federal, state and local laws, statutes, rules and regulations in connection with the provision and use of the Products (including but not limited to the FCC's "intermediate provider" requirements, 47 CFR § 64.2119, where applicable), and (c) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable against such Party in accordance with its terms.

12. CONFIDENTIALITY; SERVICE MARKS; PUBLICITY.

12.1 Confidentiality. "Proprietary Information" means any information supplied by the disclosing Party, or its Affiliate, to a receiving Party, or its Affiliate, or obtained by the receiving Party, or its Affiliate, in the provision or receiving of a Product hereunder, in each instance relating to the disclosing Party, its Affiliates, and/or its customers which has been designated as confidential, proprietary or private or which, from the circumstances, in good faith should be treated as confidential. Proprietary Information shall not include any of the following: (i) information that has been, or is subsequently, made public by the disclosing Party through no wrongful act of the receiving Party; (ii) information that is independently developed by the receiving Party without using any Proprietary Information of the disclosing Party; and (iii) information that has been previously known by or disclosed to the receiving Party by a third party not bound by confidentiality restrictions. Pricing information exchanged in connection with this Agreement, or included in any Order Form hereunder, and the terms and conditions of this Agreement, are hereby designated as confidential without further obligation on the part of either Party to mark or designate it as such. Each Party shall maintain in strict confidence all Proprietary Information of the other. Neither Party shall disclose Proprietary Information to any third person, except a receiving Party shall be permitted, without the disclosing Party's prior written consent, to disclose Proprietary Information to its employees and Affiliates, financial, technical, and professional advisors, representatives, contractors, subcontractors and consultants provided that the receiving Party has taken reasonable steps to ensure that such Proprietary Information is kept strictly confidential consistent with the confidentiality obligations hereunder. If a receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then to the extent permitted by applicable law, such receiving Party shall provide the disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. Upon receipt of written notice of the requirement to disclose Proprietary Information, the disclosing Party, at its expense, may then either seek appropriate protective relief in advance of such requirement to prevent all or part of such disclosure or shall waive the receiving Party's compliance with the requirements of the foregoing sentence with respect to all or part of such Proprietary Information.

12.2 Service Marks, Trademarks and Publicity. Neither Party shall: (a) use the name, service mark, trademark, trade name, logo, or trade dress of the other Party; or (b) refer to the other Party in connection with any advertising, promotion, press release or publication, unless it obtains the other Party's prior written approval.

13. ASSIGNMENT. Neither Party will assign or transfer this Agreement or any license or Order Form hereunder without the other Party's prior written consent, such consent not to be unreasonably withheld. Any assignment made in violation of this requirement shall

be void and invalid. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party's consent to a person or entity (i) that controls, is controlled by or is under common control with the assigning Party, (ii) which purchases all or substantially all of its assets or equity, or (iii) resulting from any merger, consolidation or other reorganization involving such Party.

14. FORCE MAJEURE. Neither Party shall be liable, nor shall any credit or other remedy be extended, for any delay or failure to fulfill any obligation under this Agreement or any Order Forms due to any cause beyond a Party's reasonable control, including, but not limited to: acts of God, flood, extreme weather, fire, natural calamity, terrorism, any moratorium, law, order, regulation, action or inaction of any governmental entity or civil or military authority, power or utility failures, fiber or cable cuts caused by third parties, unavailability of rights-of-way, national emergencies, insurrection, riots, wars, strikes, lock-outs, work stoppages or other labor difficulties, pole hits, or material shortages (each a "Force Majeure Event").

15. NOTICES. Any request to terminate this Agreement, or any claim for breach thereof, shall be in writing and transmitted either via (i) overnight courier or hand delivery, or (ii) certified or registered mail, postage prepaid and return receipt requested. Notices shall be deemed delivered upon receipt. Notices to Licensee shall be sent to the address specified in the Service Order. Notices to Planet shall be sent to the following address:

Planet Networks
4 Park Pl
Newton, NJ 07860
Attention: Legal Department

A Party may change the address for notices by notice to the other Party provided pursuant to this Section 15. All other notices, requests, or communications may be transmitted by email as specified in the invoice or Order Form, at <http://my.planet.net>, or as otherwise directed by Planet.

16. MISCELLANEOUS

16.1 Governing Law. This Agreement shall be governed by the laws of the State of Delaware without regard to its choice of law principles.

16.2 No Third-Party Beneficiaries. The covenants, undertakings, and agreements set forth in this Agreement are solely for the benefit of and enforceable by the Parties or their respective successors or permitted assigns. It is the explicit intention of the Parties hereto that no person or entity other than the Parties (and, with respect to the provisions of Section 10, the Indemnitees) is or shall be entitled to any legal rights under this Agreement.

16.3 Relationship of the Parties. The relationship between the Parties hereunder is not that of partners or agents for one another and nothing contained in this Agreement shall be deemed to constitute or create a partnership, joint venture or similar relationship. Nothing in this Agreement shall be construed to authorize either Party to represent the other Party for any purpose whatsoever without the prior written consent of such other Party.

16.4 Order of Precedence. If any conflict or contradiction exists between these general terms and conditions and a Supplement, the terms of a Supplement will control. If any conflict or contradiction exists between a Supplement and the terms of an Order Form, the terms of the Order Form will control. If any conflict or contradiction exists

between these general terms and conditions and the terms of an Order Form, the terms of the Order Form will control.

16.5 Non-Exclusivity. This Agreement is non-exclusive. Both Parties may enter into similar arrangements with others, and Planet may, as part of its normal business undertakings, actively market its products to any person or entity anywhere in the world, including but not limited to in competition with Licensee and/or Licensee's end users.

16.6 Non-Waiver. The waiver by any Party hereto of a breach or a default under any of the provisions of this Agreement, any Supplement or any Order Form, or the failure of any Party, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder shall not thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provision, right or privilege hereunder.

16.7 Survival. The terms and provisions contained in this Agreement that by their nature and context are intended to survive the performance thereof by the Parties hereto shall so survive the completion of performance and termination or early termination of this Agreement, including, without limitation, provisions for indemnification, confidentiality, and the making of payments due hereunder.

16.8 Headings. Section and subsection headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

16.9 Severability; Void or Illegal Provisions. If any part of this Agreement, Supplement or an Order Form shall be determined to be invalid or unenforceable by a court of competent jurisdiction, said part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of this Agreement or such Order Form. The remainder of this Agreement will continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the Parties. The Parties will replace the severed provision with a provision that reflects the initial intention of the Parties.

16.10 Entire Agreement; Amendment. This Agreement, including all Supplements, Order Forms, exhibits and addenda attached hereto is the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior negotiations, understandings and agreements, whether oral or written, with respect to such subject matter. This Agreement may be amended only by a written instrument executed by the Parties.

16.11 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. The Parties agree that fully-executed electronic copies or facsimile copies of this Agreement and corresponding Order Forms are legally binding and shall act as originals for the purpose thereof.

16.12 Disconnection Notice Requirement. Licensee shall submit all requests for disconnection of Products in writing to Planet. The effective date of any such disconnection will be the later of (i) thirty (30) days from Planet's receipt of such disconnection request, or (ii) the date requested by Licensee in the disconnection request. Each disconnection request must specify the Licensee name

and address, email address and telephone number of the person authorizing the disconnect, the circuit ID for the Product to which the disconnect request applies, the product type, and requested disconnection date. Upon termination of a Product, Planet shall have the right (but not the obligation) to act on behalf of and as agent for Licensee to terminate all cross-connects relating to such Product,

including cross-connects ordered by Licensee. Upon request Licensee shall confirm to the applicable supplier of the cross-connect(s) that Planet is authorized to terminate such cross-connects on Licensee's behalf. Disconnections shall not affect Licensee's obligation to make payments as agreed in each Order Form.

Key to Subsequent Parts

- Part II – Dark Fiber
- Part III – Ethernet
- Part IV – Internet
- Part V – Wavelength
- Part VI – Colocation
- Part VII – SD-WAN

PART II—TERMS APPLICABLE TO DARK FIBER

1. The terms in this Part II apply only to dark fiber licensed to Licensee under an Order Form that specifies Dark Fiber. This Part shall not apply to other products, including Ethernet, wavelength, Internet, or colocation.

2. ADDITIONAL TERMS

The following additional terms and conditions shall apply to the provision of licensed dark fiber.

“Cable” means fiber optic cable with fiber optic filaments contained in any suitable jacketing or sheath that is already in place, or is yet to be installed, and to which Planet has or will have access by ownership, lease, right to use, or otherwise.

“Dark Fiber” or “Fibers” means one or more specified strands of dedicated optical fiber within a Cable without optronics or electricity, subject to the terms of the Agreement.

“Licensee Fibers” or “Product” means the Fibers that are licensed to Licensee under an Order Form.

“Location” is an address wherein Planet will hand off Licensee Fibers to Licensee.

“Product Credit” means a credit that Licensee may be eligible to receive pursuant to Section 7 below.

“Product Outage” means a loss of continuity or other material degradation of the Licensee Fibers such that Licensee is unable to utilize the Licensee Fibers for transmission of optical signals.

“Route” means the geographic path along which the Cable and Licensee Fibers are located.

“Route Segment” means a portion of the Route between any two Locations.

3. SPECIFICATIONS

3.1 Type and Constitution. Single-mode Fibers are made of high-grade doped silica core surrounded by a silica cladding; and coated with a dual layer, UV-cured acrylic-based coating.

Properties	Units	Single Mode	Single Mode Enhanced	MetroCor	NZDSF
<u>Glass Geometry</u>					
Mode Field Diameter at 1310 nm	(µm)	9.2 ± 0.4	9.2 ± 0.4	N/A	N/A
Mode Field Diameter at 1550 nm	(µm)	10.4 ± 0.8	10.4 ± 0.8	8.1 ± 0.5	9.2 ± 0.8
<u>Fiber Attenuation</u>					
Maximum value at 1310 nm	(dB/km)	0.4	0.4	0.5	N/A
Maximum value at 1550 nm	(dB/km)	0.3	0.3	0.3	0.3

3.2 Fiber Optic Specification

- (a) Bi-directional splice value (“Splice Value”) ≤ 0.20 dB at 1550 nm. In exceptional cases, a Splice Value may be accepted if its value is higher than 0.20 dB at 1550 nm. An exception case is, for instance, when three (3) re-trials of a splice cannot improve the Splice Value. The Splice Value will be given by the equation:

$$\frac{(\text{Splice attenuation from A to B}) + (\text{Splice attenuation from B to A})}{2}$$

- (b) Splice attenuation average (“Splice Attenuation Average”) ≤ 0.15 dB at 1550 nm. The Splice Attenuation Average is given by:

$$\frac{\sum \text{Splice Values}}{\text{Number of splices in the Route Segment}}$$

- (c) It is recognized by the Parties that due to the use of ribbon fiber optic cable on some of the segments, the Splice Value of individual splices may exceed 0.20 dB. However, the Splice Attenuation Average for any Route Segment as designated in (b) above shall supersede all other splicing requirements.

3.3 Connectors

- (a) Maximum Unitary ODF/S Connector (1 connector + 1 adapter + 1 connector)
- (b) Maximum Connector/pigtail loss. The attenuation contribution of each pigtail with associated connector is considered to be 1.0 dB, comprised of 0.8 dB connector loss and 0.20 dB splice loss (pigtail to cable splice).

3.4 Fiber Optic Test Parameters

I. Standard Fiber Optic Testing:

(a) Bi-directional OTDR

- (i) Span traces will be captured at 1310nm and 1550nm. Traces will be provided in native format and / or PDF.

(b) Bi-Directional Power Meter.

- (i) Bi-Directional power meter results will be furnished with light source data at 1550nm. Data will be supplied in a excel format with all locations clearly identified including demarcation details.

II. Additional Fiber Optic Testing (for an additional charge):

(a) Optical Return Loss/Reflectance

- (i) The ORL value measures the total light reflected back to the transmitter caused by the system components of the fiber under test and can degrade the performance by affecting the stability of the laser; this in turn can create bit errors.
- (ii) Specifications – ORL

Vendor and Telcordia specifications regarding Optical Return Loss are as follows:

Parameter	Required Threshold
Optical Return Loss	>30 dB

(b) Polarization Mode Dispersion.

- (i) PMD is caused by different polarizations of the light pulse traveling along the fiber at slightly different speeds due to imperfections of size and material properties along the length of the fiber. This causes the light pulses or waveforms to spread out or broaden causing possible bit error rate of the transmission signal. The higher the bandwidth, the shorter the pulse and the increase of importance of testing prior network turn up.
- (ii) Polarization-Mode Dispersion Measurement for Single-Mode Optical Fibers by Interferometry Method.
- (iii) PMD coefficient of the tested fiber should not exceed $<0.2 \text{ ps/km}^{1/2}$.

(c) Chromatic Dispersion

- (i) Chromatic Dispersion is the broadening or spreading of a pulse of light due to the nonzero spectral width of a transmission signal. The effects of chromatic dispersion can limit the network transmission rate or the length of fiber a signal can be transmitted before requiring re-generation.
- (ii) Specifications – Chromatic Dispersion
- (iii) Record the total Chromatic dispersion for the tested span, the value per kilometer should be within the range specified below.

Type	Dispersion @ 1550nm
SMF (ITU-T 6.652.D)	$\leq 18 \text{ ps}/(\text{nm} \cdot \text{km})$
ELEAF (ITU-T G.655)	$4 \text{ ps}/(\text{nm} \cdot \text{km})$
TrueWave RS (ITU-T G.655)	$4.5 \text{ ps}/(\text{nm} \cdot \text{km})$
TrueWave Classic (early G.655)	$2 \text{ ps}/(\text{nm} \cdot \text{km})$
DSF (ITU-T G.653)	$0 \text{ ps}/(\text{nm} \cdot \text{km})$
SMF-LS	$-1 \text{ ps}/(\text{nm} \cdot \text{km})$
Note 1: DSF not recommended for DWDM	

4. USE OF AND ACCESS TO LICENSEE FIBERS; RELOCATION

4.1 License. Subject to the terms and conditions set forth in the Agreement and this Supplement, Planet and Licensee may from time to time execute one or more Order Forms pursuant to which Planet grants to Licensee a license to use Licensee Fibers designated on the Order Form. Each Order Form will specify the number, identity, type, and route of the Licensee Fibers, and the permitted Locations where Licensee may access the Licensee Fibers. Planet may not be the owner of the Licensee Fibers but may instead lease, license, or acquire a right to use such Licensee Fibers from a third party together with the right to sub-lease Licensee Fibers to Planet's Licensees.

4.2 Limitations on Rights and Obligations. In addition to, and not in limitation of, any limitations set forth in the Agreement, the Parties agree that:

4.2.1 Use by Licensee. Licensee shall have no right or interest in the Licensee Fibers other than a license to use the Licensee Fibers. A license of Licensee Fibers does not convey any ownership interest in the Licensee Fibers or the Cable. Licensee is solely responsible for all optical and other equipment required to enable Licensee to utilize the Licensee Fibers for optical communications.

4.2.2 Use by Planet. Nothing herein shall be construed as limiting or restricting Planet or its Affiliates in any manner from using its or their own Cables, fibers, or any other facilities, easements and/or rights of way for the installation of additional fiber optic cables, for use as telecommunications facilities, or for any other purpose.

4.2.3 Subordination. Licensee understands and agrees that Planet's ability to grant Licensee the license to use the Licensee Fibers pursuant to this Agreement, and to attach, install, construct, operate, and maintain Planet's network and the Licensee Fibers, is at all times subject and subordinate to, and limited by, the Underlying Rights, applicable laws, rules, ordinances, codes, and regulations. By virtue of the Agreement, Licensee shall only have a license to use the Licensee Fibers or related facilities, expressly granted herein, and in no event shall such license be construed to be greater than the Underlying Rights to use such Licensee Fibers. Planet shall not be liable for any acts or omissions by Planet, its employees or affiliates that interfere with or otherwise affect Licensee's use of the Licensee Fibers to the extent such acts or omissions are required by the Underlying Rights, including, without limitation acts or omissions that deny the use of, alter or remove the Cable.

4.2.4 Sublicensing. Licensee shall not assign, sell, transfer, lease, sublease, license, sub-license, or otherwise grant a right to use the Licensee Fibers to any third party without the prior written consent of Planet.

4.2.5 Access to Licensee Fibers. Licensee may access the Licensee fibers only at the Demarcation Points specified in the applicable Order Form. Licensee may not access or take any action that impacts the Licensee Fibers or the Cable at any other locations.

4.3 Relocation.

4.3.1 Relocation Required By Planet. In the event that Planet is required by any underlying service provider, public authorities, or lawful order or decree of a regulatory agency or court or any other reason beyond Planet's reasonable control, to relocate or modify any or all Cable on the Route upon which the Licensee Fibers are located, Planet's costs for any such work shall be shared on a pro rata basis with Licensee. Planet shall not be responsible for the costs of, nor shall it be liable for, the removal, relocation or replacement of any Licensee Equipment or other Licensee property on the Licensee's side of the Demarcation Point. If the relocation or replacement of the Cable is requested or caused by a third party, Planet shall attempt to obtain reimbursement of Planet's costs from said third party. Notice to Licensee will be provided as soon as reasonably practicable. Neither Planet nor any of its affiliates or agents shall incur liability for any Product Outage, disruption, degradation, interference, or interruption of any Product in connection with any such removal or relocation. Planet and Licensee shall cooperate in performing such relocation or modifications so as to minimize any interference with the use of the Licensee Fibers and the Cable and to avoid conflicting physically or otherwise interfering with joint users of the Cable or any other property impacted by the installation, construction, maintenance or use of the Cable, to the extent reasonably possible. Any such relocation shall be accomplished consistently with the Specifications.

4.3.2 Relocation Requested By Licensee. Licensee may request relocation of the Licensee Fibers. Any such relocation shall be subject to Planet's approval (which shall be in Planet's sole discretion), the execution of an Order Form, and Licensee's payment to Planet of such additional charges as Planet may require. No relocation or replacement of the Cable or related facilities shall be performed without the prior written agreement of Planet, which shall be in Planet's sole discretion.

5. TERMINATION AND CONDEMNATION

5.1 Termination of Route Segment. In addition to, and not in limitation of, any rights set forth in the Agreement, any Route Segment may be terminated by Planet without liability (unless due to a default by Planet under any applicable Underlying Rights agreement), upon reasonable notice to Licensee, to the extent Planet is no longer authorized under the Underlying Rights to install, construct, maintain, operate, or convey the license to use the Cable or other property as contemplated by the Agreement. If a Route Segment is terminated pursuant to this Section, Planet shall make reasonable efforts to find alternate capacity or facilities owned or controlled by Planet to meet Licensee's needs, but under no circumstances shall Planet be obligated to contract for or to construct new

facilities, or otherwise incur any additional cost or expenses, to replace the Cable or Licensee Fibers on the Route Segments terminated under this Section 5.1.

5.2 Condemnation Proceedings/Termination Rights. If at any time during the Product Term, all or any significant portion of the Cable is taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain and, after exercise of the Parties’ commercially prudent efforts, the Cable cannot be relocated pursuant to Section 4.3 herein, either Party may elect to terminate the impacted Licensee Fibers upon giving the other thirty (30) days prior written notice. If Licensee Fibers are terminated in accordance with this Section, the applicable license shall be deemed canceled and neither Party shall have any further obligations to the other, except that both Parties shall be entitled to participate in any condemnation proceedings to seek to obtain compensation via separate awards for the economic value of their respective interest in the Cable.

6. FEES

Licensee shall pay the fees set forth in Order Forms executed hereunder. On January 1 of each year, the MRCs shall be escalated by three percent (3%). In addition, in the event that amounts charged to Planet under any Underlying Rights are increased or Planet’s costs or expenses are increased due to any Underlying Rights, Planet shall have the right to charge Licensee for its pro rata share of such increases, which shall be added to the MRCs to be paid by Licensee for the applicable Product Term.

7. SERVICE LEVEL AGREEMENT

7.1 MTTR Objectives.

7.1.1 Mean Time to Respond. “Mean Time to Respond” is the average time required for Planet to begin troubleshooting a reported failure. The Mean Time to Respond objective is two (2) hours from Planet’s receipt of notice of such failure.

7.1.2 Mean Time to Repair. “Mean Time to Repair” is the average time required to restore the Licensee Fibers to an operational condition as defined herein. The Mean Time to Repair objective is eight (8) hours from Planet’s receipt of notice of such failure.

7.2 Product Outage. Subject to this Section 7, in the event of a Product Outage, Licensee may be entitled to a Product Credit as provided in Section 7.3 below. A Product Outage shall be deemed to begin upon the earlier of Planet’s actual knowledge of the Product Outage or Planet’s receipt of notice from Licensee of the Product Outage, and end when the Licensee Fibers are operational and in material conformance with the applicable Specifications. Notwithstanding anything to the contrary in this Supplement, in the Agreement or in any Order Form, in no event shall a Product Outage or failure to meet any objectives or parameters under this Supplement be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form.

7.3 Service Level Objective. If Planet fails to repair a Product Outage within eight (8) hours of notice from Licensee of such Product Outage (“Repair Window”), Licensee may be entitled to a Product Credit as follows:

Measurement Timeframe	Product Credit for Affected Product
Per Incident	1/30 th of the MRC of the affected Product for each consecutive twelve (12) hour period (or fraction thereof) after the Repair Window up to a maximum of 50% of the MRC

7.4 Product Credits. The number of minutes of separate and discrete Product Outages will not be cumulated to determine the applicable Product Credit. Product Credits hereunder may not be applied to usage charges, government fees, taxes, or surcharges, or any third party charges passed through to Licensee by Planet. Product Credits issued to Licensee hereunder shall be Licensee’s sole and exclusive remedy at law or in equity on account of any Product Outage. Product Credits will not be issued to Licensee if Licensee’s account with Planet is in arrears. Notwithstanding anything to the contrary herein, the above-stated Product Credits shall not apply to Off-Net Products, and in the event of a Product Outage or other failure of any Off-Net Product provided by Planet to Licensee, Planet agrees to pass through a credit equal to the credit received by Planet from its underlying Planet(s) for such Product Outage, in lieu of the above- stated Product Credits. In no event shall Planet’s total liability for all Product Outages and/or failure to meet any objectives or parameters set forth in this Supplement in any month exceed a credit equal to fifty percent (50%) of the MRC for the affected Product for such month.

7.5 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event that gives rise to Licensee’s right to request the Product Credit. Failure to request a credit within such period shall constitute a waiver of any claim for an Product Credit.

7.6 Events Excepted From Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Product Outage, failure to meet any objectives or parameters hereunder, or delay in performing repairs, arising from or caused, in whole or in part, by any of the following events:

- a. Licensee's (including its agents, contractors and vendors) acts or omissions;
- b. Failure on the part of Licensee Equipment, Licensee provided optical fiber, end user equipment or Licensee's vendor's equipment;
- c. Failure of electrical power not provided by Planet;
- d. Election by Licensee, after requested by Planet, not to release the Licensee Fibers for testing and repair;
- e. Planet's inability to obtain access required to remedy a defect in a Product, including lack of access due to utility safety restrictions;
- f. Scheduled maintenance periods;
- g. Scheduled upgrade of Product at the request of Licensee;
- h. Force Majeure Event; or
- i. Disconnection or suspension of the Product by Planet pursuant to a right provided under this Agreement.

PART III-TERMS APPLICABLE TO ETHERNET

1.0 The terms in this Part III apply only to Ethernet licensed to Licensee under an Order Form that specifies Ethernet. This Part shall not apply to other products, including dark fiber, wavelength, Internet, or colocation.

1.1 “Ethernet” or “Product” means a method of switched communication between or among two or more Locations using the Ethernet protocol defined by IEEE 802.3. Ethernet may be ordered and provisioned either as On-Net Products or Off-Net Products. Ethernet includes, without limitation, the following types of Products:

- (a) ***E-Line or Fixed Wireless E-Line (if fixed wireless technology is utilized)***: a port-based Product providing dedicated UNIs for point to point connections. E-Line supports a single EVC between two (2) UNIs.
- (b) ***Ethernet Virtual Private Line (EVPL) or Fixed Wireless Ethernet Virtual Private Line (EVPL) (if fixed wireless technology is utilized)***: a VLAN based Product providing multiplexed UNIs allowing multiple EVCs per UNI.
- (c) ***Ethernet LAN (E-LAN) or Fixed Wireless Ethernet LAN (E-LAN) (if fixed wireless technology is utilized)***: a VLAN based meshed Product providing many-to-many communication with dedicated or service-multiplexed UNIs. E-LAN supports transparent LAN and multipoint Layer 2 VPNs.
- (d) ***Metro-E Advanced Private Line or Fixed Wireless Metro-E Advanced Private Line (if fixed wireless technology is utilized)***: dedicated point-to-point switched Ethernet provided within a metro area over dedicated fiber transport and/or fixed wireless transport if fixed wireless technology is utilized.
- (e) ***ENNI (External Network to Network Interface)***: an interconnection point between the Planet and Licensee Ethernet networks as defined in MEF Specification 26.

1.2 “Class of Service” or “CoS”: Planet offers CoS with Ethernet. CoS enables Licensee to differentiate traffic by assigning Bandwidth with various classes of network priority designated by Licensee. If Licensee elects CoS, (i) Licensee’s traffic must be marked by Licensee in accordance with Planet’s available classes of network priority, and (ii) Licensee traffic will be prioritized in accordance with the assigned network priority. If Licensee does not elect CoS, Licensee’s traffic will be treated with the default network priority level. Planet offers the following classes of CoS ranging from highest to lowest in terms of network priority:

- Mission Critical
- Business Critical
- Business Priority
- Standard (Default class for all Ethernet)

1.3 **Protection Options.** Ethernet comes with various Protection Options, as described below.

Protection Option	Description	Minimum Location Requirements			
		Space	Power	Environmental Control	Back Up Power
Unprotected (Level A Access)					
1	Level A Access means the access portion of the Ethernet (i.e. the segments from the last Planet’s Network switching hub (or for Metro-E Advanced Private Line or Fixed Wireless Metro-E Advanced Private Line Products - the lateral segments supporting the respective Product) to the point of entry of the Location) is provided over a single transmission path by fiber and/or fixed wireless without protection. Level A Access consists of the following minimum requirements at each Location: (i) a single point of entry into the Location; (ii) one (1) Planet Equipment chassis; (iii) one (1) port; (iv) a 2-fiber handoff to the Licensee from the Planet Equipment; and (v) one (1) Planet fixed wireless receiver equipment chassis if fixed wireless technology is utilized by Planet for the applicable Product.	(1)	(2)	(4)	Not applicable
Optical Protection (Level AA Access)					
2	Level AA Access means the access portion of the Ethernet (i.e. the segments from the last Planet’s Network switching hub to the point of entry of the Location) is provided over two (2) separate transmission paths by fiber and/or fixed wireless, one of which is the working (primary) path and the other the protect	(1)	(2)	(4)	(6)

	(secondary) path. Planet is responsible for managing the Failover Switching at each Location. Level AA Protection consists of the following minimum requirements at each Location: (i) a single point of entry into the Location; (ii) one (1) Planet Equipment chassis; (iii) one (1) port; (iv) a 2- fiber handoff to the Licensee from the Planet Equipment; and (v) one (1) Planet fixed wireless receiver equipment chassis if fixed wireless technology is utilized by Planet for the applicable Product.				
Dual Path Protection (Level AAA)					
3	Level AAA Access means the access portion of the Ethernet (i.e. the segments from the last Planet's Network switching hub to the point of entry of the Location) is provided over two (2) separate transmission paths by fiber and/or fixed wireless, one of which is the working (primary) path and the other the protect (secondary) path. Failover Switching at each Location will be provided by Licensee or by Planet as specified in the Order Form. Level AAA Protection consist of the following minimum requirements at each Location: (i) two (2) separate points of entry into the Location; (ii) two (2) Planet Equipment chassis; (iii) one (1) line card per chassis; (iv) 4-fiber handoff to the Licensee from the Planet Equipment, with two fibers handed off from one of the Planet Equipment chassis and two fibers handed off from the other Planet Equipment chassis; (v) Licensee Equipment must have hardware redundancy (i.e., separate cards, one for one of the 2-fiber handoffs and the other for the second 2-fiber handoff); and (vi) two (2) Planet fixed wireless receiver equipment chassis if fixed wireless technology is utilized by Planet for the applicable Product.	(1)	(3)	(5)	(7)

- (1) Secure space for Planet Equipment at each Location with 24x7x365 access.
- (2) Dedicated electrical circuit for Planet Equipment (i.e. the circuit has no other load from the Planet Equipment to a circuit breaker) at each Location from the public utility.
- (3) Redundant, dedicated electrical circuit at each Location from the public utility (i.e. each power circuit is fed from a different circuit breaker panel and has its own circuit breaker).
- (4) For Planet Equipment installed indoors - Substantially dust free with temperature control that maintains temperature between 50 and 80 degrees Fahrenheit and humidity control that maintains relative humidity below 80%.
- (5) For Planet Equipment installed indoors - Substantially dust free with temperature control that maintains temperature between 60 and 80 degrees Fahrenheit and humidity control that maintains relative humidity between 40% and 60%.
- (6) Planet (or Licensee if the Parties agree) to install and maintain a minimum of four (4) hours of standby power.
- (7) Planet (or Licensee if the Parties agree) to install and maintain a minimum of eight (8) hours of standby power and Licensee shall provide emergency power generation.

2. ADDITIONAL DEFINITIONS

“Bandwidth” or “BW” means the amount of data (quantified as “Mbps” or “Gbps”) made available to Licensee.

“Ethernet Virtual Connection” or “EVC” is a logical connection between two or more UNIs.

“Failover Switching” means the automatic restore and reroute of a Product to an alternate transmission path.

“Location” is an address wherein Planet will hand off Ethernet to Licensee.

“Product Availability” means the percentage of minutes during a calendar month that the licensed Product has not incurred a Product Outage. Product Availability is calculated as follows: (43,200 - total number of minutes of Product Outage during the calendar month) divided by 43,200.

“Product Credit” means a credit that Licensee is eligible to receive if Planet fails to meet the parameters set forth in Section 5.2 below.

“Product Outage” means a complete interruption of communications between any two (2) or more Locations.

“Product Performance Failure” means a failure of the Product to meet any performance parameters set forth in Section 5.2(B) through 5.2(D) below. Product Performance Failure is not a Product Outage.

“User Network Interface” or “UNI” means the interface used to interconnect Licensee to Planet’s network which provides a reference point for demarcation between the Licensee’s network and Planet’s network.

“Virtual Local Area Network” or “VLAN” means a data communication network, configured using the IEEE 802.1q standard that logically interconnects computers and network devices, allowing a group of hosts to communicate, regardless of Location, as if they were attached to the same physical media.

“VPN” means a virtual private network.

3. SPECIFICATIONS

3.1 The Specifications applicable to Ethernet are as follows:

Technical Specifications:

- IEEE 802.3

4. USE BY LICENSEE

4.1 Interstate Traffic. Licensee acknowledges that Planet has no ability to determine whether the communications traffic carried via the licensed Ethernet is jurisdictionally interstate or intrastate. Licensee acknowledges and agrees that the communications traffic to be carried via Planet’s network shall be treated as jurisdictionally interstate, pursuant to the Federal Communications Commission’s mixed-use “10% Rule” (47 CFR 36.154, 4 FCC Rcd. 1352), unless Licensee provides timely written certification on Planet’s prescribed form that the traffic is jurisdictionally intrastate under the 10% Rule.

4.2 Permitted Use. Licensee may use the Ethernet for its own use. Licensee acknowledges that Planet does not monitor the content of the Ethernet traffic unless required by law and Licensee shall be solely liable and responsible for the content of any communications transmitted via the Ethernet.

5. SERVICE LEVEL AGREEMENT

5.1 Product Service Level. Subject to this Section 5, in the event of a Product Outage to any licensed Ethernet or a Product Performance Failure, Licensee may be entitled to a Product Credit in accordance with the applicable Service Level Objective set forth in Section 5.2 below. A Product Outage, or Product Performance Failure as the case may be, shall be deemed to begin upon the earlier of Planet’s actual knowledge of the same or Planet’s receipt of notice from Licensee of the same, and end when the Product is operational and in material conformance with the applicable Specifications. Notwithstanding anything to the contrary in this Supplement, the Agreement or any Order Form, in no event shall a Product Outage and/or Product Performance Failure and/or any other defect or failure in the Product be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form.

5.2 Service Level Objectives.

A. Product Availability

If the total minutes of Product Outage in any month exceeds the number of minutes or hours set forth in the table below, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

Quality Level	Product Availability Objective	Measurement Timeframe	Product Credit		
			Cumulative Duration of Product Outage(s)	% of MRC	
On-Net - Level A Access					
1	Product Availability	99.9%	One Month	0 to 43.2 mins.	0%
				>43.2 mins. to 10 hrs.	5%
				>10 hrs. to 16 hrs.	10%
				>16 hrs. to 24 hrs.	20%
				>24 hrs. to 36hrs.	40%
				> 36 hrs.	50%
On-Net - Level AA Access					
2	Product Availability	99.99%	One Month	0 to 4.32 mins.	0%
				>4.32 mins. to 30 mins.	5%
				>30 mins. to 1 hr.	10%
				>1hrs. to 8 hrs.	20%
				>8 hrs. to 16 hrs.	30%
				>16 hrs. to 24 hrs.	40%
>24 hrs.	50%				

On-Net		Level	AAA		
		Access			
3	Product Availability	99.999%	One Month	0 to 43 secs.	0%
				> 43 secs. to 4 mins.	5%
				>4 mins. to 10 mins.	10%
				>10 mins. to 2 hrs.	20%
				>2 hrs. to 8 hrs.	40%
				>8 hrs.	50%

B. Network Latency

“Network Latency” is the average round-trip transmission time (in milliseconds) for packets to travel on Planet’s network (including, but not limited to, link insertion delays, propagation delays and queuing delays in Planet’s network). Network Latency is determined by Planet by averaging sample measurements taken each calendar month between Planet’s designated points of presence.

If Network Latency in any month exceeds the number of milliseconds set forth in the table below and such failure is quality-impacting, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

NETWORK LATENCY				
	CoS Designation - % of MRC			
Domestic US	Standard	Business Priority	Business Critical	Mission Critical
>120ms	10%	20%	30%	50%

C. Frame Delivery Rate (Packet Delivery)

“Frame Delivery Rate” is the ratio of performance test frames successfully received from Planet’s network relative to the number of performance test frames offered to Planet’s network. Frame Delivery Rate is determined by Planet by averaging sample measurements taken each calendar month between Planet’s designated points of presence.

If Frame Delivery Rate in any month is less than the percentages set forth in the left column of the table below and such failure is quality-impacting, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

FRAME DELIVERY RATE				
	CoS Designation - % of MRC			
Domestic US	Standard	Business Priority	Business Critical	Mission Critical
99.999% or greater	No Credit	No Credit	No Credit	No Credit
99.99% to 99.998%	No Credit	No Credit	No Credit	10%
99.9% to 99.98%	No Credit	No Credit	10%	20%
99% to 99.8%	No Credit	10%	20%	30%
Less than 99%	10%	20%	30%	50%

D. Frame Delay Variation (Jitter)

“Frame Delay Variation”, also known as packet jitter, is a measurement of the average variation (measured in milliseconds) in the time delay for packet transfers between two performance test frames. Frame Delay Variation is determined by Planet by averaging sample measurements taken each calendar month between designated points of presence.

If Frame Delay Variation in any month exceeds the number of milliseconds set forth in the table below and such failure is quality-impacting, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

FRAME DELAY VARIATION				
	CoS Designation - % of MRC			
Domestic US	Standard	Business Priority	Business Critical	Mission Critical
2ms or less	No Credit	No Credit	No Credit	No Credit
>2ms to 3ms	No Credit	No Credit	No Credit	10%
>3ms to 4ms	No Credit	10%	15%	30%
>4ms	10%	20%	30%	50%

5.3 Product Credits. Product Credits hereunder are calculated as a percentage of the MRC set forth in the Order Form, and may not be applied to usage charges, government fees, taxes, or surcharges, or any third party charges passed through to Licensee by Planet. Product Credits hereunder may be paid only once per any given billing cycle. Product Credits issued to Licensee hereunder shall be Licensee's sole and exclusive remedy at law or in equity on account of any Product Outage and/or Product Performance Failure and/or any other defect or failure in the Product. Product Credits will not be issued to Licensee if Licensee's account with Planet is in arrears. If an incident affects the performance of the Product and results in a period or periods of interruption, disruption, failure or degradation in quality, entitling Licensee to one or more credits under multiple quality level standards, only the single highest credit with respect to that incident will be applied, and Licensee shall not be entitled to credits under multiple quality level standards for the same incident. Notwithstanding anything to the contrary herein, the above-stated Product Credits shall not apply to Off-Net Products; in the event of a Product Outage or Product Performance Failure, Planet agrees to pass through a credit equal to the credit received by Planet from its underlying provider(s) for such Product Outage or Product Performance Failure, in lieu of the above-stated Product Credits. In no event shall Product Credits in any month for any and all interruptions, disruptions, failures, and/or degradations in quality (including, without limitation, any Product Outage or Product Performance Failure) exceed fifty percent (50%) of the MRC for the affected Product for that month.

5.4 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event which gives rise to Licensee's right to the Product Credit. Failure to request a Product Credit within such period shall constitute a waiver of any claim for a Product Credit.

5.5 Events Excepted From Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Product Outage, Product Performance Failure, failure to meet any objectives or parameters hereunder, or delay in performing repairs, arising from or caused, in whole or in part, by any of the following events:

- a. Licensee's (including its agents, contractors and vendors) acts or omissions;
- b. Failure on the part of Licensee Equipment, end user equipment or Licensee's vendor's equipment;
- c. Failure of electrical power not provided by Planet;
- d. Election by Licensee, after requested by Planet, not to release the Product for testing and repair;
- e. Planet's inability to obtain access required to remedy a defect;
- f. Scheduled maintenance periods;
- g. Scheduled upgrade of Product at the request of Licensee;
- h. Force Majeure Event;
- i. Unavailability of spectrum not due to the fault or negligence of Planet when fixed wireless is utilized in the provisioning of the Product;
- j. Disconnection or suspension of the Product by Planet pursuant to a right provided under this Agreement; and/or
- k. Planet's inability to repair due to utility safety restrictions.

PART IV--TERMS APPLICABLE TO INTERNET SERVICES

1. The terms in this Part IV apply only to Internet access provided under an Order Form that specifies Internet. This Part shall not apply to other products, including Ethernet, wavelength, dark fiber, or colocation.

1.1 “Internet Product” or “Product” means Internet connectivity and Bandwidth provisioned by Planet at a Location. Internet Product includes, without limitation, the following types of Products:

- (a) ***Internet Access (“IA”)***: Internet connectivity and Bandwidth provided via a connection at a Planet POP; or
- (b) ***Dedicated Internet Access (“DIA”)***: Internet connectivity and Bandwidth provided via a local access from a Location to a Planet POP.
- (c) ***Fixed Wireless DIA***: Internet connectivity and Bandwidth provided for the local access from a Location to a Planet POP utilizing fixed wireless technology.

1.2 Available Options.

- (a) ***DDoS Defense (“DDoS Defense”)***: DDoS Defense is an available option to the Internet Product which consists of monitoring of IP traffic on the Product for possible DDoS attack and mitigation at the time of the DDoS attack. DDoS Defense can be purchased for a defined Product Term or on an as needed basis which is “Emergency Mitigation.”

2. ADDITIONAL DEFINITIONS

“95th Percentile Calculation” means the calculation method used to measure Bandwidth usage for burstable Internet Access and Dedicated Internet Access Products whereby samples for average Bandwidth utilization rates, both inbound and outbound traffic, will be collected at five (5) minute intervals on a calendar month basis and the highest five percent (5%) of samples will be discarded. The next highest sample will be chosen to represent the 95th percentile calculation for that month.

“Access Port” means the port on the Planet Equipment at the Location which is the point of attachment and entry into Planet’s network, and the Demarcation Point for the applicable Product.

“Bandwidth” or “BW” means the amount of data (quantified as “Mbps” or “Gbps”) made available to Licensee.

“Planet POP(s)” means Planet’s point of presence(s) at which Planet provides interconnectivity to its networks routes and facilities.

“DDoS” means distributed denial of service.

“Frame Delivery Rate” means the monthly average percentage of IP packets successfully received from the relevant portion of Planet’s network relative to the number of IP packets offered to Planet’s network between the Planet POPs and Access Port.

“Latency” means the monthly average round-trip transmission time (in milliseconds) for IP packets to travel on the relevant portion of Planet’s network between the Planet POPs and Access Port. Latency is measured (i) between the Planet POPs and Access Port, and (ii) using Planet’s network management systems or testing hardware. Planet’s network management systems or testing hardware shall be the sole and conclusive source of measurements for the purposes of measuring Latency.

“Location” is an address wherein Planet will hand off Product to Licensee.

“Product Availability” means the percentage of minutes during a calendar month that the licensed Product has not incurred a Product Outage. Product Availability is calculated as follows: (43,200 - total number of minutes of Product Outage during the calendar month) divided by 43,200.

“Product Credit” means a credit that Licensee may be eligible to receive in the event of a Product Outage or Product Performance Failure.

“Product Outage” means any period of time during which the Product is unable to send or receive data.

“Product Performance Failure” means a failure of the Product to meet any performance parameters set forth in Section 6.2.2 through 6.2.4 below. Product Performance Failure is not a Product Outage.

3. SPECIFICATIONS

The Specifications applicable to Internet Products are the performance parameters set forth in Section 6 below.

4. USE BY LICENSEE

4.1 The Product provides IP transit service via Planet’s network to the public Internet.

4.2 The Product is configured at designated speeds on a port(s) at the Location utilizing Planet Equipment. The selected speed of service, physical handoff type on the Licensee Equipment to the Licensee, pricing and length of the initial Product Term shall be set out in the individual Order Form.

4.3 Licensee shall utilize the Product(s) in compliance with all applicable international, federal, state and local laws and regulations, as well as abide by Planet’s Customer Acceptable Use Policy, which is posted on Planet’s website at <https://planet.net/EnterpriseAUP.pdf> and incorporated herein by reference.

4.4 Upon expiration or termination of a Product for any reason, Licensee agrees to return to Planet any IP addresses or address blocks assigned to Licensee by Planet.

5. DDOS DEFENSE OPTION

If an Internet Product is ordered with DDoS Defense, then the following additional terms will apply:

5.1 When DDoS Defense detects an anomaly in Internet traffic that is symptomatic of a DDoS attack due to triggered thresholds or indicators of protocol misuse, it generates an alert to Planet’s Network Operations Center (“**NOC**”). Planet will investigate such anomaly. If Licensee confirms that a DDoS attack is occurring, Planet will begin applying measures to block malicious packets while allowing the flow of non-suspect traffic to Licensee’s network. Planet will use reasonable efforts to attempt to configure measures to minimize the effects of the DDoS attack and to reduce disruption of Licensee’s non-suspect traffic. Upon the conclusion of the DDoS attack, Planet will cease mitigation measures. DDoS Defense does not monitor for attacks other than DDoS attacks.

5.2 If Planet in its reasonable judgement determines that a DDoS attack is impacting, or may impact, Planet’s network, Planet may, without incurring any liability, take any action, including but not limited to blackhole filtering of Licensee’s traffic, which filtering would result in all traffic destined to Licensee being dropped.

5.3 Planet will invoice Licensee (i) in advance for the MRC associated with DDoS Defense, and (ii) in arrears at Planet’s then current rates and charges for any Emergency Mitigation.

6. SERVICE LEVEL AGREEMENT

6.1 **Product Service Level.** Subject to this Section 6, in the event of a Product Outage to any licensed Product or a Product Performance Failure, Licensee may be entitled to a Product Credit in accordance with the applicable Service Level Objective set forth in Section 6.2 below. A Product Outage, or Product Performance Failure as the case may be, shall be deemed to begin upon the earlier of Planet’s actual knowledge of the same or Planet’s receipt of notice from Licensee of the same, and end when the Product is operational and in material conformance with the applicable Specifications. Notwithstanding anything to the contrary in this Supplement, the Agreement or any Order Form, in no event shall a Product Outage and/or Product Performance Failure and/or any other defect or failure in the Product be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form. Traffic traversing the public Internet is not subject or applicable to this Section 6 or this Supplement.

6.2 Service Level Objectives.

6.2.1 Product Availability

If the Product Availability in any calendar month is less than the Product Availability objective set forth in the table below, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

Quality Level	Product Availability Objective	Measurement Timeframe	Product Credit		
			Cumulative Duration of Product Outage(s)	% of MRC	
1	Product Availability	99.9%	One Month	0 to 45 mins.	0%
				>45 mins. to 4 hrs.	10%
				>4 hrs. to 8 hrs.	15%
				>8 hrs. to 12 hrs.	20%
				>12 hrs. to 24hrs.	35%
				> 24 hrs.	50%

6.2.2 Latency

If the actual monthly average Latency exceeds the number of milliseconds set forth in the table below and such failure is quality-impacting, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

LATENCY	
Domestic US	Product Credit
45ms or less	No Credit
>45ms	10%

6.2.3 Frame Delivery Rate (Packet Delivery)

If the actual monthly average Frame Delivery Rate is less than the percentages set forth in the left column of the table below and such failure is quality-impacting, Licensee shall be entitled to a Product Credit equal to the percentage of the applicable MRC set forth in the following table:

FRAME DELIVERY RATE	
Domestic US	Product Credit
99.9% or greater	No Credit
Less than 99.9%	10%

6.2.4 DDoS Defense

If an Internet Product is ordered with DDoS Defense, then the following performance parameter will apply to DDoS Defense only. In addition, the following performance parameter will not apply to Emergency Mitigation.

Description	Goal	Product Credit (applied as percentage of MRC for DDoS Defense)	
		16-30 minutes = 50%	More than 30 minutes = 100%
Time to Initiate Mitigation	15 minutes from initial DDoS alarm		
Burstable Internet			

Bandwidth for burstable Internet Access and Dedicated Internet Access Products shall be measured using the 95th Percentile Calculation.

6.3 Product Credits. Product Credits hereunder are calculated as a percentage of the MRC set forth in the Order Form, and may not be applied to usage charges, government fees, taxes, or surcharges, or any third party charges passed through to Licensee by Planet. Product Credits hereunder may be paid only once per any given billing cycle. Product Credits issued to Licensee hereunder shall be Licensee’s sole and exclusive remedy at law or in equity on account of any Product Outage and/or Product Performance Failure and/or any other defect or failure in the Product. Product Credits will not be issued to Licensee if Licensee’s account with Planet is in arrears. If an incident affects the performance of the Product and results in a period or periods of interruption, disruption, failure or degradation in quality, entitling Licensee to one or more credits under multiple quality level standards, only the single highest credit with respect to that incident will be applied, and Licensee shall not be entitled to credits under multiple quality level standards for the same incident. Notwithstanding anything to the contrary herein, the above-stated Product Credits shall not apply to Off-Net Products, and in the event of any Product Outage or Product Performance Failure of any Off-Net Product provided by Planet to Licensee, Planet agrees to pass through a credit equal to the credit received by Planet from its underlying provider(s) for such Product Outage or Product Performance Failure, in lieu of the above-stated Product Credits. In no event shall Planet’s total liability for any and all interruptions, disruptions, failures, and/or degradations in quality (including, without limitation, any Product Outage or Product Performance Failure) exceed fifty percent (50%) of the MRC for the affected Product, with the exception of the DDoS Defense performance parameter in Section 6.2.4 which will not exceed one hundred percent (100%) of the MRC for the affected Product.

6.4 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event which gives rise to Licensee’s right to request the Product Credit. Failure to request an allowance within such period shall constitute a waiver of any claim for a Product Credit.

6.5 Events Excepted From Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Product Outage, Product Performance Failure, or delay in performing repairs, arising from or caused, in whole or in part, by any of the following events (collectively referred to as “Excluded Events”):

- a. Licensee’s (including its agents, contractors and vendors) acts or omissions;

- b. Failure on the part of Licensee Equipment, Licensee provided optical fiber, Licensee's end user equipment or Licensee's vendor's equipment;
- c. Failure of electrical power not provided by Planet;
- d. Election by Licensee, after requested by Planet, not to release the Product for testing and repair;
- e. Planet's inability to obtain access required to remedy a defect in the Product or restore DDoS Defense;
- f. Scheduled maintenance and emergency maintenance periods;
- g. Scheduled upgrade of Product at the request of Licensee;
- h. Force Majeure Event;
- i. Disconnection or suspension of the Product by Planet pursuant to a right provided under this Agreement;
- j. Failure of any local access circuits provided by Licensee;
- k. Planet's inability to repair due to utility safety restrictions;
- l. Unavailability of required Licensee personnel, including as a result of Licensee's failure to provide Planet with accurate, current contact information;
- m. Improper or inaccurate network specifications provided by Licensee;
- n. Unavailability of required spectrum not due to the fault or negligence of Planet when fixed wireless is utilized in the provisioning of the Product;
- o. Dropping of Internet traffic pursuant to Section 5.2; and/or
- p. Licensee attempting to exceed maximum Bandwidth of Licensee's port connection to Planet's network.

7. ADDITIONAL TERMS

7.1 Disclaimer of Third Party Actions. At times, actions or inactions caused by third parties (e.g. DDoS attacks and unauthorized network intrusions) can produce situations in which Licensee connections to the Internet (or portions thereof) may be impaired or disrupted. In addition, third parties may attempt to intrude into or hack into Licensee's network. Planet has no control over or responsibility for the security of Licensee's network or unauthorized intrusions into and/or unauthorized uses of Licensee's network and/or IP addresses used by Licensee. Planet cannot guarantee that such situations will not occur, and accordingly Planet disclaims any and all liability resulting from or related to such events. In the event that Licensee's use of the Product or such third parties is causing harm to Planet's network or its operations, Planet shall have the right to suspend the Product. Planet shall restore the Product at such time as it reasonably deems that there is no further harm or threat to Planet's network or its operations.

7.2 Network Traffic Samples. Planet may collect small samples of network traffic for (i) support and maintenance of Product performance, and/or (ii) troubleshooting, prevention or correction of service impacting incidents or for correcting and defending against malicious and improper usage of Planet's Network and products (e.g. DDoS attacks, Botnet activity) ("Network Traffic Samples"). Network Traffic Samples typically include source and destination IP addresses, source and destination ports, and partial or in some cases full payload data, and may be stored in a secure system for historic, troubleshooting, or reporting purposes for up to one year. The collection of Network Traffic Samples is inherent in Planet providing the Product. Planet does not otherwise utilize Network Traffic Samples for any other purpose, including, but not limited to, collecting data for marketing or sales purposes, or selling or transferring of data to third parties. Planet utilizes security best practices and provides reasonable and adequate protections to the systems that collect and store Network Traffic Samples. Planet is unable to decrypt any Network Traffic Samples that are encrypted therefore, Planet highly recommends that Licensee encrypt its network traffic.

PART V--TERMS APPLICABLE TO WAVELENGTH SERVICES

The terms in this Part V apply only to Wavelength licensed to Licensee under an Order Form that specifies Wavelength. This Part shall not apply to other products, including dark fiber, Internet, Ethernet, or colocation.

1. PRODUCT DEFINITION; PROTECTION AND ENCRYPTION OPTIONS

This Supplement applies to Wavelength Service as further defined in this Section.

1.1 “Wavelength” or “Product” means a telecommunications circuit enabled by wavelength division multiplexing (WDM) equipment. Wavelength may be ordered and provisioned either as an On-Net Product or an Off-Net Product. Wavelength includes, without limitation, the following types of Products:

- (d) **Point to Point; DC to DC Connectivity-Inter Market; and DC to DC Connectivity-Intra Market:** Dedicated circuit between two (2) Locations over a shared optical fiber infrastructure; or
- (e) **Managed Private Optical Network (“MPON”):** Dedicated circuit(s) between two (2) or more Locations over dedicated optical fiber infrastructure and dedicated Planet Equipment at each Location.

1.2 Protection Options.

Protection Option	Description	Minimum Location Requirements			
		Space	Power	Environmental Control	Back Up Power
Unprotected (Level A)					
1	Level A Protection means the Product is provided over a single fiber path without protection. Level A Protection consists of the following minimum requirements at each Location: (i) a single point of entry into the Location; (ii) one (1) Planet Equipment chassis; (iii) one (1) port; and (iv) a 2-fiber handoff to the Licensee from the Planet Equipment.	(1)	(2)	(4)	Not applicable
Protection (Level AA)					
2	Level AA Protection means the Product is provided over two (2) separate fiber paths, one of which is the working (primary) path and the other the protect (secondary) path. Planet is responsible for managing the Failover Switching between the working and protect paths. Level AA Protection consists of the following minimum requirements at each Location: (i) a single point of entry into the Location; (ii) one (1) Planet Equipment chassis; (iii) one (1) port; and (iv) a 2-fiber handoff to Licensee from the Planet Equipment.	(1)	(2)	(4)	(6)
Protection (Level AAA)					
3	Level AAA Protection means the Product is provided over two (2) wavelengths utilizing separate fiber paths, one of which is the working (primary) path and the other the protect (secondary) path. Failover Switching at each Location will be provided by Licensee or by Planet as specified in the Order Form. Level AAA Protection consist of the following minimum requirements at each Location: (i) two (2) separate points of entry into the Location; (ii) two (2) Planet Equipment chassis; (iii) one (1) line card per chassis; (iv) a 4-fiber handoff to the Licensee from the Planet Equipment, with two fibers handed off from one of the Planet Equipment chassis and two fibers handed off from the other Planet Equipment chassis.	(1)	(3)	(5)	(7)

(1) Secure space for Planet Equipment at each Location with 24x7x365 access.

(2) Dedicated electrical circuit for Planet Equipment from the public utility. (i.e., the circuit has no other load from the Planet Equipment to a circuit breaker) at each Location.

(3) Redundant, dedicated electrical circuit at each Location from the public utility (i.e. each power circuit is fed from a different circuit breaker panel and has its own circuit breaker)

(4) Substantially dust free with temperature control that maintains temperature between 50 and 80-deg F and humidity control that maintains relative humidity below 80%.

- (5) Substantially dust free with temperature control that maintains temperature between 60 and 80-deg F and humidity control that maintains relative humidity between 40% and 60%
- (6) Planet (or Licensee if the Parties agree) to install and maintain a minimum of four (4) hours of standby power
- (7) Planet (or Licensee if the Parties agree) to install and maintain a minimum of eight (8) hours of standby power and Licensee shall provide emergency power generation

1.3 **Encryption Option.** If a Wavelength Product is ordered with Layer 1 encryption, the following additional terms shall apply:

- a. Planet is not responsible for encryption beyond the port on the Planet Equipment (in which the encryption card resides), at the Location(s);
- b. Product Outages resulting from Licensee's administration of encryption including, but not limited to, encryption keys and certifications, shall not be eligible for Product Credits;
- c. Licensee assumes all responsibility for administration of encryption, including, but not limited to, encryption policies.
- d. Subject to the foregoing, a failure of the encryption function on a Wavelength Product ordered with encryption will be deemed a Product Outage and eligible for Product Credits to the extent and subject to the limitations provided in Section 5 below.
- e. Planet will procure in its name any cross connections between Planet's optical fiber distribution point at each Location and the Licensee hand-off site at the Location (at which Planet Equipment with encryption capability will reside ("Encryption Cross-Connections") and Licensee will pay the cost of such Cross-Connections on a pass-through basis; provided that in the event Planet is unable to procure the Encryption Cross Connection due to restrictions at the applicable facility, then Licensee will procure such Encryption Cross-Connection in Licensee's name and at Licensee's expense. Product Outages resulting from failure of or defect in the Encryption Cross Connections shall not be eligible for Product Credits.

2. ADDITIONAL DEFINITIONS

"Failover Switching" means the automatic restore and reroute of the Product to an alternate transmission path;

"Location" is an address where Planet will hand off the Product to Licensee;

"Product Availability" means the percentage of minutes during a calendar month that the licensed Product has not incurred a Product Outage. Product Availability is calculated as follows: (43,200 - total number of minutes of Product Outage during the calendar month) divided by 43,200.

"Product Credit" means a credit that Licensee is eligible to receive if Planet fails to meet the Product Availability levels set forth in Section 5.2 below;

"Product Outage" means a complete interruption of communications between any two (2) or more Locations;

3. SPECIFICATIONS

3.1 The Specifications applicable to Wavelength are as follows:

- ITU-T G.709, Interfaces for the Optical Transport Network (OTN)
- ITU-T G.693, Optical interfaces for intra-office systems
- ITU-T G.959.1, Optical transport network physical layer interfaces
- IEEE 802.3

iv. USE BY LICENSEE; INCREMENTALLY DELIVERED CIRCUIT

4.1 Interstate Traffic. Licensee acknowledges that Planet has no ability to determine whether the communications traffic carried via the Product is jurisdictionally interstate or intrastate. Licensee acknowledges and agrees that the communications traffic to be carried via Planet's network shall be treated as jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed-use "10% Rule" (47 CFR 36.154, 4 FCC Rcd. 1352), unless Licensee provides timely written certification on Planet's prescribed form that the traffic is jurisdictionally intrastate under the 10% Rule.

4.2 Incrementally Delivered Circuits. Unless otherwise specified in an Order Form, if a Product consists of more than one circuit, Planet may incrementally deliver individual circuit, and billing for each circuit shall commence upon delivery and acceptance of that circuit. The Product Term for a multi-circuit Product shall begin upon delivery of the first circuit and end after the number of months specified in the Order Form have elapsed from delivery and acceptance of the final circuit.

4.3 Permitted Use. Licensee may use the Product(s) for its own use. Licensee acknowledges that Planet does not monitor the content of Licensee's traffic unless required by law and Licensee shall be solely liable and responsible for the content of any communications transmitted via the Product(s).

5. SERVICE LEVEL AGREEMENT

5.1 Product Outage. Subject to this Section 5, in the event of a Product Outage to any Product, Licensee may be entitled to a Product Credit in accordance with the applicable Product Availability Level Objective set forth in Section 5.2 below. A Product Outage shall be deemed to begin upon the earlier of Planet’s actual knowledge of the Product Outage or Planet’s receipt of notice from Licensee of the Product Outage, and end when the Product is operational and in material conformance with the applicable Specifications. Notwithstanding anything to the contrary in this Supplement, the Agreement or any Order Form, in no event shall a Product Outage, defect or failure to meet any objectives or parameters under this Supplement be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form.

5.2 Service Level Objectives.

If the total minutes or hours of Product Outages in any month exceed the number of minutes or hours set forth in the table below, Licensee shall be entitled to a Product Credit equal to the percentage of the Product MRC set forth in the following table:

Product Availability Objective	Measurement Timeframe	Product Credit		
		Cumulative Duration of Product Outage(s)	% of MRC	
Level A				
1	99.9%	One Month	0 to 43.2 min.	0%
			>43.2 min. to 10 hrs.	5%
			>10 hrs. to 16 hrs.	10%
			>16 hrs. to 24 hrs.	20%
			>24 hrs. to 36hrs.	40%
		> 36 hrs.	50%	
Level AA				
2	99.99%	One Month	0 to 4.32 mins.	0%
			>4.32 min. to 30 min.	5%
			>30 min, to 1 hr.	10%
			>1hrs. to 8 hrs.	20%
			>8 hrs. to 16 hrs.	30%
			>16 hrs. to 24 hrs.	40%
		>24 hrs.	50%	
Level AAA				
3	99.999%	One Month	0 to 43 secs.	0%
			> 43secs. to 4 min.	5%
			>4 min. to 10 min.	10%
			>10 min. to 2 hrs.	20%
			>2 hrs to 8 hrs.	40%
		>8 hrs	50%	

5.3 Product Credits. Product Credits hereunder are calculated as a percentage of the MRC set forth in the Order Form. If a Product consists of more than two (2) Locations, and hence more than one circuit, and the circuits experience different levels of Product Availability, then Product Credits shall be calculated separately with respect to each circuit and shall be based on the MRC applicable to the particular circuit. Product Credits shall be Licensee’s sole and exclusive remedy at law or in equity on account of any Product Outage and/or any other defect in the Product. If an incident affects the performance of the Product and results in a period or periods of interruption, disruption, failure or degradation in quality, entitling Licensee to one or more credits under multiple quality level standards, only the single highest credit with respect to that incident will be applied, and Licensee shall not be entitled to credits under multiple quality level standards for the same incident. Product Credits will not be issued to Licensee if Licensee’s account with Planet is in arrears. Notwithstanding anything to the contrary herein, the above-stated Product Credits shall not apply to Off-Net Products, and in the event of a Product Outage or other failure of any Off- Net Product provided by Planet to Licensee, Planet agrees to pass through a credit equal to the credit received by Planet from its underlying Planet(s) for such Product Outage, in lieu of the above-stated Product Credits. In no event shall Product Credits in any month for any and all interruptions, disruptions, failures, and/or degradations in quality (including, without limitation, any Product Outage or failure to meet any objectives or parameters set forth in this Supplement) exceed fifty percent (50%) of the MRC for the affected Product for that month.

5.4 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event which gives rise to Licensee’s right to the Product Credit. Failure to request a Product Credit within such period shall constitute a waiver of any claim for a Product Credit.

5.5 Events Excepted from Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Product Outage, failure to meet any objectives or parameters hereunder, or delay in performing repairs, arising from or caused, in whole or in part, by any of the following events:

- a. Licensee's (including its agents, contractors and vendors) acts or omissions;
- b. Failure on the part of Licensee Equipment, Licensee provided optical fiber, end user equipment or Licensee's vendor's equipment;
- c. Failure of electrical power not provided by Planet;
- d. Election by Licensee, after requested by Planet, not to release the Product for testing and repair;
- e. Planet's inability to obtain access required to remedy a defect;
- f. Scheduled maintenance periods;
- g. Scheduled upgrade of the Product at the request of Licensee;
- h. Force Majeure Event;
- i. Disconnection or suspension of the Product by Planet pursuant to a right provided under this Agreement; and/or
- j. Planet's inability to repair due to utility safety restrictions.

PART VI--TERMS APPLICABLE TO COLOCATION SERVICES

1. The terms in this Part VI apply only to Colocation licensed to Licensee under an Order Form that specifies Colocation. This Part shall not apply to other products, including Ethernet, wavelength, Internet, or dark fiber.

2. ADDITIONAL TERMS

The following additional terms and conditions shall apply to the provision of such Colocation.

“Colocation” or “Product”: The provision of Site Space and any other services (e.g. power or cross-connections) provided by Planet to Licensee in the Site Space.

“Colocation Outage”: The period when UPS power licensed by Licensee from Planet under an Order Form in the applicable Site Space is unavailable to Licensee (provided that the primary and redundant feeds are both unavailable at the time in question), as measured at the point where Planet delivers the UPS power to Licensee.

“Licensee Equipment”: Any equipment that Licensee places in the Site Space.

“Site”: The specified premises listed in the applicable Order Form at which Planet provides floor space or rack arrangements dedicated to Licensee Equipment.

“Site Landlord”: The landlord or lessor of a particular Site.

“Site Lease”: The applicable underlying lease agreement for a particular Site.

“Site Space”: The floor, cabinet, cage or rack space dedicated to Licensee Equipment at a specific Site.

3. LICENSE TERMS

3.1 License. Subject to the terms and conditions set forth in the Agreement, pursuant to a Order Form for Colocation Planet will grant to Licensee a license to occupy and use the Site Space, and any power, cabling and connectivity (if any) identified in the applicable Order Form. Licensee acknowledges that the licensing of a given Site Space under the Agreement does not grant any real property interest in such Site Space or in the building in which such Site Space is located. Licensee's occupancy of the Site Space located within a Site shall be subject and subordinate to the terms and conditions of the Site Lease applicable to such Site, including provisions regarding condemnation, damage to premises, and termination of such Site Lease.

3.2 Use of Site Space. Except as otherwise provided in this Supplement, each Site Space is delivered in its current condition ("as is" and "where is"), and Licensee acknowledges that it has inspected the same and found each to be satisfactory. Planet makes no warranty with respect to title, condition, safety or fitness of the Site Space, and Licensee shall use the Site Space at its sole risk. Licensee shall use the Site Space only for the purpose of placing, operating and maintaining Licensee Equipment. Licensee shall exercise its rights hereunder in accordance with the terms set forth herein and applicable international, federal, state and local laws and regulations. Nothing herein shall be construed as limiting or restricting Planet in any manner from using the Site, Planet's cages, cabinets, racks, cables, power and/or other facilities and equipment for any purpose. Licensee agrees that it will not permit any Site Space to be used by anyone other than Licensee or its authorized agents without the prior written consent of Planet. Planet agrees that it will not permit the applicable Site Space to be used by anyone other than Licensee or its authorized agents without the prior written consent of Licensee; provided, however, Planet shall not be restricted in sub-leasing or licensing other portions of the applicable Site to other third parties without the prior written consent of Licensee. Licensee shall not make any alterations to the Site Space except for the installation, operation and maintenance of Licensee Equipment. Licensee shall properly maintain the Site Space and keep the Site free of any debris, waste or other obstructions.

3.3 Access to Site Space. Licensee shall be permitted access to the Site Space at all times subject to (i) Planet's rules and policies concerning authorized access to the Site and the presentation of appropriate identification, (ii) the Site Landlord's rules and regulations, (iii) such other restrictions on access as may be set forth in the applicable Order Form. Planet shall have no liability for Licensee's inability to gain access to the Site Space.

3.4 Installation. Licensee is responsible for all aspects of installation and removal of Licensee Equipment, unless otherwise agreed in writing by the Parties. Licensee will install Licensee Equipment in the Site Space only after obtaining authorization from Planet. Licensee shall give Planet at least ten (10) days' notice prior to commencing installation, and installation and testing shall at all times be under the direct supervision of an authorized employee or agent of Planet (“Escort”). If Licensee uses an agent or other third party to deliver, install, or remove Licensee's Equipment, then Licensee will be solely responsible for the acts of such agent/third party. Licensee shall engineer, furnish, install, and test, at its sole cost and expense, all of Licensee Equipment in accordance with the plans and specifications approved in advance by Planet. All Licensee Equipment shall be clearly labeled as such, and Licensee shall be responsible for removal of all installation material, for daily clean-up of the Site Space during installation, and for a final clean up after completion of installation.

3.5 Rules and Regulations. Colocation shall be in accordance with the terms specified in an applicable Order Form and shall be governed by Planet's Colocation Rules and Regulations, which is attached hereto as **Exhibit A** and is incorporated herein by reference, and which may be amended from time to time by Planet. Moreover, Licensee agrees to be subject to, and comply with, all building rules, regulations, and similar requirements imposed by the Site Landlord, and not to take any action to cause a breach of the terms of such Site Lease.

3.6 Power. Planet will provide DC power and/or AC power to the Site Space as per the allotment specified in the applicable Order Form at the rates and charges set forth in the applicable Order Form. Notwithstanding anything to the contrary in this Agreement, Licensee agrees that, in no event shall the load for the Site Space connected to any power circuit, or the draw on any power circuit, exceed eighty percent (80%) of the power circuit's breaker capacity ("**Power Limitation**"). If Planet discovers that Licensee has violated Power Limitation, Planet may, in its sole discretion, provide Licensee written notice of such violation requiring Licensee to pay Planet a monthly excess power charge of one-hundred percent (100%) of the then-applicable power charge and/or discontinue Licensee's right to use the power circuit that exceeds the Power Limitation. Unless specified otherwise in the applicable Order Form, Planet shall not have any obligation to provide the applicable Site Space with, and it shall be Licensee's responsibility to provide or install, to the extent that it determines necessary, surge protection devices, power performance monitoring devices or other electrical safety devices to protect Licensee Equipment.

3.7 Licensee Equipment. Licensee shall, at its own cost and expense, maintain all Licensee Equipment at such Site Space in good repair, condition and working order, and shall provide or arrange for all parts, mechanisms, devices and servicing required therefor. Licensee shall be responsible for any repairs to or servicing of such Licensee Equipment, and for any maintenance/service agreement that may cover such Licensee Equipment. Except in the case of an emergency, Planet shall not relocate, move, alter, or disturb any Licensee Equipment at any Site Space without the prior written consent of Licensee, such consent not to be unreasonably withheld, denied, conditioned, or delayed. Any Licensee Equipment not removed from the Site Space within two business (2) days of the expiration or termination of the applicable Order Form shall be assumed abandoned and Planet, or, if applicable, such Site Landlord, may dispose of such Licensee Equipment as Planet or Site Landlord deems appropriate, in its sole discretion, and Licensee shall be responsible for any expenses associated with such disposal.

3.8 Relocation. Planet may require Licensee to move any Licensee Equipment located in a Site Space. In such event, Planet shall, to the extent reasonably possible (with consideration, if applicable, to what notice Planet may have received from the applicable Site Landlord), provide Licensee with sufficient prior written notice to permit Licensee to take any actions necessary to plan for any potential service interruptions and will provide the location of the new floor space/rack arrangement to be dedicated to Licensee Equipment. Licensee shall reimburse Planet for any and all reasonable costs and expenses incurred as a result of Licensee Equipment relocation.

3.9 Interference. Licensee agrees that its use of any applicable Site Space shall not interfere with Planet's use of the Site. Planet may suspend the provision of Colocation to Licensee in the event that Licensee or Licensee Equipment interferes with Planet's operation or maintenance of the Site or with one or more of Planet's other Licensees' use thereof, and within a reasonable time, not to exceed one (1) hour after being notified by e-mail or phone, Licensee fails to cease such interference. In the event that Planet suspends Colocation hereunder, Planet will resume the discontinued Colocation as soon as reasonably practicable after it is reasonably satisfied that Licensee has cured the interference. Further, Planet may terminate the applicable Order Form if Colocation is suspended more than twice during the applicable Product Term. Except as otherwise provided, Planet agrees to use commercially reasonable efforts to ensure that Licensee's use of such Site Space is not unreasonably interfered with by Planet, its employees, agents or other Licensees, and/or the Site Landlord of any Site.

3.10 Cross Connections. Licensee may not run cables or wires of any kind from the Site Space to any other location in the Site without the prior written approval of Planet pursuant to a Order Form describing the cross-connect and the charges applicable thereto. Licensee may not allow any carriers or other person to gain access to the Site or the Site Space. Planet shall have sole control of access to the Site by carriers, contractors, service providers or others. Licensee shall not engage in or provide at the Site any meet-me-room services, or any services either directly or indirectly related to the trading of bandwidth.

3.11 Inspections. Planet may make periodic inspections of any part of the Licensee Equipment, and Licensee shall have the right to be represented during such inspections; provided however, that if in the sole judgment of Planet safety considerations require an inspection without providing such notice, Planet may make such inspection immediately, but shall thereafter promptly provide notice to Licensee of such inspection. The making of periodic inspections or the failure to do so shall not operate to impose upon Planet any liability and shall not relieve Licensee of any responsibility, obligations or liability under this Supplement or the Agreement.

4. COLOCATION TECHNICAL ASSISTANCE

4.1 Colocation Technical Assistance.

4.1.1 If set forth on the applicable Order Form for Colocation, Planet will provide Licensee certain technical support at the Site Space. Such technical support will consist of either or both of the following types of assistance, as designated on the Order Form: (1) Remote Hands Assistance ("Remote Hands") and/or (2) Smart Hands Assistance ("Smart Hands"). Such assistance shall

be subject to the Agreement and the terms and conditions set forth in this Section 4 and such further terms and conditions as may be set forth in the applicable Order Form.

4.1.2 Remote Hands. Remote Hands is designed to provide Licensees with basic assistance requested by Licensee such as re-booting Licensee Equipment, checking indicators on Licensee Equipment, basic troubleshooting of Licensee Equipment, and similar activities that do not require the use of any tools or specialized equipment by the Planet technician. With respect to Remote Hands assistance, Planet's sole obligation shall be to carry out the express instructions of Licensee, and Planet reserves the right to reject Licensee's request if Planet in its discretion deems the request outside the scope of the Remote Hands assistance.

4.1.3 Smart Hands. Smart Hands is designed to provide Licensees with onsite technical assistance of a more complex or technical nature than Remote Hands, and includes Planet complying with Licensee's instructions relating to the installation of Licensee Equipment, more advanced troubleshooting, the installation or change of certain physical components within the Licensee Site Space environment (e.g., relocating equipment, cable management, Licensee Equipment installation or replacement, or other mutually agreed to work set forth within a Order Form). Smart Hands assistance generally does require the use of tools and or certain types of specialized equipment by the Planet technician. With respect to the Smart Hands assistance offered by Planet, Planet's sole obligation shall be to carry out the express instructions of Licensee, and Planet reserves the right to reject Licensee's request if Planet in its discretion deems the request outside the scope of the Smart Hands assistance.

4.2 Technical Assistance Request. Remote Hands and Smart Hands assistance will be provided upon submission by Licensee of a request for assistance. For Smart Hands, the Order Form must contain a method and procedure for work to be performed.

4.3 On-Demand Pricing:

4.3.1 Remote Hands or Smart Hands 24/7 manned Sites:

Regular Assistance:

Response Objective: Within 2 hours of notice

Per Incident Price: \$135/hour (billed in 15 min increments after the first 15 min)

4.3.2 Remote Hands or Smart Hands unmanned Sites:

Regular Assistance:

Normal Business Hours: 8 AM – 5 PM, Monday through Friday, excluding holidays based on the time zone applicable to the facility

Response Objective: Within 4 hours of notice

Per Incident Price: \$135/hour (billed in 15 min increments)

Emergency Assistance:

After Normal Business Hours

Response Objective: Within 4 hours of notice

Per Incident Price: \$270/hour (billed in 15 min increments after a 2 hour minimum charge)

4.3.3 Pricing is subject to change upon notice by Planet. If the Order Form specifies pricing different from the foregoing, the pricing in the Order Form shall apply.

4.4 Conduct. Planet warrants that it will use commercially reasonable efforts to cause Remote Hands and Smart Hands assistance to be performed in a workmanlike manner. If Licensee claims a breach of the foregoing warranty, Licensee must: (a) immediately report the issue to Planet's network Operations Center (at 833-3PLANET or +1-862-300-3150) and open a trouble ticket; and (b) make a written request for a re-performance of the Remote Hands within seven (7) days following the end of the month in which the alleged breach occurred. Upon receipt of Licensee's request, Planet will investigate the claim under the terms described in this Article. If Planet finds that it failed to satisfy the foregoing warranty, Planet will promptly correct any errors or deficiencies in the Remote Hands and/or Smart Hands assistance performed hereunder. Licensee shall afford Planet full and free access to the Site Space for all work necessary to remedy any breach of Planet's warranty. The foregoing represents Planet's sole obligation and Licensee's sole remedy for any defect or deficiency in a Remote Hands and/or Smart Hands assistance. Planet shall have no liability whatsoever to Licensee or anyone claiming through Licensee for any issues or equipment outages resulting from Remote Hands and/or Smart Hands assistance unless directly caused by Planet's willful misconduct.

4.5 Billing and Expenses. Planet will render invoices monthly in arrears for Remote Hands or Smart Hands that are billed on a variable basis and monthly in advance for those Remote Hands or Smart Hands that are billed on a fixed basis. Licensee shall, upon receipt of appropriate supporting documentation, reimburse Planet for any and all reasonable out-of-pocket expenses incurred by Planet in connection with rendering the Remote Hands or Smart Hands as applicable. Planet will include all applicable expenses in its invoices to Licensee for the Remote Hands or Smart Hands.

5. SERVICE LEVEL AGREEMENT

5.1 Colocation Outage. Subject to this Section 8, in the event of a Colocation Outage, Licensee may be entitled to a credit (“Product Credit”) of 1/720 of the MRC applicable to the affected Product, for each hour in duration of any such Colocation Outage beyond three (3) hours. A Colocation Outage shall be deemed to begin upon the earlier of Provider’s actual knowledge of the Colocation Outage or Provider’s receipt of notice from Licensee of the Colocation Outage, and end when power is available, as documented by Provider’s records. Notwithstanding anything to the contrary in this Supplement, in the Agreement or in any Order Form, in no event shall a Colocation Outage or failure to meet any objectives or parameters under this Supplement be deemed to be or constitute a breach by Provider of this Supplement, the Agreement or any Order Form.

5.2 Product Credits. The number of minutes of separate and discrete Colocation Outages will not be accumulated to determine the percentage of Product Credit. Product Credits hereunder are calculated as a percentage of the MRC set forth in the Order Form, and may not be applied to usage charges, government fees, taxes, or surcharges, or any third-party charges passed through to Licensee by Provider. Product Credits issued to Licensee hereunder shall be Licensee’s sole and exclusive remedy at law or in equity on account of any Colocation Outage or any other defect in Product provided to Licensee. If an incident affects the performance of the Product and results in a period or periods of interruption, disruption, failure or degradation in Service, entitling Licensee to one or more credits under multiple service level standards, only the single highest credit with respect to that incident will be applied, and Licensee shall not be entitled to credits under multiple service level standards for the same incident. Service Credits will not be issued to Licensee if Licensee’s account with Provider is in arrears. In no event shall Provider’s total liability for any and all interruptions, disruptions, failures, and/or degradations in Service (including, without limitation, any Colocation Service Outage or failure to meet any objectives or parameters set forth in this Supplement) exceed fifty percent (50%) of the MRC for the affected Service.

5.3 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event which gives rise to Licensee’s right to request the Product Credit. Failure to request an allowance within such period shall constitute a waiver of any claim for a Product Credit.

5.4 Events Excepted From Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Colocation Outage, failure to meet any objectives or parameters hereunder, or delay in performing repairs, arising from or caused, in whole or in part, by the following events:

- a. Licensee’s (including its agents, contractors and vendors) acts or omissions;
- b. Failure on the part of Licensee Equipment, Licensee provided optical fiber, End User equipment or Licensee’s vendor’s equipment;
- c. Failure of electrical power not provided by Provider;
- d. Election by Licensee, after requested by Provider, not to release the Product for testing and repair;
- e. Provider’s inability to obtain access required to remedy a defect in Service;
- f. Scheduled maintenance and emergency maintenance periods;
- g. Scheduled upgrade of Service at the request of Licensee;
- h. Force Majeure Event;
- i. Disconnection or suspension of the Service by Provider pursuant to a right provided under this Agreement; and/or
- j. Provider’s inability to repair due to utility safety restrictions.

6. RISK OF LOSS; INDEMNIFICATION; AND INSURANCE

6.1 Risk of Loss. The risk of any loss of or damage to Licensee Equipment at any Site Space shall be borne solely by Licensee. Planet shall not be liable to Licensee for, and Licensee shall not be relieved of its obligations hereunder due to, any interruption or termination of any service or utilities due to any repair, installation or improvement, or any cause beyond Planet’s reasonable control, except that if Licensee is unable to operate its business as a result of such interruption caused by the gross negligence or willful misconduct of Planet, there shall be an abatement of the applicable MRC during the period of such interruption.

6.2 Indemnification. Licensee shall indemnify, defend, release, and hold harmless Planet, its Affiliates, directors, members, officers, employees, managers, agents, representatives, and contractors, as well as the Site Landlord and Planet’s other Licensees, from and against any and all claims, demands, actions, judgments, costs, expenses (including reasonable attorneys’ fees), damages and/or liabilities arising out of or in connection with Licensee’s (including its agents, contractors, employees and representatives) use of the Site Space and/or exercise of its rights hereunder.

6.3 Insurance. Licensee shall procure, and thereafter shall maintain through the Product Term, the following insurance from carriers having a Best Rating Service rating of A- or better:

- Commercial General Insurance with a limit of not less than \$5,000,000 each occurrence, written on ISO occurrence form CG 00 01 12 07 (or a substitute form providing equivalent coverage) and covering liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. Such insurance amount may be satisfied through a combination of primary and umbrella insurance.

- Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident, covering liability arising out of any auto (including owned, hired and non-owned autos). Such insurance amount may be satisfied through a combination of primary and umbrella insurance.
- Workers Compensation and Employers Liability Insurance as required by the laws and regulations applicable to the employees who are engaged in the performance hereunder.
- Commercial Property Insurance covering Licensee's property and equipment at Planet's location, in an amount equal the full replacement cost of Licensee's property and equipment.

Licensee shall deliver to Planet standard form insurance certificates evidencing the coverage required herein and stating that the insurer will provide at least thirty (30) days' written notice to Planet if such coverage is to be cancelled, non-renewed or materially and adversely modified. Planet shall be included as an insured on the associated policies and this insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded Planet (there shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured). Licensee waives all rights against Planet and its agents, officers, managers, directors and employees for recovery of damages to the extent these damages are covered by the insurance maintained pursuant to this Agreement.

If any insurance coverage is not secured and maintained or is canceled, Planet reserves the right to procure such insurance and to add the cost thereof to any sum due Planet from Licensee under the applicable Order Form(s). Nothing contained in these insurance requirements is to be construed as limiting Licensee's responsibility or liability for damages resulting from Licensee's use of the Site Space or Licensee's indemnification obligations.

7. EMINENT DOMAIN AND CASUALTY

Should a substantial portion of the Site Space, or of the Site, be damaged by fire or other casualty, or be taken by eminent domain, Planet may elect to terminate the license for any Site Space hereunder. When such fire, casualty, or taking renders the Site Space substantially unsuitable for its intended use, a just and proportionate abatement of the applicable monthly recurring charge shall be made, and Licensee may elect to terminate the license for the affected Site Space hereunder if: (a) Planet fails to give written notice within forty-five (45) days after such fire, other casualty or taking, of Planet's intention to restore the Site Space, or (b) Planet fails to restore the Site Space to a condition substantially suitable for its intended use within one hundred and eighty (180) days after said fire, casualty or taking. Planet reserves, and Licensee grants to Planet, all rights which Licensee may have for damages or injury to the Site Space for any taking by eminent domain, except for damage to the Licensee Equipment.

8. LIENS

Licensee may not cause or permit any liens to be placed on the Site or any Site Space for labor, services or materials performed or delivered by or on behalf of Licensee (including, without limitation, any party that may make any claim or seek any lien by or through Licensee), and shall cause any such liens to be removed within ten (10) days of Licensee's knowledge thereof.

9. FEES

Licensee shall pay the fees set forth in Order Forms executed hereunder. On January 1 of each year, the MRCs shall be escalated by three percent (3%) annually. In addition, in the event that amounts charged to Planet under any Underlying Rights are increased or Planet's costs or expenses are increased due to any Underlying Rights, Planet shall have the right to charge Licensee for its pro rata share of such increases, which shall be added to the MRCs to be paid by Licensee for the applicable term. In the event that an Order Form includes electrical power or HVAC, fees for such electrical power and HVAC may be increased by Planet from time to time during the Product Term or any renewal thereof, as necessary to reflect Planet's costs, upon prior written notice to Licensee.

10. LIMITATION

Notwithstanding anything to the contrary in this Supplement, in the Agreement or in any Order Form, in no event shall a Colocation Outage or failure to meet any objectives or parameters under this Supplement be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form.

COLOCATION RULES AND REGULATIONS

The following constitute rules and regulations ("Rules and Regulations") governing the use and operation of colocation facilities ("Facility" or "Facilities" or "Building" or "Buildings") owned or operated by Planet and licensed or leased for use by Planet's telecommunications licensees and ISP customers and carriers ("Licensee" or "Licensees"). The individual cabinet, rack or cage space licensed to Licensee within the Facility shall be referred to as the "Space." By entering into this Agreement, Licensee agrees to abide by the Rules and Regulations, as they may be amended from time to time. In the event of any conflict between the Rules and Regulations and the Agreement, the terms and provisions of the Agreement shall control. Whenever, under the Rules and Regulations, or an Agreement, Planet's approval is required, such approval will be given or withheld in Planet's sole discretion.

INTRODUCTION

Standard operating procedures and protocols have been established to further safe and reliable operation of Licensee owned and operated equipment within the Facilities. Specific Facilities may be subject to special considerations based, among other things, on local jurisdiction and a Facility's design and configuration. Licensees are encouraged to contact Planet's Facilities Manager with any questions or concerns regarding a particular work operation or installation procedure.

STANDARDS OF OPERATION

The following standards of operation are required to be observed by all Licensees. Planet may change or augment these standards from time to time to better serve the Licensee base.

OCCUPANCY AND SPACE UTILIZATION

Licensee may use the Space only for the purposes of installing, maintaining and operating telecommunications equipment.

NETWORK INTERCONNECTIONS AND INTERFACE TO THIRD PARTIES

Licensee interconnections with telecommunications services provided by third parties will only be permitted with the prior written approval of Planet, subject to the applicable Agreement. **It is imperative that Licensees understand that only Planet personnel, or its subcontractors, are allowed to perform work on the common ladder rack and in common wireways.**

Planet will also install all fiber optic connections connecting Licensees to outside plant fiber optic cables entering the Planet Facility. Planet will provide Licensee with fiber jumpers or fiber cable from the Building interface bay to the "demarcation" point, if Licensee is licensing fiber from Planet. The Licensee demarcation point is always in the Licensee Space.

Licensees with multiple racks, cage space, or "raw" space that have made provision for Licensee cable racks are required to use the best, most effective and economic resources to provision their own cross-connections relevant to interconnecting their own equipment within their Space or cabinet line-ups. The higher of Planet, Telcordia GR-1275-CORE, or Licensee standards shall be strictly maintained, provided that Licensee shall not perform any work on the common ladder rack or in common wireways.

LICENSEE RESPONSIBILITIES

Licensee technicians must be certified by industry and Planet standards and approved by Planet in order to perform any work in Planet Facilities that directly affects common systems elements. Licensee contractors must be familiar with and adhere to the Planet methods and procedures for operating and conducting business within Planet Facilities. Licensee shall be responsible for any failure of Licensee's contractors to do so.

Licensee or its representative shall coordinate major equipment deliveries with the Facilities Manager. Major deliveries shall be scheduled and executed so as not to interfere with the operations of Planet or other Planet Licensees within the Facility. Doors shall not be propped open or left unattended.

Local telephone Planet connections shall be ordered directly by Licensee, and Licensee will become the Licensee of record. The Facility is configured to accommodate services from the local exchange carrier demarcation to Licensee's Space. The telephone or terminal block shall be located within the Licensee Space. Interface wiring on common ladder racking shall be performed by Planet and billed to Licensee as provided in the applicable Agreement.

Connections to other carriers and or Licensees within Planet facilities shall be subject to the applicable Agreement and payment by Licensee of the applicable cross-connect charges.

Planet, on a regular basis or at its sole discretion, shall perform inspections of Licensee connections and/or general space conditions. If such Licensee connections and/or general Space conditions are deemed to be non-compliant, Licensee shall be notified of the specific nature of the non-compliance which shall be rectified immediately. Planet reserves the right, in all cases, to remedy the non-compliance at Licensee's expense.

Specifications for the provisioning of other services such as, but not limited to, power, overhead racking, mounting and overall Space allocation, conditioning and operations will be provided to the Licensee by the Facilities Manager.

In all cases Licensee shall provide and keep current a single point of contact for interface with the Facilities Manager for all Space matters including emergency call-out or service restoration issues.

Licensee shall pay for any damage to Planet facilities or equipment, or to its other licensees' facilities and equipment caused by Licensee's equipment failure, or other acts or omissions of Licensee, or its representatives. This shall include the cost of all labor and materials associated with the restoration or repair of building common systems equipment or services, plus the applicable administrative and overhead costs associated therewith.

PLANET INTENDS TO ALLOW OTHER LICENSEES TO INSTALL EQUIPMENT AROUND AND ABOUT THE FACILITIES, SO LONG AS NOT DIRECTLY INCONSISTENT WITH THE RIGHTS EXPRESSLY GRANTED TO LICENSEE. BY USING THE SPACE, LICENSEE EXPRESSLY AGREES THAT PLANET WILL HAVE NO LIABILITY FOR ANY DAMAGES, COSTS OR LOSSES INCURRED BY LICENSEE OR ANY THIRD PARTIES CAUSED BY THE EQUIPMENT, ACTS OR FAILURE TO ACT OF SUCH OTHER LICENSEES OR THEIR RESPECTIVE AFFILIATES, EMPLOYEES, CONTRACTORS OR AGENTS.

IMPROVEMENTS TO SPACE

Licensee shall not alter the structural integrity of the Facility, affect any power, HVAC or other systems within the Facility, physically alter the Facility or the Licensee space in any way, or affect the normal functioning of the Facility or another Licensee in any way.

All work performed within the Facility will comply with all state, federal, municipal, and regional codes, laws, ordinances, rules, regulations or directives.

EMERGENCY CONTACT NUMBERS

Licensee shall post contact telephone numbers conspicuously at the entrance to its Space. Licensee shall provide Planet with means of access to the Space in case of emergency. Planet reserves the right to enter the Space at any time in cases of emergency to assess possible ramifications to the Facility. Planet shall provide Licensee with 72 hours advance notice of planned inspections of the Licensee's Space, in non-emergency situations.

COLOCATION RAW SPACE AND CAGE SPACE WORK REQUIREMENTS

All work within Licensee's raw Space and/or cage Space shall be performed by Licensee in a manner to ensure no interference with the normal functioning of the facility and other Licensees and be approved by the Planet Facilities Manager as previously set forth herein above. The following applies to all work performed by or on behalf of Licensee:

Initial Licensee design requirements must be reviewed and approved by the Facilities Manager prior to commencement of any work. Planet reserves the right to audit all work and shall inspect equipment and/or systems prior to connection to common systems power or fiber. All work shall be confined to the area within the Space. If staging area is required it must be pre-approved by the Facilities Manager.

BUILDING COMMON AREA

The building common areas are established primarily for access and egress to Licensee equipment. Licensee and/or Licensee's vendors must keep all driveways, entrances and passageways serving the Facility clear and available for use by Planet and other Licensees or vendors.

Licensee shall provide and maintain all necessary guards, rails, fences, and protective coverings to preserve building integrity and appearance during any work operation. Any and all work operations that adversely impact normal access or egress from the Facility shall be performed outside of normal business hours. Licensee will take special care to protect adjoining property and equipment from damage or injury.

Licensee's materials and equipment shall be confined to the area in which the work is actively being performed. Licensee shall provide adequate lockers or locked sheds for the storage of equipment or materials. All tools and equipment shall be stored neatly in approved storage lockers and the space shall be cleaned before the end of each work day. Trash and debris shall be removed from the facility before the end of each workday.

Licensee or Licensee's vendor(s) are required to protect all finished surfaces from dirt and damage, including walls, ceilings, jambs, and soffits of openings used as passageways through which materials are handled. Based on the type of work operation, temporary partitions or curtains between the work area and other spaces may be required by Planet. Partitions shall be constructed, maintained, and sealed in a complete and tight condition at all times. Polyethylene shall not be used for dust partitions or curtains. Fire resistant service vinyl shall be used. Prior to removal of any dust partition the Licensee or its vendor shall vacuum clean the area using an approved HEPA vacuum.

PROTECTION OF PLANET SERVICES

No work shall be started, walls or partitions removed or built, heat, water or plumbing or electric services temporarily disconnected, nor shall construction work be carried on near the telephone wires or equipment, without first discussing the procedures and protection to be provided with Planet and receiving Planet's prior approval. The contractor must notify Planet at the first indication of an electrical interruption or switchover to the temporary generator which occurs during any work activity whether caused directly by a work activity, or incidental to any work activity during construction.

Any work activity which may cause or require a temporary power shut down of AC or DC power or reliance on the standby power system shall be pre-approved and scheduled by Planet. The request shall be accompanied by a detailed method of procedure for the work activity. Notice of the work activity shall require a minimum of 30 days' lead time for notification to other Licensees that may also be affected. This class of work shall require supervision by Planet or its representative. Scheduling of Licensee required power shutdowns shall be coordinated by the Facilities Manager, at Licensee's expense.

PLANET POWER WORK - AC & DC

Planet operates and maintains both the AC and the DC power systems for 24x7 operations. Planet reserves the right to maintain and augment these systems at its sole discretion. Routine maintenance and testing may be conducted during normal work hours under a method of procedure specific to the work operation.

Planet will provide Licensee with telephone or e-mail notice of all non-emergency planned Facility maintenance prior to performing maintenance that, in its reasonable opinion, has a substantial likelihood of affecting Licensee's colocation facilities.

1. Planet will undertake repair efforts on all environment equipment or interconnecting fiber or copper circuits when Planet first becomes aware of it, or when notified by Licensee and Licensee has released all or part of the service for testing.
2. Contact Information:

PROTECTION OF FLOORS

Non-flammable tight wood sheathing shall be placed under materials that are stored on finished surfaces. Non-flammable tight wood sheathing installed over reinforced Kraft building paper must be placed over finished floor surfaces before moving materials over finished floors, especially in the building common entrance and foyer areas.

PRESERVATION OF ENVIRONMENTAL CONDITIONS FOR TELECOMMUNICATIONS EQUIPMENT

At no time shall the interior of the building be directly exposed to the outside environment without the prior written approval of Planet. Existing exterior walls, doors, or windows shall not be removed until construction of any associated addition or interlock facility has been completed.

AC POWER SERVICES AND REQUIREMENTS

Planet provides dedicated AC power circuits for Licensee operating equipment. Determination of the proper AC power requirement to be provisioned for operation of Licensee provided equipment is the responsibility of Licensee and shall be identified with the Order Form request. AC circuits shall be provided and fused according to the applicable Order Form. All AC service to Licensee is protected by a standby engine generator. Momentary interruption of power will occur during a power failure due to the transition interval to the standby power system. All Licensee provided AC powered equipment shall be UL listed. Conditions that cause AC power interruption such as faults, shorts or overload of Licensee circuits due to Licensee equipment shall be cleared and tested prior to restoration of the AC service by Planet.

DC POWER SERVICES

Planet provides dedicated DC power circuits for Licensee operating equipment. Determination of the proper power requirement (total load amps draw) of DC power for operation of Licensee provided Equipment is the responsibility of the Licensee and shall be identified with the Order Form request. DC circuits shall be provided and fused according to Licensee provided load data and in accordance with the applicable Order Form. All DC service to Licensee equipment is protected by battery backup to provide uninterrupted service. All Licensee provided DC powered equipment shall be NEBS compliant and approved by type for use by Planet prior to installation. Conditions that cause DC power interruption such as faults, shorts or overload of Licensee circuits due to Licensee equipment shall be cleared, tested and verified "safe for operation" by (a) the Licensee representative and b) the Facilities Manager prior to restoration of the DC service by Planet.

SAFETY

Planet requires all Licensees and their vendors to practice good workplace safety. All electrical equipment and tools must be properly grounded before becoming operational.

Licensee shall ensure that its equipment and surrounding areas do not pose safety hazards to any person. OSHA and local laws, rules, regulations, ordinances and codes shall be complied with at all times.

FIRE SAFETY

Fire safety is critical. If there is a fire alarm in a Licensee Space, Planet Building control center will dispatch the fire department. Licensee shall monitor its own alarms in fully compartmentalized and separately alarmed spaces and shall dispatch a Planet representative upon a fire alarm indication, at Licensee's expense. All fire alarms shall require investigation as to the cause and resolution. Fire alarm systems shall not be reset to normal without a full and thorough survey of the facility.

Any and all work in Licensee fire alarm panels shall be pre-scheduled with Planet prior to the performance of the work.

SECURITY AND PERSONNEL IDENTIFICATION

Licensee shall complete and submit to Planet Planet's application form for all employees, agents and vendors seeking access to the Facility on Licensee's behalf. No one, other than employees, agents and vendors of Licensee who have been approved by Planet, may access the Facility. Planet will provide to Licensee up to 10 building access cards at no charge. Additional cards may be purchased for \$50.00 each (minimum of two per request). Individual card access administration is the responsibility of Licensee for card assignments to individual employees, agents and vendors, provided that only those employees, agents and vendors approved by Planet may be given an access card. Access cards may only be used by the individual to whom the access card is assigned. Failure to adhere to the Planet security protocol may result in card deactivation. Reissuance of a card for breach of security shall be made only after a \$50.00 charge. All employees, agents and vendors entering Planet Facilities shall wear, prominently displayed, a picture identification card which provides the person's name and Planet name. Building keys shall not be issued to Licensees; Licensee access shall be card key only.

MISCELLANEOUS

Licensee's employees, agents and vendors shall take all necessary precautions for the safety of Licensee's employees, agents and vendors when accessing the Facility and using the Space and shall comply with all applicable provisions of federal, state and municipal laws, codes, regulations and ordinances and any successor laws, codes, regulations and ordinances thereto, in order to prevent accidents or injury to persons

and property on, about or adjacent to the Space or the Facility, including, without limitation, the National Electric Safety Code and the OSHA requirements for working clearances from energized lines.

Licensee shall otherwise comply with all applicable federal, state or municipal laws, regulations, codes and ordinances affecting the Space and its occupancy, operation and the use thereof pursuant to the terms hereof and Licensee shall not use the Space in any unlawful, improper, noisy or offensive manner.

Licensee shall provide all equipment needed to conduct its business at the Space which is capable of confinement within the Space without adversely affecting its function. Licensee shall be solely responsible for the installation, modification and maintenance of Licensee's equipment. Licensee shall also ensure that neither vehicles nor equipment are parked or stored at the Facilities, except as approved by Planet.

Licensee shall not place a load upon any floor in the Space that exceeds the load bearing capacity of such floor, as determined by Planet, in its sole discretion. Planet reserves the right to determine the location and weight of any of Licensee's equipment.

No signage shall be permitted by Licensee on the interior or exterior of the Space or the Building, except for identification tags or nameplates on the outside of the cabinets which have been approved by Planet in its sole discretion.

HAZARDOUS MATERIALS

Neither Licensee nor any person claiming under Licensee, nor the employees, agents, or vendors of Licensee or any such person shall bring onto, store, generate, or permit to be stored or generated on the Facility, including but not limited to the space, any oil, Hazardous Material, as defined in any applicable federal, state or municipal law, regulation, code, or ordinances including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq., the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. c. 21E, as amended, and the Massachusetts Hazardous Waste Management Act, as amended, M.G.L. c. 21C.

PART VII – TERMS APPLICABLE TO SD-WAN SERVICES

1. The terms in this Part VII apply only to SD-WAN licensed to Licensee under an Order Form that specifies SD-WAN as further defined in this Section. This Part shall not apply to other products, including dark fiber, Internet, Wavelength, Ethernet, or colocation.

1.1 “Managed SD-WAN”, or “Product” is an application aware, policy driven overlay network running over an Underlay Product (as defined below) which includes the deployment of an Edge Device (as defined below) or virtual instance of such device at the Location (as defined below).

1.2 Add-On Options.

- (a) **High Availability:** Dual Edge Devices deployed at the Location setup in a configuration to provide redundancy. The Edge Devices, deployed in a high availability configuration, are connected to each other with a fallback mechanism based on pre-determined policies.
- (b) **Next-Gen Firewall:** Additional security features that may be enabled by Licensee, if desired and are set forth on the applicable Order Form.

2. ADDITIONAL DEFINITIONS

“Edge Device” means Planet Equipment which can be physical or virtual and is part of the Product solution.

“Location” is an address where Planet will hand off the Product to Licensee;

“Logical Changes” includes Licensee requested basic modifications or changes performed remotely by Planet’s Network Operating Center to the Product following the installation and delivery of such Product including, but not limited to, changes to routing tables;

“Network Controller” means the Planet Equipment which provides physical or virtual device management for all Edge Devices associated with the controller;

“Product Availability” means the percentage of minutes during a calendar month that the licensed Product has not incurred a Product Outage. Product Availability is calculated as follows: (43,200 - total number of minutes of Product Outage during the calendar month) divided by 43,200.

“Product Credit” means a credit that Licensee is eligible to receive if Planet fails to meet the Product Availability levels set forth in Section 8.2 below;

“Product Outage” means a complete loss of signal that renders the Product unusable or the output signal presented to Licensee by Planet does not conform to the Specifications;

“Software” means software which is embedded in the Edge Device and used in connection with the Product;

“Underlay Product” means the internet or ethernet connectivity between two or more Locations over which the Product operates.

3. SPECIFICATIONS

a. The Specifications applicable to the Product are as follows:

- (i) **Underlay Connectivity:** In order to provide the Product, there must be internet or ethernet connectivity at the Location. This internet or ethernet connectivity may already exist or may be ordered in conjunction with the Product.
- (ii) **IP Address Allocation:** The Edge Device will use one or more IP address blocks depending on the number of Underlay Products at the Location. Each Underlay Product will have a unique IP address block.
- (iii) **SD-WAN Overlay:** The overlay service uses Underlay Product access to establish tunnels of encrypted traffic connecting the Edge Devices and Network Controllers.
- (iv) **Network Traffic Management:** Planet’s network traffic policies will restrict the traffic flows to the subscribed committed information rate (“CIR”) in connection with the Underlay Product.

4. USE BY LICENSEE

4.1 **Permitted Use and Proprietary Rights.** Licensee may use the Product(s) for its own internal use. Licensee shall not assign, sell, transfer, distribute, lease, sublease, license, sub-license, or otherwise grant a right to use the Product to any third party. Licensee shall not use or copy any Software except as expressly permitted in this Agreement. Except to the extent such restrictions are not permitted under applicable law, Licensee agrees not to modify, adapt, alter, decompile, disassemble, reverse assemble, reverse engineer or otherwise attempt to

derive source code for the Edge Device, Software or any other aspect of the Product. Licensee may not distribute, license, lease, rent, loan, or otherwise transfer the Software. Licensee shall not create derivative works based on the Software. Licensee may not export the Software or the underlying technology in contravention of the applicable U.S. and foreign export laws and regulations. Licensee acknowledges and agrees that portions of the Software, including but not limited to, the source code and the specific design and structure of individual modules or programs constitute or contain trade secrets of Planet and its licensors. Any Software provided hereunder is licensed only and is subject to this Supplement, and Planet or its providers retain title in all copies of the Software. Licensee will not obtain title to, or ownership of any intellectual property rights in the Software or any copies thereof. Licensee's rights in the Software will be limited to those expressly granted in this Supplement. Planet reserves all rights not expressly granted to Licensee under this Supplement.

4.2 Content and Transportation of Product. Licensee accepts that Planet does not control or operate the content that is transmitted or transported via the Product(s) and Licensee shall be solely liable and responsible for the content, data and communications applicable to the Product. Licensee acknowledges that Planet will have network access to communicate with the Edge Device for purposes such as authentication and Software updates; and will have access to, and may utilize for any purpose all information regarding networking characteristics, usage, performance and related information involved in the use of the Product ("Key Performance Indicators" or "KPI"). Planet will protect this KPI, and will not divulge to anyone outside its Planet, subcontractors, or agents, unless required by law via a subpoena.

4.3 Fraudulent Use of Product. Planet shall not be held liable for any usage, charges and/or damages resulting from Licensee's fraudulent or unauthorized use of the Product, Software and/or Edge Devices. Licensee will not use the Product in any unlawful, abusive, or fraudulent manner. If Planet has reason to suspect Licensee entity is abusing the Products or using them fraudulently or unlawfully, Planet reserves the right to immediately suspend, restrict, or terminate the Products without notification. In such an event, Licensee will be held liable for all usage, including but not limited to, any and all fraudulent usage.

5. IMPLEMENTATION

5.1 Provisioning. Planet is not responsible for any Underlay Product provided to Licensee from a third party provider ("Third Party Underlay Product"). For the avoidance of doubt, Planet will not be responsible for any provisioning issues, outages or service interruptions resulting from an incident attributable to any Third Party Underlay Product.

5.2 Pre-Installation Technical Documentation. Licensee must assist in the completion of technical documentation prior to commencement of installation of the Product. The documentation provides Planet with the information needed to design and configure the Product, including, but not limited to, access type and bandwidth, local area network and wide area network ("WAN") design, number of users, and traffic types and priorities.

5.3 Acceptance Date - Third Party Underlay Product. If Licensee utilizes a Third Party Underlay Product, then the "Acceptance Date" for each Product shall be the earliest of (a) the date on which Licensee delivers written notice of acceptance, (b) the date on which Licensee begins to use the Product, other than for testing purposes, or (c) the fifth (5th) calendar day following Licensee's receipt of the Edge Device to be utilized in connection with the Product, unless Licensee notifies Planet in writing within said five-day period of a Defect in the Product, specifying in detail the nature of such Defect.

5.4 Licensee Responsibilities. Licensee will provide: (i) an operating environment with temperatures not below fifty-five (55) or above eighty-five (85) degrees Fahrenheit, and humidity shall not exceed ninety (90) percent at eighty-five (85) degrees Fahrenheit; (ii) power including UPS AC power equipment, circuit sizing to be determined, if applicable; (iii) emergency local generator backup service, if applicable; (iv) if interfacing with a third party IP service, provide, install and maintain a device that is capable of routing network traffic between the Product and the Licensee's WAN; and (v) a point of contact for installation, Product activation, notices for Product Outages, and any maintenance activities. In addition, Licensee is responsible for the performance of the applicable functions set forth on the Responsibility Matrix in **Exhibit A**, attached hereto and incorporated herein.

5.5 Cross-Connections. As necessary for interconnection of the Product with service provided by others, Planet may request (as applicable), and Licensee will provide to Planet, circuit facility assignment information and design layout records necessary to enable Planet to make the necessary cross-connection between the Product and Licensee's other service(s) from other provider(s). Planet may charge Licensee non-recurring and monthly recurring cross-connect charges to make such connections.

5.6 Security Monitoring and Mitigation. Planet monitors the Edge Device utilized in connection with the Product. Planet does not provide monitoring of security events, any security event mitigation or advice regarding security issues or threats. Upon request by Licensee, Planet will modify the configuration of the Product in accordance with the specifications provided by Licensee to attempt to mitigate security events and security threats identified by Licensee. Planet's sole obligation is to implement the configuration settings requested by Licensee. Planet makes no guarantees with respect to the detection or blocking of viruses/worm/malware or any other types of attacks, and is not responsible for any malicious data that may be transmitted over the Underlay Product.

5.7 Planet Responsibilities. Planet is responsible for the performance of the applicable functions as set forth on the Responsibility Matrix in **Exhibit A**. The Demarcation Point for the Product is the port on the Edge Device.

6. SD-WAN LICENSEE PORTAL

Planet will provide the Licensee with a password-protected web portal to view performance information regarding Licensee’s Product.

7. FEES

Licensee shall pay the fees set forth in Order Forms executed hereunder. In addition, in the event that amounts charged to Planet under its underlying third party reseller agreement are increased, Planet shall have the right to charge Licensee for such increase, which shall be added to the MRCs to be paid by Licensee for the applicable term. In the event of any such increase, Planet will provide prior written notice to Licensee, and any such increases in charges will not take effect until Licensee’s receipt of such notice.

8. SERVICE LEVEL AGREEMENT

8.1 Product Outage. Subject to this Section 8, in the event of a Product Outage to any Product, Licensee may be entitled to a Product Credit in accordance with the applicable Service Level Objective set forth in Section 8.2 below. A Product Outage shall be deemed to begin upon the earlier of Planet’s actual knowledge of the Product Outage or Planet’s receipt of notice from Licensee of the Product Outage, and end when the Product is operational and in material conformance with the applicable Specifications. Notwithstanding anything to the contrary in this Supplement, the Agreement or any Order Form, in no event shall a Product Outage, defect or failure to meet any objectives or parameters under this Supplement be deemed to be or constitute a breach by Planet of this Supplement, the Agreement or any Order Form.

8.2 Service Level Objectives.

If the total minutes or hours of Product Outages in any month exceed the number of minutes or hours set forth in the table below, Licensee shall be entitled to a Product Credit equal to the percentage of the Product MRC set forth in the following table:

Product Availability Objective	Product Credit	
	Cumulative Duration of Product Outage(s)	% of MRC
99.99%	0 to 4 mins.	0%
	>4 mins. to 4 hrs.	5%
	>4 hrs. to 8 hrs.	10%
	>8 hrs. to 12 hrs.	20%
	>12 hrs. to 16 hrs.	30%
	>16 hrs. to 24 hrs.	40%
	>24 hrs.	50%

8.3 Product Credits. Product Credits hereunder are calculated as a percentage of the MRC for the Product set forth in the Order Form. Product Credits shall be Licensee’s sole and exclusive remedy at law or in equity on account of any Product Outage and/or any other defect in the Product. If an incident affects the performance of the Product and results in a period or periods of interruption, disruption, failure or degradation in quality, entitling Licensee to one or more credits under this Supplement and the underlying transport Supplement (e.g. Internet Supplement or Ethernet Supplement), only the single highest credit with respect to that incident will be applied, and Licensee shall not be entitled to credits under multiple quality level standards for the same incident. Product Credits will not be issued to Licensee if Licensee’s account with Planet is in arrears. In no event shall Product Credits in any month for any and all interruptions, disruptions, failures, and/or degradations in quality (including, without limitation, any Product Outage or failure to meet any objectives or parameters set forth in this Supplement) exceed fifty percent (50%) of the MRC for the affected Product for that month.

8.4 Product Credit Request. Licensee must submit a written request to claim a Product Credit no later than thirty (30) days following the event which gives rise to Licensee’s right to the Product Credit. Failure to request a Product Credit within such period shall constitute a waiver of any claim for a Product Credit.

8.5 Events Excepted From Product Credit. Notwithstanding the foregoing, Licensee shall not receive any Product Credit for any Product Outage, failure to meet any objectives or parameters hereunder, or delay in performing repairs, arising from or caused, in whole or in part, by any of the following events:

- a. Licensee’s (including its agents, contractors and vendors) acts or omissions;
- b. Failure on the part of Licensee Equipment, Licensee provided optical fiber, end user equipment or Licensee’s vendor’s equipment;
- c. Failure, outage or other issues with any Licensee circuits or other underlying circuits;
- d. Failure of electrical power not provided by Planet;
- e. Election by Licensee, after requested by Planet, not to release the Product for testing and repair;
- f. Planet’s inability to obtain access required to remedy a defect;

- g. Scheduled maintenance periods;
- h. Scheduled upgrade of the Product at the request of Licensee;
- i. Force Majeure Event;
- j. Disconnection or suspension of the Product by Planet pursuant to a right provided under this Agreement; and/or
- k. Planet's inability to repair due to utility safety restrictions.

9. EMERGENCY BLOCKING

The Parties agree that if either Party, in its reasonable sole discretion, determines that an emergency action is necessary to protect its own network, then the applicable Party may block any transmission path over its network by the other Party where transmissions do not meet material standard industry requirements and after engaging in reasonable and good faith efforts to notify the other Party of the need to block. Any such blockage will be without any liability or obligation to the other Party. The Parties further agree that none of their respective obligations to each other under the Agreement, Supplement and Order Form, will be affected by such blockage, except if Licensee is the party being blocked, then Licensee will not be obligated to make payments for the circuit(s) which is so blocked until such time as the blockage is removed.

10. CHANGES

During the Product Term, Planet will perform basic moves associated with the Edge Device and basic associated changes with respect to the Product upon request by Licensee, following installation and delivery of the Product and subject to additional charges, certain charges of which are detailed below.

Change Type	Time of Day	Rates Per Incident (Charged per Product)
Technician dispatch	7:01 AM to 6:59 PM	\$250 per hour, 4-hour minimum
Technician dispatch	7:00 PM to 7:00 AM	\$375 per hour, 4-hour minimum
Logical Changes – Remote	7:01 AM to 6:59 PM	\$200 per hour, 1-hour minimum
Logical Changes – Remote	7:00 PM to 7:00 AM	\$300 per hour, 1-hour minimum

The charges above may be increased once per contract year upon notice to Licensee by the percentage increase, if any, in the Consumer Price Index – Urban Wage Earners and Clerical Workers (U.S. City Average, All Items, Base 1982-1984 equals 100) as published by the United States Department of Labor, Bureau of Labor Statistics.