

## SERVICES SCHEDULE F: CO-LOCATION SERVICES

**SERVICE SCHEDULE F: CO-LOCATION SERVICES**

THIS SERVICE SCHEDULE AND THE TERMS HEREIN AND IN THE APPENDICES HERETO, APPLIES TO THE SERVICE IDENTIFIED AS "CO-LOCATION SERVICES" AS SPECIFIED BELOW IF CUSTOMER HAS SUBSCRIBED FOR THE SAME, IN ADDITION TO AND IN PREFERENCE OF THE GENERAL TERMS.

**A. THE PARTIES**

1. AIMS DATA CENTRE SDN BHD ("**AIMS**"); and
2. The Customer as specified in the Service Order form (the "**Customer**") (collectively referred to as the "**Parties**", and individually, as a "**Party**").

**B. SPECIFIC TERMS APPLICABLE TO CO-LOCATION SERVICES****1. SERVICE OVERVIEW**

1.1 The Service provided by AIMS to Customer comprises:-

- (a) a right to use and occupy the Space within the AIMS Data Centre for the purpose of co-locating the Customer's Equipment as per the standard deliverables set out in Appendix 1;
- (b) the provision of power, air conditioning, and environmental control as per the standard deliverables set out in Appendix 1;
- (c) the provision of ancillary interconnectivity services for the Customer's Equipment subscribed by the Customer; and
- (d) the support services as specified in Appendix 2,

the details of which are as set out in the Service Order Form, (collectively referred to as the "**Co-location Services**") for the duration of the Service Term, subject to the terms and conditions of this Agreement, and specifically to Paragraph 3 below.

1.2.1 This Service Schedule (including the appendices which form a constituent part hereof) ("**Colo Specific Terms**") and the General Terms, together with the Service Order Form, collectively constitute the terms and conditions of the Agreement for Co-location Services, between the Parties. The appendices attached hereto are as follows:-

- (a) The standard deliverables to be provided by AIMS to the Customer for Co-Location Services are attached hereto as Appendix 1;
- (b) The support services to be provided by AIMS to the Customer for Co-Location Services are attached hereto as Appendix 2; and
- (c) The service level guarantee, which sets out the levels at which Co-Location Services are to be provided by AIMS to the Customer are attached hereto as Appendix 3, if the Customer subscribes for the Co-Location Services with the service level guarantee (if so specified in the Service Order).

1.2.2 The Co-Location Services are provided for the Initial Service Term and where applicable, the Renewed Service Term.

**1.3 THIRD PARTY PROVIDERS**

1.3.1 The Customer acknowledges and accepts that AIMS operates as a neutral carrier data centre under the brand name "AIMS", and accordingly AIMS being a one-stop-centre, may provide and/or procure the Services to and/or for the Customer using third party services and/or facilities, including its Affiliates. As such, the Customer may subscribe and retain the services of one or more third party licensed network service providers to connect to the Customer Equipment, by contracting directly with such third party licensed network service provider(s). In the alternative, the Customer may, at its option, subscribe for connectivity services through AIMS as a one-stop centre, and such subscription is subject to the terms contained in Service Schedules D and E (as may be applicable).

1.3.2 In the event that the Customer procures and subscribes the connectivity services through AIMS, the Customer acknowledges and accepts that AIMS may contract to purchase connectivity services from third party licensed network service providers on the Customer's behalf. The Customer agrees that in such a situation, AIMS obligations shall be limited to and back to back with the third party licensed network service providers' obligations under its contract with AIMS. The Customer shall liaise directly with AIMS, and escalate any issues pertaining to the connectivity services to AIMS and not directly with the third party licensed network service providers. In the event that the Customer contract directly with the third party



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licensed network service providers, then the Customer shall liaise directly with the third party licensed network service providers.

- 1.3.3 The Customer agrees to abide by any third party providers' terms under this Paragraph 1.3 (as notified to the Customer by AIMS from time to time) and agrees to indemnify AIMS for any losses and threatened losses arising from or in connection with any claims from third party licensed network service providers resulting from any acts or omissions of the Customer or any other claims arising out of or related to the Customer's breach of such third party agreements.
- 1.3.4 In addition to Clause 3.1 General Terms, upon payment by the Customer of any Third Party Non-Recurring Charges, AIMS shall then promptly carry out any requisite preparatory and installation works and thereafter perform the Service Acceptance Tests for the Co-Location Services on such dates as mutually agreed between the Parties. The Customer shall carry out all necessary preparation and works and render all assistance and co-operation required by AIMS to facilitate the Service Acceptance Tests.

## 2. DEFINITIONS AND INTERPRETATIONS

- 2.1 In this Service Schedule, all capitalized terms not otherwise defined herein, shall have the meaning given to them in the Service Order form and/or the General Terms.
- 2.2 Further, unless the context otherwise requires, the following words and expressions have the following meanings:-

<b>“Additional Power Capacity Charge”</b>	means the charges for utilisation of power capacity above or in excess of the power capacity specified in the Service Order.
<b>“AIMS Data Centre”</b>	means the premises owned by, leased or licensed to AIMS or its Affiliate (and which carries the brand name “AIMS”), as the case may be, to provide the Co-Location Services.
<b>“Business Day”</b>	means any day (other than Saturdays, Sundays or public holidays) on which commercial banks are ordinarily open for business in Selangor and Kuala Lumpur. The word ‘days’ as used in this Agreement will mean and refer to calendar days in the Gregorian Calendar.
<b>“Caged Space”</b>	means the amount of physical space the Customer's Equipment occupies within a designated area (which may be secured by a physical cage (with or without locks)), typically per square foot but is always in a separate partitioned or demarcated area.
<b>“Customer's Equipment”</b>	means the servers, routers, hubs, terminal servers, printer servers, modem and other related and necessary communication peripheral and equipment to be placed and installed by the Customer at the Rack Space or Caged Space within the AIMS Data Centre.
<b>“Customer's Material”</b>	Means all software, data, information contained in documentation and other information and intangibles used by the Customer to install, commission, use, operate and/or maintain the Customer's business through the Customer's Equipment.
<b>“Deposit”</b>	unless otherwise specified in the Service Order, means a sum equivalent to two (2) months of the MRC and Third Party Recurring Charges, unless expressly waived in writing by AIMS.
<b>“Equipment”</b>	means either the Customer's Equipment and/or the Service Equipment (as the case may be).
<b>“HVAC Charges”</b>	means such charges for ventilation and air-conditioning of the utilisation power per month as specified in the Service Order form.
<b>“Intellectual Property Rights”</b>	means all intellectual property rights and industrial property rights (worldwide, in all media, now existing or created in the future, for all versions and elements, in all languages, and for the entire duration of such rights) arising under statutory or common law, contract, or otherwise, and whether or not perfected, including without limitation, all: - <ul style="list-style-type: none"> <li>i. patents, re-examined patents, and patent applications, whenever filed and wherever issued, including without limitation substitutes of such applications and all priority rights resulting from such applications;</li> </ul>



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- ii. rights associated with trademarks, service marks, trade names, logos, trade dress, and the applications for registration and registrations thereof;
- iii. rights relating to the protection of trade secrets and confidential information;
- iv. rights analogous to those set forth in this definition and any and all other proprietary rights relating to intangible property; and
- v. divisions, continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, hereafter filed, issued, or acquired.

<b>“Rack Space”</b>	means the amount of physical space the Customer’s Equipment occupies within a rack in the Space, typically per cabinet, per quarter cabinet or per half cabinet basis, which is not Caged Space.
<b>“Rooftop Space”</b>	means such physical space located at the rooftop of the data centre building as specified in the Service Order.
<b>“Service Credits”</b>	means the proportion of the MRC for an applicable Service, which the Customer is entitled to request a credit for in the event that AIMS fails to meet the service level guarantees as set out in Appendix 3 of this Service Schedule.
<b>“Service Equipment”</b>	means the equipment owned and / or supplied and installed by AIMS for the Customer.
<b>“Service Term”</b>	means the total period for which the Co-Location Services are subscribed for, including the Initial Service Term, and/or where the context so permits, shall include the Renewed Service Term.
<b>“Space”</b>	means either Rack Space, Caged Space or Rooftop Space (as the case may be).
<b>“Third Party Non-Recurring Charges”</b>	means the one-off payment by the Customer to AIMS for services rendered by any appointed third party service provider.
<b>“Third Party Recurring Charges”</b>	means the monthly recurring payment by the Customer to AIMS for services rendered by any appointed third party service provider.

### 3. RIGHT TO USE SPACE

The Customer hereby acknowledges and agrees that the rights granted hereunder is not intended to and shall not constitute a tenancy or lease of the Space nor creates any proprietary interests in and to the Space or any part of the AIMS Data Centre and that such right constitutes a mere right to co-locate the Customer’s Equipment at the Space together with an ancillary right of access to the AIMS Data Centre subject to the provisions of the AIMS House Rules. Notwithstanding the foregoing provision, for good cause (e.g. violation or threatened violation of applicable laws or rules and regulations and policies), AIMS shall have the absolute right to suspend the right of the Customer, its servants, agents, contractors and authorized representatives to enter the AIMS Data Centre or to obtain access to the Space.

### 4. SERVICE EQUIPMENT

**4.1** Upon request of the Customer and as part of the provision of the Co-location Services to the Customer, AIMS may provide Service Equipment to the Customer. The Customer acknowledges and agrees that the Service Equipment belongs to AIMS and upon expiry or termination of the Co-locations Services, such Service Equipment must be returned to AIMS in good condition, failing which the Customer shall bear the costs of repair or replacement of the Service Equipment. The list of Service Equipment, if any, are as specified in the Service Order form. The Service Equipment must not be used for any purpose other than that for which it is provided.

**4.2** The Customer acknowledges that it is technically impracticable for AIMS to provide the Service Equipment free of faults and AIMS does not undertake to do so. The Service Equipment are provided on “as is where is” and “as available basis”. AIMS makes no warranty of any kind either expressed or implied and expressly disclaims all implied warranties of merchantability, fitness for a particular purpose and non-infringement to the fullest extent allowed by law. No advice or information whether oral or written obtained by the Customer from AIMS will create any warranty and the Service Equipment shall be used by the Customer at his own risks.



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**4A. CUSTOMER'S EQUIPMENT**

- 4A.1 The Customer solely and exclusively owns and retains all right, title and interest, whether express or implied, in and to any and all data in or within the Customer's Equipment. The Customer acknowledges and accepts that AIMS and/or its Affiliates does not exercise control over the data in or within the Customer's Equipment. The Customer hereby agrees that the risks (including theft, loss or damage) in all the data in or within the Customer's Equipment, Customer's Equipment or any other property of the Customer, its servants, agents, contractors, licensees and/or invitees, installed located and stored at the AIMS Data Centre shall remain with the Customer, and AIMS shall not in any way be liable for any loss or damage to the data in or within the Customer's Equipment, Customer's Equipment and/or any of the aforesaid properties unless such loss or damage is caused directly by any gross negligence on the part of AIMS and/or its Affiliates.

**5. SPACE****5.1 IF CO-LOCATION SERVICES IS WITH RACK SPACE**

The following paragraphs apply when the Co-Location Services subscribed by Customer is with Rack Space. The Customer understands and accepts that by subscribing to the Co-location Services (which comprises Rack Space), the Customer's Equipment may be directly accessible by AIMS's other customers who place their equipment in the same cabinet and/or by other users of the AIMS Data Centre. AIMS assumes no liability for any damage to, or loss of, any Customer's Equipment or Customer's Material, for any reason whatsoever, unless such loss or damage is directly caused by the gross negligence of AIMS.

- 5.2 IF CO-LOCATION SERVICES IS WITH CAGED SPACE.** The following paragraphs apply when the Co-Location Services subscribed by Customer is with Caged Space.

- 5.2.1 The Customer understands and accepts that by subscribing to the Co-location Services with Caged Space, the Caged Space will only be accessible by the Customer (and its authorised personnel, notice of which is to be provided to AIMS prior to such access by Customer's personnel) and designated personnel and agents of AIMS.
- 5.2.2 AIMS assumes no liability for any damage to, or loss of, any Customer's Equipment or Customer's Material, for any reason whatsoever, unless such loss or damage is solely caused by the gross negligence of the designated personnel or agent of AIMS.
- 5.2.3 If so provided in the Service Order, AIMS will carry out and complete the works to cage the Caged Space as soon as reasonably practicable, but no delay in completion entitles the Customer to compensation for late delivery.
- 5.2.4 The provision of Co-Location Services with Cage Space is for the floor space, as specified in the Service Order, and if none is specified in the Service Order, the minimum floor space is two hundred square feet.
- 5.2.5 The Customer agrees to the power allocation to be provided by AIMS is as specified in the Service Order.
- 5.2.5 Any request by Customer to increase the floor space of the provisioned Caged Space is subject to space availability within the AIMS Data Centre and the mutual agreement of Customer and AIMS, but such request if agreed, is deemed as a new service order.

**6. MAINTENANCE AND UPGRADES**

- 6.1** The Parties acknowledge and agree that each Party is entitled to carry out maintenance work from time to time as and when necessary. Each Party will provide assistance and facilitate such maintenance work. As far as possible, the Parties shall endeavour to ensure that any disruption or interruption to the Co-location Services is kept to a minimum.
- 6.2** Scheduled maintenance is work that is planned and/or programmed ("**Scheduled or Planned Maintenance**"). If the Scheduled or Planned Maintenance is to be carried out by AIMS or its Affiliate, AIMS will provide the Customer seven (7) days prior notice for network or lease-line services maintenance and fourteen (14) days prior notice for Data Centre mechanical and electrical services maintenance. As for Scheduled or Planned Maintenance by the Customer, the Customer must provide a minimum period of fourteen (14) days prior written request to AIMS stating the nature and duration of such Scheduled or Planned Maintenance in a format prescribed by AIMS. AIMS shall not unreasonably withhold its approval for the Customer's Scheduled or Planned Maintenance.



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**6.3** The Customer understands and agrees that Emergency Maintenance will be carried out by AIMS or its Affiliate in the event of threats to the operational environment, service degradation or events beyond AIMS' control ("**Emergency Maintenance**"). If the circumstance permits, AIMS will provide the Customer one (1) day prior notice of such Emergency Maintenance.

**6.4** AIMS or its Affiliate may, from time to time, perform upgrading works on the AIMS Data Centre and will provide the Customer with seven (7) days prior notice for network or lease-line services upgrading works and fourteen (14) days prior notice for data centre mechanical and electrical services upgrading works respectively. During such time that AIMS or AIMS's Affiliate is undertaking such upgrading works, the Customer may experience degradation of network services or colocation infrastructure redundancy.

**7. NETWORK AND SERVICE EQUIPMENT MAINTENANCE**

**7.1** AIMS may carry out Scheduled or Planned Maintenance and upgrades on the network or Service Equipment during the maintenance windows as defined in Paragraph 7.2 and not more than twelve (12) times in any calendar year.

**7.2** The standard for maintenance window for planned outages is between 00.00-7.00 MYT (GMT+08:00), of the node location. AIMS will use its best endeavours to accommodate such reasonable requirements of the Customer during the outage time.

**8. CROSS-CONNECT CABLES**

**8.1** All cross-connect cabling infrastructure services provided by AIMS or its Affiliates will carry a three (3) month warranty from the Service commencement date ("SCD"). Any replacement of the connectors, interface or cabling parts after the warranty period stated herein shall be chargeable at the prevailing rate.

**9. DEPOSITS, CHARGES & PAYMENT****9.1 Deposits**

**9.1.1** In lieu of Clause 6.2(d) General Terms, in the event that the MRC and/or Third Party Recurring Charges shall be increased at any time during the Service Term, the Customer shall pay to AIMS such difference between the then MRC and/or Third Party Recurring Charges and the increased MRC and/or Third Party Recurring Charges, as a top-up to the Deposit.

**9.1.2** In lieu of Clause 6.2(f) General Terms, AIMS shall refund and pay to the Customer the Deposit, less any outstanding and unpaid Charges and any other monies due and owing by the Customer to AIMS under this Agreement and any losses, damages, costs or expenses incurred or sustained by AIMS by reason of any breach or non-compliance by the Customer of the terms of this Agreement (including without limitation any third party's claims against AIMS arising from or in connection with installation of the Customer's Equipment at the AIMS Data Centre and/or the use by the Customer of the Space and/or the Services rendered by AIMS hereunder) and/or any act, omission and/or negligence of the Customer, servants or agents, free from any interest upon the expiry of thirty (30) days from the date of expiry or termination of the Service Term.

**9.1.3** For the avoidance of doubt, Clause 6.2(a) to (c), Clause 6.2(e) and Clause 6.2 (g) General Terms are applicable.

**9.2 Rack Space Charges**

**9.2.1** Notwithstanding Clause 6.4 General Terms, AIMS shall bill the Customer for all applicable charges (which includes the MRC and any Third Party Recurring Charges) monthly in advance on the first day of every calendar month, PROVIDED ALWAYS that where the Service Term commences on a day other than the first day of a calendar month and/or ends on a day other than the last day of a calendar month, the MRC, and where possible, the Third Party Recurring Charges payable shall be pro-rated on the basis of number of calendar days for that first month or that last month of the Service Term, as the case may be.

**9.2.2** AIMS shall bill the Customer, in arrears, for any Additional Power Capacity Charge based on the actual usage of electricity by the Customer's Equipment over and in excess of the power allocation specified in the Service Order.

**9.3 Caged Space Charges**

**9.3.1** Notwithstanding Clause 6.4 General Terms, AIMS shall bill the Customer for all applicable charges (which includes *inter alia* the MRC, any Third Party Recurring Charges) monthly in advance on the first day of every calendar month, PROVIDED ALWAYS that where the Service Term commences on a day other than the first day of a calendar month and/or ends on a day other than the last day of a calendar month, the MRC, and where possible, the Third Party Recurring Charges payable shall be pro-rated on the basis



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of number of calendar days for that first month or that last month of the Service Term, as the case may be.

- 9.3.3 AIMS shall bill the Customer, in arrears, for electricity consumption (if not included in the MRC) and any Additional Power Capacity Charge based on the actual usage of electricity by the Customer's Equipment over and in excess of the power allocation specified in the Service Order at the specified rate as set out in the Service Order.

**9.4 Rooftop Space Charges**

- 9.4.1 AIMS shall bill the Customer for all applicable charges (which includes *inter alia* the MRC and any Third Party Recurring Charges) monthly in advance on the first day of every calendar month, PROVIDED ALWAYS that where the Service Term commences on a day other than the first day of a calendar month and/or ends on a day other than the last day of a calendar month, the MRC, and where possible, the Third Party Recurring Charges payable shall be pro-rated on the basis of number of calendar days for that first month or that last month of the Service Term, as the case may be.

- 9.4.2 AIMS shall bill the Customer, in arrears, for electricity consumption (if not included in the MRC) and any Additional Power Capacity Charge based on the actual usage of electricity by the Customer's Equipment over and in excess of the power allocation specified in the Service Order at the specified rate as set out in the Service Order.

**9.5 Miscellaneous**

- 9.5.1 The Customer acknowledges that it shall be the Customer's responsibility to request from AIMS the invoices it has not received for any given billing period. Notwithstanding any provisions to the contrary, the Customer hereby acknowledges and agrees that its obligation to pay all Charges due and payable shall not be waived, absolved or diminished by virtue of the Customer's failure or neglect to check, enquire, understand and ascertain the nature of Co-Location Services subscribed or used by the Customer and the applicable charges associated with such Co-Location Services.

- 9.5.2 All amounts payable by the Customer under this Agreement shall be made without any deduction, set-off or counterclaim.

- 9.5.3 All Charges are exclusive of any and all applicable taxes including withholding tax, value added tax, GST, sales and service taxes, regulatory surcharges and any other tax as may be imposed by the Government from time to time (other than income or corporate taxes). These amounts will be charged separately in the invoices to the Customer. The Customer must pay all taxes, duties, fees, levies and other similar charges and any related interest penalties however designated or imposed by any taxing or governmental authority whether imposed directly on the Customer or indirectly on AIMS as a result of the existence or operation of this Agreement or otherwise relating to the Services. If the Customer is required to withhold or pay such taxes from amounts that AIMS have invoiced the Customer for, the Customer must pay such additional amounts so that the net amount received by AIMS after such payment or withholding is equal to the amount invoiced.

- 9.5.4 Clause 6.9 General Terms is hereby excluded. The Customer acknowledges and accepts that:

- (a) At the start of the Renewed Service Term, AIMS shall be entitled to vary, revise and/or increase the MRC for the Service and Service Equipment (where applicable) where there are no changes in the requirements in any form or manner, by at least five percent (5%) but not exceeding ten percent (10%) of the MRC ; and
- (b) During the Service Term, AIMS shall be entitled to vary, revise and/or increase its Charges, from time to time at any time to reasonably reflect any tariff increases in public utilities, price increases imposed by third party service providers in respect of the Services, applicable regulatory costs and/or the cost to provide the Service by AIMS. For the purpose of clarification, this revision in Charges is separate and in addition to the revision to the MRC for the Service in paragraph (a) above.

**9.6 Additional Rights of AIMS**

- 9.6.1 If the Customer has failed, neglected and/or refused to:

- (a) settle all invoices issued by or outstanding sums due to AIMS; or
- (b) dismantle and/or remove the Customer's Equipment within the period of seven (7) days from the date of a notice in writing from AIMS requiring the Customer so to do; or
- (c) dismantle and/or remove the Customer's Equipment within the period of seven (7) days from the date of expiry or termination of this Agreement pursuant to Paragraph 15.4(c) below,

then AIMS shall be entitled, at the sole cost and expense of the Customer, to dismantle, remove, suspend power, disconnect cross-connect services and/or delete all data available in the Customer's Equipment and store the Customer's Equipment in a warehouse of its choice. AIMS shall not be obligated to release



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the Customer's Equipment to the Customer unless the Customer has paid all such costs and expenses and all other charges due to AIMS under this Agreement. AIMS shall not be liable for any loss or damage incurred by the Customer arising out of AIMS's power off, disconnection, removal, storage or disposal of the Customer's Equipment.

- 9.6.2 AIMS may, in addition to the rights under Paragraph 9.6.1 above pursuant to Paragraphs 9.6.1(a), (b) and (c), deem the Customer Equipment that is not dismantled or removed by the Customer within the stipulated time in Paragraphs 9.6.1 above to be unclaimed by the Customer and shall be entitled at any time thereafter to sell the Customer's Equipment and defray any outstanding Charges and/or sums due and payable by the Customer as well as all charges, costs and expenses for dismantling, removal, storage and sale out of the sale proceeds thereof. The manner and conduct of such sale shall be at the absolute discretion of AIMS without further notice or any compensation or liability to the Customer. Any surplus on such sale after satisfaction of any outstanding Charges, other monies due and payable by the Customer, any charges costs and expenses, shall be handed over to the Customer or, if Customer cannot be located, shall be paid pursuant to the Unclaimed Moneys Act or any other applicable legislation. AIMS has no obligation to invest all such sums (including investing such sums into any interest bearing account).
- 9.6.3 Notwithstanding any of the aforesaid, AIMS shall be entitled to institute legal proceedings against the Customer for the recovery of the outstanding unpaid Charges and/or other monies payable by the Customer hereunder (including, without limitation, the cost and expenses of dismantling, removing and storing the Customer's Equipment) and all losses and damages suffered or sustained by AIMS by reason of the breach of the Customer, and the Customer shall be liable to indemnify and pay all legal costs and disbursements incurred by AIMS in connection with such legal action on a solicitors and clients basis. The Customer hereby agrees that any dispute in relation to the quality of the Services to be provided by AIMS shall not be used as grounds for the non-payment of the outstanding Charges and/or other monies payable pursuant hereto.

**10. LIEN**

- 10.1 As security for the enforcement of this Agreement, the Customer hereby grants AIMS a lien over all of the Customer's Equipment installed, located and/or stored at the AIMS Data Centre. The Customer hereby warrants and represents that the Customer's Equipment installed, located and/or stored at the AIMS Data Centre is lawfully owned by the Customer. In the event any of the Customer's Equipment is not owned by the Customer, the Customer shall provide notice in writing to AIMS providing the name, address and telephone number of the legal owner(s) as well as any identification or invoice numbers necessary to establish the correct identity of the Customer's Equipment. The Customer shall provide the legal owner of the Customer's Equipment a written notice informing him of the existence to this lien and provide a copy of such notification to AIMS.
- 10.2 AIMS may exercise its rights as a lien-holder over the Customer's Equipment as may be necessary only where the Customer is in default in accordance with Paragraphs 9.6.1 and 9.6.2 above.

**11. DISCLAIMER**

- 11.1 The Customer acknowledges and accepts that AIMS does not exercise control over the content of the information passing through the AIMS Data Centre or the power supplied by the power utility. Accordingly, AIMS does not warrant that the Co-Location Services provided hereunder will be uninterrupted, error-free or completely secure and AIMS hereby disclaims any and all implied warranties, including the implied warranties of merchantability, fitness for purpose and non-infringement. Except for the express warranties and service level guarantees set out in this Agreement, all Co-Location Services performed and provided are made available by AIMS on an "as is" basis and the Customer's use of the Co-Location Services is at its own risk.
- 11.2 The Customer hereby agrees that the risks (including theft, loss or damage) in all the Customer's Equipment, Customer's Material or any other property of the Customer, its servants, agents, contractors, licensees and/or invitees, installed, located and stored at the AIMS Data Centre shall remain with the Customer and AIMS shall not, in any way, be liable for any loss or damage to the Customer's Equipment, Customer's Material and/or any of the aforesaid properties unless such loss or damage is caused directly by any gross negligence on the part of AIMS.

**12. LIMITATIONS AND EXCLUSION OF LIABILITIES**

- 12.1 In addition to Clause 9 General Terms, AIMS shall bear no liability for any loss or damage resulting from its suspension or termination of the Services for any reason whatsoever save and except for wrongful and unreasonable suspension due to the wilful default or gross negligence of AIMS.

**13. INDEMNITY**

- 13.1 The Customer shall indemnify and hold AIMS harmless against any and all loss, liability, cost, expense or claim (including reasonable legal expenses) suffered or incurred by AIMS arising directly or indirectly from or in connection with -



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- (a) any failure by the Customer to comply with any of the provisions of this Agreement, AIMS House Rules and Regulations, terms of services of third party service providers, any instructions, notices or directions issued by AIMS and/or any appropriate authorities or any law or regulation in force; or
- (b) any claims for libel, infringement of copyright, patent or breach of any law or regulation whatsoever arising from or attributable to any material transmitted, received or stored via the Services and from all claims arising out of any act or omission of the Customer or any unauthorized use of the Services; or
- (c) any damage to the AIMS Data Centre, AIMS's infrastructure or equipment, any damage to any property (including third party's property) or personal injury (including death) attributable to the Customer's Equipment, Customer's Material and/or any act or omission of the Customer and of any person under its control or acting under its authority; or
- (d) any damage in any of the data in or within the Customer's Equipment, Customer's Equipment or any other property of the Customer, its servants, agents, contractors, licensees and/or invitees, installed located and stored at the AIMS Data Centre.

**14. SUSPENSION**

**14.1** In addition to the grounds specified in Clause 7.2 General Terms, AIMS may immediately suspend the Co-Location Services, without notice to the Customer, for the following additional grounds:-

- (a) If the Customer breaches any of the terms and conditions of this Agreement, the AIMS House Rules and Regulations, the terms and conditions of any third party service provider, any instructions, notices or directions issued by AIMS;
- (b) If the Customer shall fail to cooperate with any investigation and/or enquiry conducted and/or carried out by the appropriate authorities in respect of any suspected violation or violation of any acts, statutes or laws and/or policies or rules and regulations;
- (c) If the Customer does anything which may cause potential harm and / or damage to the AIMS Data Centre and / or AIMS's Service Equipment, network equipment and/or facilities and/or those of its other customers;
- (d) the Services are being or may be used in violation of any acts, statutes or laws and/or any policies or rules and regulations and/or orders, instructions, notices and/or directives imposed and/or issued by the relevant authorities;
- (e) the Customer withholds payment of any invoice, or the Customer consistently or repeatedly does not make payment for invoices when they become due (notwithstanding payment of the late payment charges).

**14.2 Reconnection.** AIMS may, at its absolute discretion, re-activate the Co-Location Services subject to the Customer satisfying the following conditions:-

- (a) making payment of the reconnection fee, currently fixed at RM500.00 or an amount equivalent to five (5%) percent of the outstanding amounts due to AIMS, whichever is higher; and
- (b) payment of all outstanding amounts and invoices in full to AIMS; and
- (c) rectifying or remedying the event of default which resulted in the suspension of the Co-Location Service.

**14.3** In the event that the Customer fails to remedy or rectify the events of default which resulted in the suspension of the Services, then AIMS shall be entitled, at its absolute discretion, to immediately terminate the Co-Location Services.

**15. TERMINATION RIGHTS & CONSEQUENCES THEREOF**

**15.1** Notwithstanding Clause 8.2 General Terms, either Party may terminate the Co-Location Service by giving not less than two (2) months prior written notice to other Party PROVIDED ALWAYS THAT the right to terminate the Co-Location Service under this Paragraph 15.1 is only exercisable during the Renewed Service Term and not during the Initial Service Term. In the event that the Customer shall exercise its termination rights under this paragraph during the Renewed Service Term, the Customer agrees that it shall be liable to pay to AIMS the Charges as set out in Paragraph 15.4(b) below within thirty (30) days from the date of the Customer's notice to terminate.

**15.2 Cancellation of Service Order.** If the Customer cancels the Service Order before the SCD, the Customer shall pay AIMS the Cancellation Charges and the Balance Charges.





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- 15.3 If the Customer is an appointed service provider, contractor or supplier, as the case may be, of MCMC and MCMC has provided AIMS with written instructions including evidence of the relationship between Customer and MCMC, the Customer acknowledges and agrees that:
- (a) MCMC shall have unlimited access to the data in or within the Customer's Equipment and/or Customer's Equipment located at AIMS Data Centre;
  - (b) MCMC shall have absolute authority and jurisdiction over the data in or within the Customer's Equipment and/or Customer's Equipment;
  - (c) where MCMC has revoked the Customer's appointment due to the Customer's default and/or breach of any terms and conditions of the agreement between MCMC and the Customer, this Agreement shall be automatically terminated and the provisions of Paragraph 15.3 herein shall apply; and
  - (d) the Customer shall not thereafter, have any recourse against AIMS and AIMS shall not in any way be liable to the Customer for any and all loss, liability, cost, expense or claim suffered or incurred as a result of any of the above.
- 15.3A **Regulator Intervention.** The Customer agrees to abide with any direction, order or notice issued by an appropriate authority (being MCMC, PDRM, MACC or the Government of Malaysia, as the case may be) either requiring access to the Customer's Equipment and/or data in or within the Customer's Equipment. In the event of any inspection and/or investigation and/or confiscation by the appropriate authority and/or regulators, the Customer acknowledges and agrees that AIMS and/or its Affiliates shall not be liable and/or responsible for any losses and/or damages which may arise due to such inspection and/or investigation and/or confiscation of the data in or within the Customer's Equipment, Customer's Equipment or any other property of the Customer, its servants, agents, contractors, licensees and/or invitees, installed located and stored at AIMS Data Centre.
- 15.4 **Consequences of Termination**
- In addition to Clause 8.7 General Terms, the consequences of either expiration or termination of this Agreement are as follows:-
- (a) the Co-Location Services shall cease to be provided;
  - (b) if the Agreement is terminated by the Customer pursuant to Clause 8.2 General Terms or Paragraph 15.1 above, , the Customer shall pay to AIMS within thirty (30) days from the date of the Customer's notice to terminate:
    - (i) all Charges in arrears up to the date of termination;
    - (ii) all Termination Charges; and
    - (iii) the Balance Charges;
  - (c) The Customer shall dismantle and remove all the Customer's Equipment from the AIMS Data Centre within seven (7) days from the date of expiry or termination of this Agreement PROVIDED ALWAYS that the Customer shall make good to the satisfaction of AIMS all damage caused (fair wear and tear excepted) to the AIMS Data Centre or any part thereof during the course of and/or in consequence of such dismantling and removal;
  - (d) Pursuant to Paragraphs 9.6.1, AIMS shall have the right to enter the Customer's premises in order to disconnect and remove any of its equipment and cable; and
  - (e) The Parties shall promptly destroy or return all Confidential Information belonging to the other Party.
- 15.5 **Termination Charges.** Wherever stated in this Service Schedule that the Customer is to pay Termination Charges, as compensation to AIMS, such Termination Charges shall be equal to the aggregate of the following:
- (a) any Charges waived by AIMS where the premature termination occurs during the Initial Service Term only;
  - (b) any charges imposed by third party service providers including charges for the remainder of the unexpired term that those third party service providers may impose (if any), including all fees, costs and expenses and termination charges in respect of such third party service providers that may have been contracted, commissioned or engaged by AIMS at the request of the Customer for the provision or use of the Co-Location Service (if any);
  - (c) all de-installation charges and incidental charges incurred by AIMS in order to clear the Space including charges to disconnect, pack, remove and transport any Customer Equipment from the AIMS Data Centre to AIMS's warehouses (including any freight, custom and excise duties that may be imposed and/or incurred); and

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- (d) any other charge reasonably incurred by AIMS as a result of the early termination.
- 15.6 Cancellation Charges:** Wherever stated in this Service Schedule that the Customer is to pay Cancellation Charges, such Cancellation Charges shall comprise the following:
- (a) any Charges waived by AIMS;
- (b) the cost and expenses incurred to carry out any preparatory works to the AIMS Data Centre in order to provision the Co-Location Service;
- (c) any charges imposed by third party service providers; and
- (d) all incidental costs and expenses incurred by AIMS in order to restore the Space.
- 16. REPRESENTATIONS AND UNDERTAKINGS**
- 16.1** The Customer hereby covenants and undertakes with AIMS as follows:-
- (a) **Payment of Charges and Late Payment Charges:** To pay to AIMS all applicable Charges and late payment charges, promptly in accordance with the provisions of this Agreement.
- (b) **Compliance with Terms and Conditions:** To observe, perform and comply with this Agreement, the AIMS House Rules and Regulations, and all modifications thereto, which governs, inter alia, the use of and access to the AIMS Data Centre (the AIMS House Rules and Regulations can be viewed at <http://www.aims.com.my/about-us/who-are-we/downloads/>), terms of services of third party service providers, instructions, notices or directions issued by AIMS and/or any appropriate authorities, from time to time, in relation to installation, use and/or operation of the Services.
- (c) **Insurance:** To insure and keep insured the Customer's Equipment against all risks (including without limitation, fire flood, and other perils) up to the replacement value thereof as well as to cover any consequential loss of profits as may be deemed necessary by the Customer; the Customer shall waive and/or cause its insurance carriers to waive all rights of subrogation against AIMS.
- (d) **Illegal activities:** Not to use nor permit the use of the Space and/or Services for any fraudulent, unlawful, illegal or improper purpose in breach of any laws and regulations (local, and international) or to violate the rights of AIMS and/or third parties. This obligation covers and extends to the Customer who uses the Space and/or Services for its own purpose, for resale and/or for the provision of services to third parties.
- (e) **No competition:** Not to use or permit the use of the Services for the provision of any services, which may compete with any of AIMS's services, without the prior written consent of AIMS.
- (f) **Access:** The Customer shall permit AIMS, its servants, agents and/or contractors, at all reasonable times and with sufficient notice, access to the Space to enable AIMS to undertake any repair and/or maintenance works to the facilities comprised therein.
- (g) **Reporting and Repair:** The Customer shall promptly notify AIMS of any interruption or disruption of the Services in accordance with the applicable fault reporting procedures and escalation matrix. Further, the Customer shall take the necessary steps to immediately remedy or repair the Customer's Equipment, at its own costs, if the result of any tests or inspections show that interruption or disruption of any of the Services or network or facilities is attributable to the Customer's Equipment.
- (i) **Financial Responsibility:** The Customer will be fully responsible for any charges, costs, expenses and third party claims that may result from its use of or access to, the AIMS Data Centre or any part thereof, including but not limited to any unauthorised use of any access device provided to the Customer by AIMS.
- (j) **Relocation of Customer's Equipment:** The Customer shall allow AIMS to relocate the Customer Equipment placed within the AIMS Data Centre upon prior written notification to the Customer unless such relocation is required immediately or as a matter of emergency.
- 16.2** AIMS covenants with the Customer that –
- (a) **Professional Skills and Expertise:** It and its appointed third party service providers shall possess the requisite professional skills and technical expertise to perform its obligations hereunder and in accordance with reasonable industry standards.
- (b) **AIMS's Equipment:** It shall provide and/or procure the use of industrial standard equipment in fulfilling its obligations under the terms and conditions of this Agreement.
- (c) **Standard of Service:** Its service operation centre shall provide the Customer with 24x7 technical support as specified in this Agreement. AIMS shall use its best endeavours to remedy or repair

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any interruption or disruption of the Services or facilities within the repair time specified in the Specific Terms provided it is not attributable to the Customer's Equipment.

- (d) **Customer Assistance:** It will render reasonable assistance to the Customer in the resolution of any circuit or the Customer's Equipment failure as may be necessary.
- (e) **Information:** It will, upon request by the Customer, provide such information reasonably required in connection with or for the purposes of any of the Services provided hereunder.
- (f) **Customer Access:** Subject to the Customer's compliance with the AIMS House Rules and Regulations, AIMS will permit the Customer and/or its servants, employees, authorised agents or contractors, access to the AIMS Data Centre to enable the Customer to perform its duties and obligations required under this Agreement during normal business hours of the AIMS Data Centre.



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## APPENDIX 1: STANDARD DELIVERABLES AT AIMS DATA CENTRE

Save as otherwise provided, the following are the standard infrastructure and security features of the Co-location Services:

<i>Infrastructure and Security Features provided by AIMS</i>	<i>Specification for Standard Colocation Rack</i>	<i>Specification for Caged Space</i>
Rack / Cabinet	<p><u>AIMS Data Centre at AIMS@Cyberjaya</u> 45RU rack size of 600mm (W) x 1200 (D) complete with 24 Ways RPDU c/w 20 x C13 &amp; 4 x C19</p> <p><u>AIMS Data Centre at Menara AIMS, Kuala Lumpur</u> 42RU rack size of (i) 600mm (W) x 800mm (D); (ii) (ii) 600mm (W) x 900mm (D); (iii) (iii) 600mm (W) x 1000mm; or (iv) 600mm (W) x 1200mm (D)complete with 2 x 12-way 13A 3-pin socket</p>	Size as specified in the service order form
Power Allocation	<p><u>AIMS Data Centre at AIMS@Cyberjaya</u> 1.5kW per rack; or 2.0kW per rack, or 2.5kW per rack, or 3.0kW per rack, or 3.5kW per rack, or 4.0kW per rack, or 4.5kW per rack, or 5.0kW per rack, or</p> <p><u>AIMS Data Centre at AIMS@Cyberjaya only</u> 7.0kW per rack, or 10.kW per rack</p>	Agreed power or charged dependent on usage;
Power Redundancy	Dual UPS feed to the rack	Dual UPS feed to the area
Fire Suppression System	<p><u>AIMS Data Centre at Menara AIMS</u> Clean agent gas type fire suppression system</p> <p><u>AIMS Data Centre at AIMS@Cyberjaya</u> Water Mist fire suppression system</p>	<p><u>AIMS Data Centre at Menara AIMS</u> Clean agent gas type fire suppression system</p> <p><u>AIMS Data Centre at AIMS@Cyberjaya</u> Water Mist fire suppression system</p>
High Sensitivity Smoke Detector	Available	Available
Water Leak Detection	Available	Available
Structured Cabling System	Available	Available
Access Control	Available	Available
24x7 CCTV Monitoring	Available	Available



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APPENDIX 2: SUPPORT SERVICES

1. In providing the highest quality customer care service, AIMS will use its best endeavours to respond to the Customer's request for repair and/or resolution of technical problems within the response and repair matrix on a 24x7x365 basis i.e. 24 hours per day, 7 days a week, 365 days a year.

Grade	Severity/Problem Level	Mean Time To Respond	Mean Time To Repair
1	Critical Outage (power or cooling outage of Space and/or the entire AIMS Data Centre)	15 minutes	4 hours
2	Major Outage (power outage on a portion of the AIMS Data Centre only, loss of redundancy in power supply)	1 hour	8 hours
3	Minor Outage (redundant device down, management access outage)	2 hours	Next Business Day
4	Important event (condition being monitored, awaiting parts)	4 hours	Second Business Day
5	Informational event (request for documentation)	Next Business Day	Second Business Day

*"Mean Time To Respond" shall mean the elapsed time from the time a problem is reported by the Customer (by email, facsimile or telephone, to the contact person designated by AIMS) to the time AIMS's technician acknowledges receipt of the report.*

*"Mean Time to Repair" is the elapsed time from the time a problem is reported by Customer to the time the problem is eliminated, provided that if the problem is due to the fault of a third party outside of AIMS's control, then the time taken by the third party to conduct its repairs, will not be included in the calculation of the Mean Time to Repair.*

2. **Level 1 Remote Hands Service:** AIMS shall use its best endeavours to respond to the Customer's request for basic visual and physical assistance provided (i.e. excludes any element of technical diagnostics, analysis or problem solving), under telephonic or written instructions from the Customer, on a 24x7x365 basis, at no charge. Level 1 Remote Hands Services comprise the provision of the following assistance by AIMS' technicians in respect of the Equipment:-
  - Pushing a button, toggling a switch or setting an externally accessible dip-switch;
  - Rebooting or power cycling of the Equipment;
  - Reading of serial numbers on the Equipment to the Customer;
  - Relaying status of the Equipment's status indicators.
  - Pushing a button or toggling a switch.
  - First-time patching for newly laid AIMS cross-connect order.

Any Level 1 Remote Hands Services requested by the Customer that is reasonably anticipated to exceed 15 minutes in support assistance shall be chargeable by AIMS, at AIMS's prevailing rates for Level 2 Remote Hands Services.

3. **Level 2 Remote Hands Service:** Level 2 Remote Hands Services shall include the following tasks at the prevailing rate separately prescribed by per hour (minimum one (1) hour is required): -
  - Providing visual verification (remote eyes) to assist your remote troubleshooting efforts;
  - Plugging in a console port for remote management;
  - Moving or securing a cable/cables/customer-side cross connects;
  - Swapping of pre-labelled , pre-ejected, removable media;
  - Replacing or verifying connectivity integrity of cross-connection (except if MRC cross connection is subscribed);
  - Adding, removing or verifying a demarcation label;
  - Performing loopback for the telecommunication circuits (except if Network Resell / MRC cross connection is subscribed);
  - Establishing or taking down a loop-back on a carrier circuit to assist in remote testing;
  - Troubleshooting of your equipment with your assistance;
  - Taking inventory or taking digital pictures of your equipment or of your allocated rack space within the Data Centre/ providing and updating records;
  - Labelling equipment and cable connections;
  - Assisting you with your equipment's physical installation, relocation or movement;
  - Shipping and handling RMA equipment;



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- Installing, replacing/removing any equipment's components that are hot-swappable and/or highly modular in design – e.g. router/switch;
  - Installing or swapping pre-configured equipment or components for you;
  - Installing cross-connects from your equipment to patch panels;
  - Installing any software provided by you that come with default configurations as according to your instructions;
  - Performing diagnostic and signal testing on circuits using diagnostic equipment;
  - Performing loop-back testing for telco circuits;
  - Providing access to CCTV footage/ access logs; and
  - Assisting with Customer's audit.
4. **Fault Reporting Procedure and Escalation Matrix:** AIMS shall notify the Customer of AIMS's fault reporting procedures and escalation matrix in writing from time to time. Such matrix shall include email addresses and telephone access numbers for operations and senior management points of contact, who are available and authorized to address and resolve performance issues on a 24x7x365 basis. The Customer shall also provide AIMS with accurate and current contact information for the Customer's designated points of contact.
5. **Trouble Log:** AIMS will maintain a trouble log of faults reported by the Customer. The trouble log will contain one entry per trouble ticket opened. Upon request from the Customer, AIMS will furnish the Customer a copy of such trouble log.



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## APPENDIX 3: SERVICE LEVEL GUARANTEE FOR CO-LOCATION SERVICES

**1. General**

- 1.1 The terms set out in this Appendix 3 hereunder shall only be applicable to the eligible Colocation Services subscribed to by the Customer if the Customer has selected a service level in the Service Order. It is expressly acknowledged by the Customer, that this Appendix 3 does not apply to any Colocation Services if the Customer has not chosen a corresponding service level in the Service Order.
- 1.2 This document is a service level guarantee ("SLG") setting out the service levels to be achieved by AIMS for Co-location Services under this Agreement, and the Service Credits, if any, for failure to meet the service levels. This SLG only applies to the Co-location Services to the extent that is provided by means of systems and equipment that are either owned or operated by or on behalf of AIMS. All references in this SLG to network and Service Equipment shall be construed as references to such systems and equipment.
- 1.3 This SLG is contingent upon each party knowing and fulfilling their responsibilities and generating an environment conducive to the achievement and maintenance of the targeted service level guarantees.
- 1.4 In this SLG a reference to a paragraph, unless stated otherwise is a reference to a paragraph of this SLG.
- 1.5 Service Credits or other compensation under this SLG shall only be payable where -
- (a) the Customer has submitted to AIMS a claim identifying the circumstances in which the credit or compensation arose, and
  - (b) AIMS has agreed in writing, acting reasonably and without undue delay, to the claim.
- All claims for Service Credits or compensation must be submitted promptly, and in any event within ten (10) Business Days, after the circumstances giving rise to the claim.
- 1.6 Residual Service Credits will not be carried over to subsequent twelve (12) months period.
- 1.7 Notwithstanding any provision to the contrary, Service Credit shall be the Customer's sole and exclusive remedy for any outages or any failure to meet the service level guarantees.
- 1.8 AIMS reserves the right to amend the SLG from time to time, subject to the consent of the Customer, which shall not be unreasonably withheld or delayed.

**2. Infrastructure Warranty**

- 2.1 AIMS warrants that the critical infrastructure system i.e. electrical and power, will be available 99.99% of the time measured over any period of twelve (12) months, excluding Scheduled or Planned Maintenance and Emergency Maintenance. In the event that AIMS breaches the aforesaid warranties and subject to the other provisions of this SLG, AIMS will credit 5% of the MRC for each additional 60 minutes downtime, up to a maximum of 15% of the Customer's MRC.
- 2.2 The electrical power to the Space shall not be less than 99.99% of the time, measured over a period of 12 months provided always that this paragraph 2.2 of Appendix 3 shall be applicable only if Customer has two (2) power supply feeds with AIMS or dual power supply feeds are provided to the Rack Space.
- 2.3 Over a 24-hour period at 100% load, an average ambient temperature in the AIMS Data Centre of 22°C +/- 3°C and a humidity level of 50% RH +/- 10% shall be maintained at not less than 99.99% of the time, measured over any period of 12 months. Ambient temperature shall be measured using only AIMS Data Centre installed and operated sensors. For the avoidance of doubt, AIMS does not provide any warranties on the ambient temperature and the humidity level within the Customer's Space.
- 2.4 Accordingly, service downtime of 0.01% in critical power and temperature over any 12-month period are permitted, which is equivalent to an aggregate of 52.6 minutes over a 12-month period, irrespective of the Service Term.
- 2.5 The Customer acknowledges and accepts that the interruption of power supply due to circuit breakers being activated shall not be considered a power supply downtime, nor a failure of any of the aforesaid SLG.

**3. Network Service Availability**

- 3.1 The Customer acknowledges and accepts that AIMS does not provide any service level guarantees on network services.

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- 3.2 If the Customer subscribes for any network services provided by AIMS then Service Schedule D/E shall apply.
- 3.3 Any third party network services procured and managed by AIMS, on behalf of the Customer, will be governed by such service level guarantees, if any, provided by the third party service providers.

**4. Exclusion**

Notwithstanding any contrary provisions in this SLG, Service Credits are not available to the Customer in any of the following events:-

- (a) Scheduled or Planned Maintenance;
- (b) Emergency Maintenance;
- (c) Failures resulting directly or indirectly from defects in the Customer's Equipment, Customer's Materials, applications and/or facilities;
- (d) Occurrence of an event of force majeure;
- (e) Any act or omission by the Customer, its employees, representatives and/or agents;
- (f) Suspension of Services in accordance with Clause 7 General Terms; and
- (g) For any services subscribed by the Customer or by AIMS on behalf of the Customer, from third party service providers.

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