

## MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**Agreement**” or “**MSA**”) is entered into between **Pilot Fiber, Inc.**, a Delaware corporation with offices at 325 Hudson Street, Floor 10, New York, NY 10013 (“**Pilot**”, “**we**” or “**us**” or other similar designation) and its subsidiaries and the undersigned Customer in the signature block below (“**Customer**”, “**you**”, “**your**”, or other similar designation), as of the last date of execution below (the “**Effective Date**”). For orders placed through our online order link (“**Online Orders**”) the terms herein are incorporated by reference to your Service Order, and the Effective Date is the date you submit your first Service Order. Pilot and Partner may be collectively referred to as the “parties” or individually as a “party.”

1. General. The purpose of this MSA is to provide general terms, conditions and a framework within which Customer may from time to time purchase certain telecommunications and related infrastructure services (“Services”) from Pilot for Customer’s use and/or, with respect to certain telecommunication carrier Customers, for provision of Pilot services to such carriers’ customers with Pilot’s express authorization (“**End User Customers**”). Resale of Pilot Services is prohibited under this Agreement. Reselling Pilot Services requires Customer to enter into a separate Reseller Master Services Agreement with Pilot. Additional terms and conditions that apply to each type of Service are set forth in Service-specific Addendum (each a “**Service Addendum**” or “**Addendum**”). Each Addendum executed by Customer shall become part of this Agreement. In the event that Customer purchases a Service without executing the applicable Service Addendum, such Service shall be governed by Pilot’s standard Service Addendum for that Service. This MSA, the applicable Service Addendum and Service Orders (as defined in Section 3.3 below) and any other attachments incorporated therein shall collectively be referred to as the “Agreement” or “MSA”.

2. Affiliates. Pilot’s services may be provided by a local subsidiary of Pilot Fiber, Inc. A list of markets serviced and their applicable subsidiaries are below:

**Boston: Pilot Fiber MA LLC**  
**Chicago: Pilot Fiber IL LLC**  
**New York: Pilot Fiber NY LLC**  
**New Jersey: Pilot Fiber NJ LLC**  
**Pennsylvania: Pilot Fiber PA LLC**  
**Washington, DC Metro Area: Pilot Fiber DC LLC**

We refer to our entities named above, individually or collectively, as “Pilot”.

3. Services.

3.1. “**Pilot Services**” (collectively, or individually a “**Service**” or “**Services**”) include but are not limited to (i) Dedicated Internet Access (“**DIA**”), (ii) Wholesale IP Transit, (iii) Wavelength Services, (iv) Dark Fiber Services, (v) Cloud Connectivity (“**CloudConnect**”), (vi) Metro Ethernet / Point-to-Point (“**DirectConnect**”), (vii) Point-to-Multi-Point (“**AnyConnect**”), and (viii) IP Address rental.

3.2. Grant of Non-Exclusive Rights. The parties acknowledge and agree that this Agreement does not confer on either party exclusive rights to buy or sell telecommunications Services. The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties.

3.3. Service Orders. Customer may request Pilot to provide a Service by submitting a service order in a form provided by Pilot from time to time (“**Service Order**”) in accordance with the procedures set forth in this Agreement. The type and scope of the Services to be provided to Customer under the terms of this Agreement, including any of the Services described in the applicable Addendum(s), shall be specified in an

applicable Service Order. The fees for the Services will be set forth in the Service Order. Notwithstanding anything in this Agreement to the contrary, neither party has any obligation to execute any Service Order.

3.3.1. Customer shall provide Pilot with a Service Order signed by Customer as the customer of record. Each Service Order will set forth the name of each Customer's service address(es) (including zip code), suite and/or floor number, contact information of the person signing the Service Order in Customer's organization, the installation coordination contact in the Customer's organization, the name, phone number, and email address of Customer's ongoing technical support contact, and Customer's billing contact. Customer shall submit each Service Order on the designated Pilot form (which may be digital), as may be amended from time to time.

3.3.2. The parties shall treat the information included in a Service Order as Confidential Information, as defined below. Pilot will promptly notify Customer if any Service Order cannot be processed due to incomplete information or any other reason; orders containing incomplete information will not be processed until completed. All Service Orders are subject to acceptance by Pilot, which may accept or reject any Service Order at its sole discretion for any reason. Pilot has no obligation to fulfill any Service Order submitted by Customer, and bears no liability for declining to fulfill any Service Order.

3.3.3. By submitting an Order to Pilot, Customer warrants that the information Customer provides to Pilot in a Service Order is true and correct and that Pilot may reasonably rely upon it.

3.3.4. Customer is making a binding offer to acquire the Services described in the Service Order on the terms set out in this Agreement. An agreement to supply a Service is formed on the date that Pilot (in its sole discretion) accepts the Service Order in writing to customer.

3.3.5. Customers who submit Online Orders need not sign this MSA, as the terms of this Agreement are incorporated by reference.

3.4. Reservation of Rights. All rights not granted under this Agreement are expressly reserved to us. We do not grant you any right to grant licenses to or distribute any Pilot Services without our prior written consent and we may engage other third parties, distributors, Customers, administrators or agents without restriction. Nothing in this Agreement shall be interpreted to limit our right to market, sell and distribute any of our products or services, directly or indirectly, to any current or prospective customer.

#### 4. Scope and Structure/ Order of Precedence

4.1. Each Service Order issued and accepted and all Services provided hereunder shall be subject to the terms of this Agreement and the applicable Addendum for each Service. Each applicable Addendum and Service Order for the applicable Service are hereby incorporated into this Agreement.

4.2. In the event of conflict or inconsistency between the general provisions of this Agreement and those of an individual Service Order, or the Addendum, the conflict or inconsistency shall be resolved in the following order of precedence: first, in favor of the provisions of the Service Order, next in favor of the Addendum, and last, in favor of this Agreement.

#### 5. Support.

5.1. Required Notice to Customer. Pilot will use commercially reasonable efforts to keep Customer apprised of any material change to the functionality or performance of the Services.

5.2. Support Channels. Pilot will provide customer and technical support to Customer's designated Support Contact via its normal customer Support channels. Support is available 24 hours a day, 365 days a year via email and telephone. Customer may call Pilot toll-free on (855) 578-5500 or email [support@pilotfiber.com](mailto:support@pilotfiber.com) to receive Support.

6. Pilot's Obligations.

6.1. Pilot will, subject to the obligations set forth in the applicable Service Addendum for the service(s):

6.1.1. communicate with Customer regarding installation and maintenance of the Service(s) on an as needed basis;

6.1.2. provide support to Customer regarding Customer's account and technical issues pertaining to the Service;

6.1.3. promptly invoice Customer for Pilot Services ordered by Customer.

7. Customer's Obligations.

7.1. Customer will:

7.1.1. designate at least one point of contact for Support services and one point of contact for Billing;

7.1.2. use the Services (and ensure that each End User uses the Services) in accordance with this Agreement, and Pilot's Privacy Policy, and Acceptable Use Policy, as may be amended from time to time, which are available in their current form at [www.pilotfiber.com/legal](http://www.pilotfiber.com/legal);

7.1.3. comply with and ensure that any Customer End Users comply with all applicable laws, regulations and directions issued by any regulatory authority with respect to the performance of Customer's obligations and this Agreement and provide Pilot with all information, assistance and co-operation reasonably requested by Pilot in relation to any matter regarding such compliance.

7.2. Customer must:

7.2.1. not use, display or reference Pilot's proprietary indicia, trademarks, service marks, trade names, logos, symbols and/or brand names (collectively "**Marks**") without Pilot's prior written consent, and will be limited to the approved uses. Customer may not remove, conceal, destroy or alter Pilot's Marks, including but not limited to any Marks on Pilot Equipment. Customer agrees that it will not challenge or assist others to challenge the rights of Pilot or its suppliers or licensors in the Marks or the registration of the Marks, or attempt to register any trademarks, service marks, trade names, logos, symbols, brand names or other proprietary indicia confusingly similar to the Marks of Pilot. Pilot will retain the sole and absolute right to control its Marks and use thereof. Pilot does not grant any rights in its Marks or in any other trademark, trade name, service mark, business name or goodwill of the other except as expressly permitted hereunder or by separate written agreement of the Parties. Any Customer materials using such Marks for which Pilot has given Customer prior written consent must be subject to Pilot's explicit permissions, instructions, and consent regarding such use, display, or reference, or the continuation thereof;

7.2.2. act in a diligent, efficient and professional manner and make commercially reasonable efforts to ensure that its employees, agents, and contractors have the necessary information, skills, experience and qualifications to perform their functions in accordance with this Agreement;

7.2.3. not misrepresent the Services or Pilot in any way, or engage in misleading or deceptive conduct or do, or permit to be done, any act that damages Pilot's reputation;

7.3. Customer is responsible for implementing and maintaining the security of Customer's account with Pilot, Customer's devices, and Customer's network. Customer must pay all charges in connection with the usage of a Service, even if that usage was not authorized by Customer, for example by burst bandwidth charges associated with Services designated as burstable on IP Transit Service Orders.

7.4. Without Pilot's prior written consent or the involvement of a Pilot sales representative, Customer shall not incur any expense or commit to any obligation in the name of Pilot, make any representation or statement concerning any terms or conditions of sale or service, or to incur any liabilities on our behalf. In no event shall Pilot be held liable for any acts or omissions of any End User or Customer.

## 8. Payment Terms.

8.1. Initial Payment and Billing Commencement. Payment for the first month of service and any setup fees for installation of Equipment ("**Non-Recurring Charges**" or "**NRC**") is due upon execution of the Service Order if such fees are specified on the Service Order (the "**Initial Payment**"). The Initial Payment will be applied to the Customer's first month of Service, beginning on the Billing Commencement Date. The date on which Pilot activates a Service and begins monthly billing for that Service is the "**Billing Commencement Date**". Customer will receive regular monthly invoices on or around each monthly anniversary of the Billing Commencement Date. Pilot will refund the Initial Payment if Pilot determines (in its sole discretion) that it cannot fulfill the Service Order, for example due to problems in obtaining access to Customer's building. Customer is not entitled to a refund if Customer cancels a Service Order prior to such determination by Pilot. In Pilot's sole discretion, Pilot may commence billing Customer on the (i) date that is sixty (60) days after the Ready for Installation Date or (ii) Billing Commencement Date. The "**Ready for Installation Date**" is the date on which Pilot is ready to install or activate a Service for Customer. For the avoidance of doubt, the Ready for Installation Date may occur prior to Customer scheduling an installation for a Service or the Service Activation Date.

8.2. Charges. Pilot will invoice Customer for each month of service in advance, on a monthly basis for each Service Order that Pilot fulfills ("**Monthly Recurring Charges**, or "**MRC**"). Customer shall pay amounts due upon receipt of each invoice. Payment will be made by Automated Clearing House (ACH) transfer, credit card, or as otherwise agreed between you and Pilot. Amounts not paid when due will be subject to late fees from the due date of such invoice equal to the greater of 1. 5% per month or the maximum amount permitted under applicable law. Further, Pilot shall be entitled to recover from Customer all collection costs, including attorney fees.

8.3. Taxes and Fees. The fees stated on each Service Order include all taxes, fees, and surcharges charged by Pilot. Pilot may adjust its rates and charges or impose additional rates or surcharges on Customer to recover amounts that Pilot will be required by governmental or quasi-governmental authorities to collect or to pay to others in support of statutory or regulatory programs, unless Customer certifies to Pilot that it is properly paying (or is exempt from paying) regulatory charges including but not limited to charges related to be Federal Universal Service Fund.

## 9. Credit and Security.

9.1. From time to time during the term of this Agreement, Customer authorizes Pilot to assess Customer's creditworthiness and to communicate with credit reporting agencies and/or business partners about Customer's credit status. Pilot may give these agencies information that Customer has provided to Pilot.

9.2. Pilot may also set a credit limit or restrict Customer's use of the Services to limit Pilot's financial exposure. If Customer exceeds its credit limit, Pilot may restrict Customer's ability to order new Services and/or require payment of a deposit from Customer.

9.3. Pilot may terminate Service(s) on thirty (30) days' notice to Customer without liability if Pilot reasonably determines that Customer poses an unacceptable credit risk.

9.4. Pilot may require Customer to pay an additional deposit before acceptance of a Service Order if Pilot determines that Customer poses a credit risk.

10. Relationship of the Parties.

10.1. Status of Relationship. Each party is an independent contractor of the other, and this Agreement shall not be construed to create any association, partnership, joint venture, employee or agency relationship between Customer and Pilot for any purpose. Neither party shall have any authority (and shall not hold itself out as having authority) to bind the other party, and neither party shall make any agreements or representations on the other party's behalf without such party's prior written consent.

10.2. Benefits; Taxes; Representatives. You are not eligible under this Agreement to participate in any vacation, group medical or life insurance, disability, profit sharing or retirement benefits or any other fringe benefits or benefit plans we offer to our employees, and we are not responsible for withholding or paying any income, payroll, Social Security or other federal, state or local taxes, making any insurance contributions, including unemployment or disability, or obtaining workers' compensation insurance on your behalf. You shall be responsible for, and shall indemnify us against, all such taxes or contributions, including penalties and interest.

10.3. No Delegation or Subcontracting. You shall not delegate your obligations hereunder or engage any consultant, advisor, subcontractor or other third party to perform any portion of this Agreement without our prior written consent. If so permitted, you shall provide in your agreements with such subcontractors such written provisions as are sufficient to enable you to comply with the provisions of this Agreement. You shall ensure that all subcontractors are bound by written obligations of confidentiality consistent with the terms of this Agreement, and the terms of any Addendum. You shall remain responsible for obligations performed by subcontractors to the same extent as if such obligations were performed by you or your employees. You shall be our sole point of contact regarding the Services. You shall timely pay all subcontractors and other third parties you engage to provide services, and indemnify us against any such payments.

10.4. Disputes. The parties recognize that disputes may arise from time to time. Any such dispute shall be promptly presented to the parties' senior management for resolution. The parties agree to meet and discuss (including by electronic means) within thirty (30) days of such notification to pursue a good faith resolution of such dispute. If Customer does not notify Pilot of a dispute within thirty (30) days of discovering it, Customer waives its right to raise the dispute. Neither party will have any additional remedy under law or equity for disputes that arise under this section.

10.5. Disputed Payments. In the event Customer in good faith disputes any charges invoiced by Pilot, Customer shall promptly pay all undisputed charges, and shall notify Pilot in writing of any such disputed amounts within thirty (30) days of the invoice Due Date, identifying in reasonable detail its reasons for the dispute and the nature and amount of the dispute. All amounts not timely and appropriately disputed by the Due Date shall be deemed final and not subject to further dispute. Pilot will review the amounts in dispute within ten (10) business days after its receipt of such notice. If Pilot determines that Customer was billed in error, a credit for the amount billed incorrectly will be made to the next invoice. If Pilot determines that the amount was billed correctly, Customer will pay the amount by the Due Date of the next invoice.

10.6. Policies; Applicable Law. You shall comply with any and all Pilot policies as communicated to the you from time to time and all applicable laws related to the terms of this Agreement.

10.7. Service Level Agreement. All Services under this Agreement are governed by Pilot's Service Level Agreement ("SLA"), as more specifically described in each Addendum. Customer acknowledges that the service level credits applicable to each Service are its exclusive remedy in the event of Service interruption or outage and that Pilot does not provide refunds of any kind. The SLA and credits issued thereunder do not apply to "Jumpstart" services, as identified on Customer's Service Order.

## 11. Confidentiality.

11.1. Definition. As used in this Agreement, "**Confidential Information**" means any confidential or proprietary information a party may disclose or has disclosed to the other party, whether before or after the Effective Date and whether disclosed orally, in writing or through review of records, data, materials, site visits or otherwise, that is designated as confidential or that reasonably should be understood by the receiving party to be confidential. Confidential Information includes, without limitation, all information provided by or relating to any End User (including the fact that any such End User is being serviced using the Pilot Services), all personal data and data files, and the trade secrets, business plans, business methods, client lists (whether former, current or prospective), vendor lists, financial projections, product plans, internal procedures and documentation for development, sales, finance and accounting and passwords of the disclosing party, pricing terms, and all reports based on any of the foregoing.

11.2. Exclusions. Confidential Information does not include information or material that (a) is now, or hereafter becomes, through no act or failure to act on the receiving party's part, generally known or available publicly, (b) is or was known by the receiving party at or before the time such information or material was received, as evidenced by a contemporaneous writing; (c) is furnished to receiving party by a third party that is not under an obligation of confidentiality to disclosing party with respect to such information or material; or (d) is independently developed by receiving party without use of disclosing party's Confidential Information, as evidenced by a contemporaneous writing. ) Furthermore, the party to whom Confidential Information is disclosed shall have none of the obligations set for in this Section for Confidential Information which is disclosed pursuant to the requirement of a governmental agency or court of competent jurisdiction to the extent such disclosure is required by a valid law, regulation or court order; provided, in each case, that the receiving party shall, to the extent legally permissible, promptly provide prior written notice to the disclosing party of such intended disclosure and cooperate with any efforts by the disclosing party to prevent or limit such disclosure.

11.3. Obligation. Receiving party acknowledges that the Confidential Information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Receiving party shall: (i) at all times keep the Confidential Information strictly confidential and not divulge, furnish, or make accessible the Confidential Information to any third party (except as set forth below); and (ii) use the Confidential Information solely and exclusively for the purpose of carrying out the purposes or rights under this Agreement during the term of this Agreement. Receiving party may disclose the Confidential Information only to its employees and agents who have a "need to know" and who are under confidentiality obligations similar to those set forth herein.

11.4. Injunctive Relief. Receiving party acknowledges that the Confidential Information constitutes a unique and valuable asset of the disclosing party, and that any disclosure or use of the Confidential Information except as expressly permitted herein may cause the disclosing party irreparable harm. Accordingly, in the event of any actual or threatened breach of such provisions, disclosing party shall (in addition to any other remedies available) be entitled to seek temporary and/or permanent injunctive relief to enforce such provisions, and such relief may be granted without the necessity of proving actual damages.

11.5. Non-Disparagement. You understand and acknowledge that because of your relationship with Pilot hereunder, you may have access to information relating to our customers. Accordingly, you agree not to make or cause to be made any defamatory or derogatory statements concerning Pilot to any of our potential or existing customers.

11.6. Your Representations and Warranties. You hereby represent, warrant, and covenant to us that: (a) you have the right to enter into this Agreement and to perform fully all of your obligations hereunder; (b) your entering into this Agreement will not conflict with or result in any breach or default under any other agreement to which you are subject; (c) you shall devote sufficient resources to ensure that any work under this Agreement is performed in a timely and reliable manner; and (d) that you are not currently enrolled and will not enroll during the Term in Pilot's Channel Partner or similar affiliate program unless Pilot gives its prior written consent.

11.7. Our Representations and Warranties. We hereby represent and warrant to you that: (a) we have the full right, power and authority to enter into this Agreement and to perform our obligations hereunder and our entering into of this Agreement and performance hereunder does not and will not conflict with or result in any breach or default under any other agreement to which we are subject; and (b) the execution of this Agreement by our representative whose signature is set forth on the signature page has been duly authorized by all necessary corporate action.

## 12. Term and Renewal; Termination.

12.1. MSA Term. The term of this MSA commences on the Effective Date, and continues through the expiration of any Service Order placed hereunder. In the event that the MSA expires or is terminated because no Service Order is in effect at any given time, and then Customer orders new Services, the term of the MSA shall automatically be reinstated to run concurrently with any new Service Order(s).

12.2. Service Order Term. The term of each Service Order is as specified on the Service Order (the "**Service Order Term**"), and commences on the Service Activation Date, provided that as set forth in Section 8.1 of this Agreement, Pilot may, in its sole discretion, commence billing Client on the date that is sixty (60) days after the Ready for Installation Date (as defined in Section 8.1). Service Orders that specify "month-to-month" may be cancelled upon thirty (30) days' written notice.

12.3. Service Orders with a fixed Term of more than one (1) month specified on the Service Order automatically renew on a month-to-month basis until terminated upon thirty (30) days' written notice.

12.4. Customer shall continue to be responsible for payment to Pilot for the Services to be terminated through the end of the notice period. Following the initial Service Term stated in any Service Order, Pilot reserves the right to increase rates for any Services provided thereunder upon at least thirty (30) days' written notice to Customer.

12.5. Termination for Cause. Either party may terminate this Agreement for a material breach, if such breach shall remain unremedied for 30 days after the earlier of the date on which (i) an officer of the breaching party becomes aware of such breach or (ii) written notice thereof shall have been given to the breaching party by the non-breaching party.

12.6. Effect of Termination. Upon expiration or termination of this Agreement for any reason, or at any other time upon our written request, you shall promptly: (i) deliver to us, or destroy if we so request, all tangible documents and materials (and any copies) containing, reflecting, incorporating or based on the Confidential Information; (ii) permanently erase all of the Confidential Information from your computer systems; and (iii) certify in writing to us that you have complied with the requirements of this Section. Unless otherwise required by applicable law, any fees payable after the effective date of termination of this Agreement will be paid in

accordance with the terms of Section 8. Termination of this MSA will not terminate Service Orders placed hereunder prior to the termination date, or the obligation of Customer to pay invoices for such Services.

12.7. Survival. The terms and conditions of this Section and any other section reasonably expected to survive termination or expiration shall survive the expiration or termination of this Agreement.

12.8. Early Termination. For any Service Order with a Term of longer than one (1) month, if Customer terminates or cancels service under any Service Order for reason other than Pilot's breach prior to its agreed expiration date, Customer will pay Pilot an Early Termination Fee (as liquidated damages and not as a penalty) equivalent to the remaining MRC multiplied by the number of months remaining on any Service Orders, plus any unpaid NRC for any Service Orders placed under this Agreement. All termination fees shall be due and payable within thirty (30) days after the effective date of termination of the Service Order.

### 13. Indemnification; Limits on Liability.

13.1. You shall defend, indemnify and hold harmless Pilot and our affiliates, and our and their officers, directors, employees, agents, successors and permitted assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from: (i) bodily injury, death of any person or damage to real or tangible, personal property resulting from your acts or omissions; and (ii) your breach of any representation, warranty or obligation under this Agreement.

13.2. No Liability for Certain Actions. Pilot shall not be liable to Customer or Customer End Users for any claims or damages resulting from or caused by (a) unauthorized access to transmission facilities or premise equipment, or for unauthorized access to or alteration, theft, or destruction of data files, programs, procedure, or information through accident, wrongful means or devices, or any other method; (b) Customer's fault, negligence or failure to perform Customer's responsibilities; (c) claims against Customer by any other party (except for third-party claims indemnified under this Article); (d) any act or omission of any other party, including End User Customers; or (e) equipment or services furnished by a third party, including End User Customers. Pilot is not responsible for the content of any information transmitted or received through the Services. Customer shall be solely responsible for all of the security and confidentiality of information it transmits using a Service. Customer shall be solely responsible for all Customer support, pricing and service plans, billing and collections with respect to its customers, including obtaining all necessary legal or regulatory approvals to provide or terminate the provision of the services to its End User Customers. Pilot exercises no control over, and accepts no responsibility for, the content of the information passing through its network, or Customer equipment, and use of any such Service is at Customer's own risk.

13.3. *In no event will either party be liable to the other party under or relating to this Agreement for any special, consequential, incidental, exemplary, indirect or punitive damages, or for "lost profits," even if advised of the possibility thereof, regardless of the theory of liability (including without limitation, tort, contract, negligence or strict liability). All remedies shall be cumulative and non-exclusive.*

### 13.4. Default.

13.5. Customer Default. Customer is in default of this MSA if Customer (a) fails to cure any monetary breach within thirty (30) days of receiving notice of the breach from Pilot; (b) fails to cure any non-monetary breach of any terms of the agreement within thirty (30) days of receiving notice of the breach from Pilot; or (c) files or initiates proceedings or has proceedings filed or initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law (each such event shall be a "**Customer Default**").



13.5.1. If any amount remains unpaid for thirty (30) days beyond the invoice due date, in addition to any other rights that Pilot may have under this Agreement or applicable law, Pilot may suspend some or all of the Services until all past due amounts have been paid by Customer.

13.6. Pilot Default. Pilot is in default of this MSA if Pilot fails to cure any non-monetary breach of any material term of this MSA within thirty (30) days of receiving written notice of the breach from Customer ("**Pilot Default**"); provided, however, that Customer expressly acknowledges that Service related failure or degradation in performance is not subject to a claim of a Pilot Default. Customer's sole and exclusive remedy for any failure of Service is set forth in the applicable Addendum.

13.6.1. In the event of a Pilot Default, Customer may terminate the Service(s) and, if Customer so desires, the Agreement, upon written notice to Pilot. Customer shall be responsible for all service charges incurred up to and including the termination date related to the affected Services then due to Pilot, but not for any charges for the Services after the month in which the termination occurred. Upon the termination date, (i) the applicable Service Order(s) shall terminate and Customer shall not be entitled to a refund of any prior consideration paid; (ii) all rights of Customer to use the Service(s) shall cease and Pilot may immediately disconnect the circuits without liability to Customer, and (iii) Pilot shall owe Customer no further duties, obligations or consideration with regard to such Service(s).

#### 14. Miscellaneous.

14.1. Entire Agreement. This Agreement (including any Pilot policies referenced herein) contains the entire understanding between the parties with respect to the subject matter hereof and supersedes any prior understandings, agreements or representations, written or oral, relating to the subject matter hereof.

14.2. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The parties further agree that any such court is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement or by making such other modifications as it deems warranted to carry out the intent and agreement of the parties as embodied herein to the maximum extent permitted by law. The parties expressly agree that this Agreement as so modified by the court shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been set forth herein.

14.3. Assignment. We may freely assign our rights and delegate our obligations under this Agreement at any time. This Agreement will inure to the benefit of, be binding upon, and be enforceable against, each of the parties hereto and their respective successors and assigns. Customer shall not transfer or assign, voluntarily or by operation of law, its obligations under this Agreement without the prior written consent of Pilot. Notwithstanding the above, upon prior notice to Pilot, Customer may transfer or assign this Agreement, in whole but not in part, to (a) an Affiliate of the Customer, (b) any Person that purchases all or substantially all of the assets of the Customer, or (c) any other Person formed by or surviving the merger or consolidation of the Customer and any other Person. As used herein, (i) "Affiliate" shall mean, any Person who directly or indirectly controls, is controlled by, or is under common control with that Person; (ii) "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies

of a Person, whether by way of equity ownership, contract or otherwise; and (iii) "Person" shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity. Upon any such assignment, Customer shall remain responsible for performance under this Agreement. Any assignee shall expressly assume in writing all obligations and liabilities with respect to the Agreement which arise after the effective date of assignment or transfer, prior to or upon the effectiveness of such assignment. This MSA shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Each of the undersigned hereby state that he/she has full authority to enter into this MSA and hereby accepts this MSA on behalf of the companies identified below.

14.4. No Third Party Beneficiaries. The representations, warranties, covenants and agreements of the Parties set forth herein are not intended for, nor shall they be for the benefit of or enforceable by, any third party or person not a Party hereto, including without limitation, End User Customers.

14.5. Modification, Amendment, Waiver or Termination. No course of dealing between the parties will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any party under or by reason of this Agreement. No delay by a party in exercising any right hereunder shall operate as a waiver of such right. No waiver, express or implied, by a party of any right or any breach shall constitute a waiver of any other right or breach by such party.

14.6. Consent to Correspondence via Electronic Communication. The parties agree that non-legal communication relating to the services, including Support, shall be by electronic means. Examples of correspondence include: Service Order Forms, Invoices, Payment Receipts, Support Tickets, and other communications. At our discretion, we may contact you via other means such as postal mail, phone calls, as well as SMS/text messaging. You agree that Pilot will not be held liable for fees incurred as a result receiving SMS/text messages sent by Pilot.

14.7. Governing Law. All matters relating to the interpretation, construction, validity and enforcement of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law provisions.

14.8. Mandatory Arbitration & No Class Action. If the parties are unable to resolve a disagreement or dispute that arises under this Agreement within 30 days of meeting, then both parties agree that any unresolved disputes among or between the parties arising out of, connected with, related to or incidental to this Agreement, whether arising in contract, tort, equity or otherwise, shall be resolved by mandatory binding arbitration upon timely written request of either party. The party asserting the claim may elect to have the arbitration be in-person, telephonic or decided based only on written submissions. The arbitration shall be conducted in New York City. The arbitration shall proceed in accordance with the commercial arbitration rules of the American Arbitration Association ("AAA") in effect at the time the claim or dispute arose. The arbitration shall be conducted by one arbitrator from AAA or a comparable arbitration service who is selected pursuant to the applicable rules of the AAA. The arbitrator shall issue a reasoned award with findings of fact and conclusions of law, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration award is final, binding, and enforceable in any court of competent jurisdiction. Either you or we may bring an action in any court of competent jurisdiction to compel arbitration under this Agreement, or to enforce or vacate an arbitration award. *You and Pilot waive any right to a trial by jury, so that disputes will be resolved through arbitration.* No claim subject to this provision may be brought as a class or collective action, nor may you assert such a claim as a member of a class or collective action that is brought by another claimant. Furthermore, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

14.9. Force Majeure. Except with regard to Customer's payment obligations, neither Party shall be liable for any failure of performance under this MSA due to causes beyond its reasonable control including, but not limited to, acts of third parties not under the direction or actual control of the Party delayed or unable to perform, acts of God, fire, explosion, vandalism, cable cut, flood, storm, building demolition or other similar catastrophe, any law, order, regulation, direction, action or request of the government, or any department, agency, commission, court, or bureau of a government, or any civil or military authority, national emergency, insurrection, riot, war, strike, lockout, or work stoppage (each, a "Force Majeure Event"). The Party claiming relief under this Section shall notify the other Party of the occurrence or existence of the Force Majeure Event and of the termination of such event.

14.10. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which together shall constitute one and the same agreement. Execution of a facsimile copy will have the same force and effect as execution of an original, and a facsimile signature will be deemed an original and valid signature.

14.11. Notices. Legal Notices under this MSA shall be in writing and physically delivered (with a copy transmitted via email) by certified mail, return receipt requested, or by nationally recognized courier. Such notice shall be effective on the date of physical receipt, or refusal of delivery, by the receiving Party. The parties agree to receive all communications regarding the services by electronic means.

**(A) Legal Notices**

**If to Pilot:**

Pilot Fiber, Inc.  
Attn: Legal Department  
325 Hudson Street, Floor 10  
New York, NY 10013  
[legal@pilotfiber.com](mailto:legal@pilotfiber.com)

**If to Customer:**

Customer Name:  
Attention:  
Address:  
City:  
State:  
Zip Code:  
Email:

**(B) Billing/Invoice Contact**

**If to Pilot:**

Pilot Fiber, Inc.  
Attn: Accounting  
325 Hudson Street, Floor 10  
New York, NY 10013  
[ap@pilotfiber.com](mailto:ap@pilotfiber.com)

**If to Customer:**

Customer Name:

Attention:  
Address:  
City:  
State:  
Zip Code:  
Email:  
Phone:

[SIGNATURE PAGE FOLLOWS]

The parties have executed this **Master Services Agreement** to be effective as of the last date of execution as set forth below. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**PILOT FIBER, INC.**

By: \_\_\_\_\_

Name: Mike Egbert  
Title: Director, Sales  
Date:

**CUSTOMER:**

By: \_\_\_\_\_

Name:  
Title:  
Date:

## ADDENDUM A DEDICATED INTERNET ACCESS

This Dedicated Internet Access Services Addendum (“**Addendum**”), including any Exhibits attached hereto, is subject to, and made a part of, the Master Services Agreement (“**MSA**”) entered into between the undersigned Parties. Pilot is in the business of providing dedicated internet access services (“**DIA**”). This document defines levels of service quality and the Customer’s right receive credits in the event that the applicable service levels are not achieved. Capitalized terms not defined herein will have the meaning ascribed to them in the MSA.

### 1. **SERVICE DESCRIPTION.**

1.1. **Dedicated Internet Access.** DIA provides symmetrical dedicated Internet connectivity. DIA is configured, based on Customer specifications, with a fixed maximum bandwidth rate. DIA Services support upload/download speeds from 100Mbps up to 10Gbps.

1.2. **Terms.** The services that you (“You” or “Customer”) receive from Pilot (“us” or “we”) are subject to any and all terms in the MSA, this Addendum, applicable Service Order(s), and the Service Level Agreement attached here to and hereby incorporated into Customer’s Agreement with Pilot. The services are also subject to our Privacy Policy and Acceptable Use Policy, as may be amended from time to time, which are published at <https://pilotfiber.com/legal>, (the “Website”) and are hereby incorporated into the Agreement. Customer and any Customer End Users are subject to these policies.

1.3. **Service Availability & Eligibility.** Pilot does not guarantee Customer’s eligibility to receive services at any particular location or address, and Customer agrees that only Pilot may determine whether or not such services will be made available. DIA service availability is subject to Pilot’s acceptance of a Service Order, and will be acknowledged by Pilot after a Service Order is placed.

### 2. **BILLING & PAYMENT**

2.1. **Installation Fees & Pre-Payment.** Customer may be required to remit a payment to Pilot for purposes including but not limited to: construction fees, installation fees, activation fees, and pre-order charges, solely to the extent such fees and/or charges are pre-approved by Customer in writing on a Service Order. Customer’s payment, and our receipt of such payment, does not obligate Pilot to provide any services to a particular location or address if Pilot determines that such location is not accessible due to issues with building access or installation issues.

2.2. **Refunds.** If Pilot determines that it cannot provide DIA service, for example due to building access or installation problems not attributable to customer, Pilot will reimburse Customer for any pre-paid fees, including but not limited to installation fees. If Customer fails to perform contractual obligations necessary for Pilot to provide its services, Customer may not be eligible for a payment refund. If Customer cancels its service order before Pilot determines that services will not be delivered, Customer may not be eligible for a payment refund.

2.3. **Suspension for Non-Payment.** Pilot reserves the right to suspend some or all of the service(s) it provides if Customer fails to pay its bill upon thirty (30) days’ written notice. Pilot does not charge service reconnection fees, and services are typically restored immediately upon receipt of payment.

3. **TERMINATION AND CANCELLATION.** Pilot reserves the right to suspend or terminate some or all of the services at its sole discretion, without notice, if Customer’s use of the Service, in Pilot’s sole judgment: (i) violates any applicable law, regulation, or ordinance, and/or these Terms of Service, Pilot’s AUP; (ii) as ordered by any law enforcement, national security, or other government agency of appropriate jurisdiction; (iii) adversely affects or threatens any Pilot network or service, customer or employee; or (iv) if Customer is determined to be a repeat infringer under Pilot’s DMCA Policy. Unless explicitly stated in

Customer's Service Order, Customer may upgrade, downgrade, or cancel its services at any time. No refunds (in whole or pro-rated) will be provided as a result of service modifications or cancellations after service is activated. Notwithstanding the foregoing, where notice is reasonably feasible and not prohibited by law, Pilot will give Customer thirty (30) days' prior written notice and a reasonable opportunity to cure any such violation or breach prior to suspension or termination of services.

#### 4. **EQUIPMENT AND INSTALLATION.**

4.1. **Pilot Equipment.** Pilot, or its agent, may provide, install, maintain, repair, operate and control certain equipment for the provision of service to Customer ("**Pilot Equipment**"). Pilot's Equipment shall remain the sole and exclusive property of Pilot, and nothing contained herein shall give or convey to Customer, or any other person, any right, title or interest whatsoever in Pilot's Equipment, notwithstanding that it may be, or become, attached to, or embedded in, realty. Customer shall not tamper with, remove or conceal any identifying plates, tags or labels identifying Pilot's ownership interest in Pilot's Equipment. Customer shall not adjust, align, attempt to repair, relocate or remove Pilot's Equipment, except as expressly authorized in writing by Pilot. Customer shall be liable for any loss of or damage to Pilot's Equipment caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse Pilot for the same, within thirty (30) days after receipt by Customer of a request for reimbursement.

4.2. **Customer Equipment.** Customer is responsible, at its sole cost and expense, for connecting to the Point of Demarcation specified in the Service Order. Equipment and service beyond the Point of Demarcation and/or interconnection between Pilot's facilities and terminal equipment and the wiring at the Point of Demarcation ("**Customer Equipment**") shall be the sole responsibility of Customer. Customer must procure and maintain, at its sole cost and expense, Customer Equipment which is technically compatible with the Service and the Pilot network. Pilot shall have no obligation to install, maintain or repair any non-Pilot Equipment, including any Customer Equipment. If, on responding to a Customer initiated service call, Pilot reasonably determines that the cause of the service deficiency was a failure, malfunction or the inadequacy of equipment other than Pilot's Equipment, Customer shall compensate Pilot for actual time and materials expended during the service call.

4.3. **Space and Power.** Customer at its sole cost and expense shall be required to obtain space and power to support Pilot Equipment for the Service for the duration of the Service Term. If power is necessary for Customer's services, Customer must provide Pilot with proof that Customer has all required authorizations from the building to obtain such power or electricity before executing a Service Order. Pilot does not accept responsibility for physical damage to Pilot-owned devices once installed in Customer's premises, whether intentional or accidental, including damages caused by power related issues such as surges and/or brownouts. If Customer desires surge protection and/or battery backup protection, Customer bears the obligation of providing it.

4.4. **Access and Customer Premises Obligations.** Customer, at its sole cost and expense, shall provide Pilot with access to all Customer locations for purposes of installation, maintenance, and repair of Pilot Equipment on Customer or Customer End User's premises. For purposes of the preceding sentence, "access" shall include without limitation any necessary license(s) or agreements to access the building and or property for the duration of the Service Term. Such licenses must specifically authorize Pilot to enter the building and perform the work specified on the Service Order, and Customer must provide all necessary licenses to Pilot before a Service Order can be accepted. However, notwithstanding Customer's responsibility, if Pilot is required by a third party to obtain and maintain any such license to access the building or property, Customer agrees to reimburse Pilot for its costs related to obtaining and maintaining such licenses during the Service Term. Customer must provide such access Pilot shall provide reasonable notice under the circumstances to Customer prior to entering Customer's point of presence to install, maintain or repair any of the Pilot Equipment. Customer will provide a safe place to work and comply with all applicable laws regarding the working conditions on the Customer premises. Pilot bears no responsibility for any delay to

restore or repair its services caused by Customer or a third party's failure or delay in providing necessary access for Pilot technicians. Customer agrees to reimburse Pilot for any reasonable, out-of-pocket costs, without markup, including but not limited to: permitting fees, labor, materials, and attorneys' fees, resulting from the lack of proper landlord authorization for installation, provided that Pilot shall use best efforts to mitigate any such costs.

**4.5. Service Installation.** During the course of an installation, Customer must provide access to numerous areas of the service location. Customer agrees to provide all access deemed necessary by Pilot so that wiring, equipment, and any other hardware necessary for the usage of our services may be installed. Our installers and technicians will not enter an office unless an adult at least eighteen (18) years of age or older is present. Any adult within Customer's office may grant Pilot access to the premises and permission to perform the installation of our services. Customer agrees that such person has all necessary authorization to grant access to Customer's space. Customer agrees that Pilot may use any and all existing facilities necessary to aid in the installation of our services including risers, conduits, shaft ways, and wiring in and around Customer's service location.

## **5. SERVICE REQUESTS AND DELIVERY.**

**5.1. Service Activation.** After Pilot has determined that the Service conforms to the relevant Service Specifications, Pilot will notify Customer that the Service is activated, meets the Service Specifications and is available for use by Customer ("**Service Activation Notice**"). The "**Billing Commencement Date**" shall be the date of the service activation as determined by Pilot. Once so notified, Customer shall have two (2) days in which to notify Pilot that it is rejecting the Service because the Service does not meet the Service Specifications. If Customer has notified Pilot within such two (2) day period that the Service does not meet the Service Specifications, then Pilot shall take such steps reasonably necessary to cause the Service to meet the Service Specifications, at which time Pilot shall issue a new Service Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Service or failure or delay to utilize the Service on or after the Service Activation Notice date shall not prevent Pilot from billing Customer for the Service.

**5.2. Service Maintenance.** From time to time, Pilot may need to repair or replace the device(s) at Customer's service location, for example, to improve the quality of service or accommodate for an advancement in technology. Customer agrees to grant Pilot access to perform the replacement on a schedule deemed reasonable by both parties.

**6. Limitation of Liability.** Pilot's equipment, products, and services are not guaranteed to work perfectly, to be error or virus-free, or to be compatible with any services, equipment, or software not provided to Customer by Pilot. Our services are provided on an "as is" and "as available" basis. Neither we, nor our licensors or suppliers make any warranties of any kind with respect to these services. This includes so-called "implied warranties" (such as those of merchantability or fitness for a particular purpose). To the extent permitted by law, we exclude all warranties. Neither we, nor our employees, agents, licensors, or suppliers will be liable to Customer for any losses or damages of any kind based directly or indirectly on Customer's relationship with us, or our provision of the services, whether based on breach contract, tort, violation of law or any other legal theory. The services and the communications Customer makes using them may not be secure. Customer is responsible for securing Customer's data and communications. Pilot will not be responsible if any third party gains access to the services, Pilot Equipment provided to Customer, Customer's own equipment, or data. Customer agrees and understands that its use of the Services may inherently result in damage or loss to Customer's own services, equipment, software, or data. We are not responsible for any such damage or loss. This includes damage or loss resulting from software downloaded or other changes that are made to Customer's own equipment.



The parties have executed this **Dedicated Internet Access Addendum** to be effective as of the Effective Date, which is the later date of execution below.

**PILOT FIBER, INC.**

By: \_\_\_\_\_

Name:

Title: Authorized Signatory

Date:

**CUSTOMER:**

By: \_\_\_\_\_

Name:

Title:

Date:

## **EXHIBIT 1 SERVICE LEVEL AGREEMENT**

### **Bandwidth Availability Guarantee**

Pilot guarantees that subscribed bandwidth will be 100% available between any two points on Pilot's network at all times. Pilot does not guarantee that subscribed bandwidth will be 100% available between any two points on the Internet. Outside networks may experience technical issues or limitations that can impact the performance of Customer's service. While Pilot ensures that all points of ingress and egress do not reach their provisioned capacity, Pilot cannot ensure or verify the integrity of neighboring networks.

If purchased bandwidth is not available as a result of congestion on Pilot's network, Pilot will commence its congestion mitigation procedure within 15 minutes of acknowledgement of a reported issue. Applicable account credits will be issued in accordance with the credit schedule below.

### **Intrusive Testing Procedure**

If a service's performance is believed to be degraded or incapable of using its subscribed bandwidth, Pilot may determine that it is necessary to perform additional tests to verify the availability of subscribed bandwidth and re-certify the service's integrity.

Intrusive testing may involve disconnecting network equipment and/or disrupting live traffic across Customer's network. Pilot will schedule an intrusive testing window around the needs of the Customer, at which time a Customer representative must be on-site and a Pilot engineer will be available remotely to coordinate testing.

For purchased bandwidth of 1Gbps and greater, the usage of specialized testing devices may be required to achieve desired throughput. Pilot does not make any representations or warranties as to the performance of Customer's computers, peripherals, or other network hardware and/or their abilities to sustain data transfers at any purchased bandwidth level.

Customer agrees to participate in intrusive testing if Pilot engineers determine that these tests are necessary in demonstrating bandwidth availability. Pilot reserves the right to deny the issuance of account credits otherwise allocated under its service guarantees when a request for intrusive testing at a mutually agreeable time is refused.

If an on-site service call is required and intrusive testing by a Pilot engineer reveals full bandwidth availability and no service degradation, a dispatch fee may apply.

### **Congestion Mitigation Procedure**

Pilot will begin to attempt to mitigate any congestion or oversaturation on its network within 15 minutes of an acknowledgement to an initial report. Pilot will continue to provide updates to you in 15 minute increments until the congestion has been mitigated or until Pilot determines that it is not possible to resolve the issue from its Network Operations Center.

If it is not possible to resolve a congestion condition from Pilot's Network Operations Center, Pilot may deem it necessary to increase capacity at certain points on its network or its fiber system. In the event that this becomes necessary, Pilot guarantees that it will increase physical capacity within 72 hours subject to Physical Access and Safety limitations imposed by third-parties.

Should Pilot need to engage in congestion mitigation, applicable account credits will automatically be issued in accordance with the credit schedule.

Congestion mitigation and any possible account credits associated with such mitigation do not apply to denial of service (DoS) or distributed denial of service (DDoS) attacks toward Pilot's network or Pilot's customers.

### **Service Availability**

Pilot guarantees that your service's connection to the Internet will be available at all times. Disruptions to your service that result in the inability to access the Internet in its entirety will result in the automatic application of account credits in accordance with the credit schedule.

There are many factors outside of Pilot's control that may result in service disruption including, but not limited to, scenarios documented elsewhere in this agreement. The determination of service availability is made at Pilot's sole discretion.

### **Packet Loss**

Pilot guarantees that packet loss between any two points on Pilot's network will not exceed 0.1% at any time. In the event that packet loss is reported and observed in excess of this target, credit will automatically be applied in accordance with the credit schedule.

### **Latency**

Pilot guarantees that round-trip latency between any two points on Pilot's network will not exceed 5ms at any time for Metro services. In the event that round-trip latency is reported and observed in excess of this target, credit will automatically be applied in accordance with the credit schedule.

### **Proactive Monitoring**

Pilot provides 24/7 monitoring of Pilot-owned devices. Pilot does not proactively monitor all Customer Equipment using ICMP and/or SNMP protocols.

In the event that a Pilot-owned device becomes unreachable from our Network Operations Center, Pilot will attempt to contact Customer via phone and/or email within 15 minutes.

Failure to proactively monitor a Service will result in the automatic issuance of an account credit in accordance with the credit schedule.

### **Technical Support**

In the event of an issue with a Pilot service, Pilot guarantees a 15 minute response interval for issue acknowledgement. Issue acknowledgement may occur via email, telephone, or Pilot's internal help desk.

### **Maintenance**

From time to time, it may be necessary to perform scheduled maintenance on Pilot's network that causes a disruption to Customer's service. Pilot may conduct such maintenance on any day between the hours of 12AM and 6AM local time, provided that Pilot has provided Customer with at least 24 hours written notice of such maintenance.

In the event that Pilot must perform unscheduled maintenance on its network without providing a minimum of 24 hours written notice, credits will automatically be assessed in accordance with the service schedule.

Maintenance that is required as a result of damage to Pilot's fiber system by third parties does not qualify as scheduled maintenance or unscheduled maintenance and does not qualify for account credit.

### **Denial of Service / Distributed Denial of Service**

In the event of a Denial of Service (DoS), or Distributed Denial of Service (DDoS) attack toward the Pilot Network or a Pilot customer, Pilot will begin mitigation efforts within 15 minutes.

Pilot is not responsible for service interruptions as a result of any attack on our network by a third party.

Mitigation of DoS / DDoS attacks may involve temporarily filtering traffic towards a customer-facing IP address in a practice commonly referred to as "null routing". Pilot does not accept responsibility for interruptions or downtime caused as a result of null routing an attacked IP address.

### **Damage to the Fiber System**

In the event of physical damage to Pilot's underground or aerial fiber-optic cable system, Pilot will identify the location of the damaged components and dispatch technicians to that location within two hours of the initial issue report.

Pilot strives for a four hour repair interval in the event of damage to its underground or aerial fiber-optic cable system, however, Pilot does not accept responsibility for delays in the repair interval due to the frequent involvement of emergency responders, safety restrictions and/or access restrictions.

In the event of physical damage to indoor components of the fiber-optic cable system, Pilot will dispatch technicians within one business day, subject to building-imposed or safety related access limitations that may prevent us from making necessary repairs in a timely manner. Depending on the scope of repair, a re-installation fee may be applied at Pilot's sole discretion.

### **Use of Alternate Service**

In the event that you elect to procure or use alternate services at any time, Pilot accepts no responsibility for any charges or fees incurred in connection with their usage.

### **Force Majeure**

Pilot is not responsible for any failure to meet its service level objectives or guarantees that is caused by a Force Majeure event. Force Majeure events include, but are not limited to: fire, explosions, power failures, strikes or labor disputes, water (including flooding), physical access limitations, acts of god, the elements (including severe storms), war, civil unrest, or acts of terror.

### **Credit Issuance and Refund Policy**

Pilot will issue any applicable account credits within 15 days of the SLA event. Credits are issued at the sole discretion of Pilot. Account credit may not be redeemed for cash, and account credit will automatically be applied to future invoices. No credit issuance may exceed 100% of the monthly charges for any affected services. Credits are Customer's sole remedy under this SLA. Refunds and/or cash compensation is not available for an SLA event. No refunds will be provided by Pilot for any reason under the SLA. CREDITS ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS ADDENDUM AND THE MSA FOR

ANY PERFORMANCE FAILURE RELATED TO OR ARISING FROM THE SERVICE OFFERED HEREUNDER.

**Escalation Matrix**

Pilot's Escalation Matrix is available to Customers upon request.

**Credit Schedule**

<b>Issue Type</b>	<b>Guarantee</b>	<b>Credit Amount</b>	<b>Credit Interval</b>
<b>Congestion (Resolved by NOC)</b>	100% bandwidth availability	5% per hour 20% per incident	1 hour
<b>Congestion (Resolved outside NOC)</b>	100% bandwidth availability	5% per hour after interval	72 hours
<b>Service Availability (100% Packet Loss)</b>	100% service availability	5% per hour	1 hour
<b>Packet Loss</b>	0.1% loss across Pilot's network	5% per hour	1 hour
<b>Latency</b>	5ms round-trip across Pilot's network	5% per hour	1 hour
<b>Proactive Monitoring</b>	Notification within 15 minutes	10% per incident	Per incident
<b>Technical Support Response</b>	Acknowledgement within 15 minutes	10% per incident	Per incident
<b>Unscheduled Maintenance</b>	Minimum notice period of 24 hours	5% per incident	Per incident

## ADDENDUM B TRANSPORT SERVICES & IP TRANSIT

This Transport Services & IP Transit Addendum (“**Addendum**”) is subject to, and made a part of, the Master Services Agreement (“**MSA**”) entered into between the undersigned Parties. Pilot is in the business of providing certain services, including cloud services (“**CloudConnect**”) point-to-point (“**DirectConnect**”) and point-to-multipoint (“**AnyConnect**”) Ethernet transport (collectively, “**Ethernet Transport**”) and Internet access (“**IP Transit**”) services. This document defines levels of service quality and the Customer’s right receive credits in the event that the applicable service levels are not achieved. Capitalized terms not defined herein will have the meaning ascribed to them in the MSA.

1. **DEFINITIONS.** The following additional definitions shall apply to Ethernet and IP Transit services:

- 1.1. **95th Percentile Calculation** - the calculation method used to measure Bandwidth usage for IP Transit Service Orders which include Burstable Bandwidth. Pilot collects samples of average Bandwidth utilization rates in five (5) minute intervals each calendar month. The highest five percent (5%) of samples are discarded, and the next highest sample is chosen to represent the 95th percentile calculation for that month.
- 1.2. **Bandwidth** – the amount of data (quantified as “Mbps” or “Gbps”) made available to Customer as specified in a Service Order.
- 1.3. **Burst Bandwidth** – the amount of Customer’s Bandwidth usage in excess of the 95<sup>th</sup> Percentile Calculation for flat-rate IP Transit. Burstable Bandwidth must be included on a Service Order to be applicable. Pilot’s rate for Burst Bandwidth is 1.5X the Committed Bandwidth Rate on a Service Order, unless otherwise specified on the Service Order.
- 1.4. **Committed Bandwidth Rate**– the MRC for a Service divided by the Bandwidth on the Customer’s Service Order. The Committed Bandwidth Rate is measured as MRC(\$)/Mbps unless otherwise specified on the Service Order.
- 1.5. **Latency** is the round-trip delay of packets between two points on Pilot’s Metro network.
- 1.6. **Metro** refers to an Ethernet Transport or IP Transit service between two or more locations within the same metropolitan service area, as defined by Pilot.
- 1.7. **NNI (“Network-to-Network Interface”)** is the physical interface between ports at a facility, which is used to interconnect to Pilot’s network. It provides the point of demarcation between the Pilot and Customer networks and is capable of terminating multiple services, including but not limited to IP Transit, Ethernet Transport, and Cloud Connectivity.
- 1.8. **Packet Loss** is the percentage of packets that were not sent and received successfully between designated pairs of core routers across Pilot’s network.
- 1.9. **Point of Demarcation** is the NNI and/or UNI interface port where Pilot hands off service to Customer except as otherwise specified on a Service Order.
- 1.10. **Protected Service** is an Ethernet Transport or IP Transit service which includes a protection scheme that allows traffic to be rerouted in the event of a fiber cut or equipment failure. For a Service to be deemed a Protected Service hereunder, the Service Order for such Service shall specifically state that such Service is a Protected Service.

- 1.11. **UNI** - the interface used to interconnect a customer to Pilot's network. The UNI also provides a reference point for demarcation between Pilot's and Customer's networks. Pilot is responsible for service up to the UNI point, which is the default Point of Demarcation.
  - 1.12. **Unprotected Service** - an Ethernet or IP Transit service which does not include a protection scheme that allows traffic to be rerouted in the event of a fiber cut or equipment failure. Any Service not expressly designated as a Protected Service on the applicable Service Order shall be deemed an Unprotected Service.
2. **ACCEPTABLE USE AND PRIVACY POLICIES.** All Services shall be subject to and conditioned upon Pilot's Acceptable Use Policy and Privacy Policy, as may be amended from time to time, which are published at [pilotfiber.com/legal](http://pilotfiber.com/legal), (the "**Website**") and are hereby incorporated into the Agreement. Customer and any Customer End Users are subject to these policies.
3. **ETHERNET TRANSPORT SERVICE DESCRIPTION.** Pilot's Ethernet Transport Services provide dedicated transport of voice, data, video or other forms of communications traffic. Ethernet Transport Services support transmission speeds from 50Mbps up to 100Gbps. Ethernet Transport Services terminate at the NNI or UNI port(s) typically located in a Customer's common telecommunications facility or meet-me point, and meet IEEE 802.3 standards and use 802.1Q VLAN tagging and stacking to support certain configurations. In general, the service is based on terminology and attributes defined and used by the Metro Ethernet Forum (MEF). Ethernet Transport Services generally follows the MEF definition of EPL and EVPL network configurations, which Pilot may refer to as DirectConnect or AnyConnect.
4. **IP TRANSIT SERVICE DESCRIPTION AND CONFIGURATIONS.** IP Transit services include flat-rate and Burstable configurations from 100Mbps to 100Gbps of Bandwidth, as specified on each Service Order, which provide dedicated connectivity and access to the public internet. IP Transit provides Internet connections at a Pilot point of presence or Data Center/Collocation facility.
5. **EQUIPMENT AND INSTALLATION.**
  - 5.1. **Pilot Equipment.** Pilot, or its agent, may provide, install, maintain, repair, operate and control Pilot's equipment ("**Pilot Equipment**"). Pilot's Equipment shall remain the sole and exclusive property of Pilot, and nothing contained herein shall give or convey to Customer, or any other person, any right, title or interest whatsoever in Pilot's Equipment, notwithstanding that it may be, or become, attached to, or embedded in, realty. Customer shall not tamper with, remove or conceal any identifying plates, tags or labels identifying Pilot's ownership interest in Pilot's Equipment. Customer shall not adjust, align, attempt to repair, relocate or remove Pilot's Equipment, except as expressly authorized in writing by Pilot. Customer shall be liable for any loss of or damage to Pilot's Equipment caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse Pilot for the same, within thirty (30) days after receipt by Customer of a request for reimbursement. Customer at its sole cost and expense shall be required to obtain space and power to support Pilot Equipment for the Service for the duration of the Service Term. If power is necessary for Customer's services, Customer must provide Pilot with proof that Customer has all required authorizations from the building to obtain such power or electricity before executing a Service Order. Pilot will facilitate the installation of a replacement Pilot-owned device within one (1) business day of a failure acknowledged by Pilot's Network Operations team. Pilot does not accept responsibility for physical damage to Pilot-owned devices once installed in Customer's premises, whether intentional or accidental, including damages caused by power related issues such as surges and/or brownouts. If Customer desires surge protection and/or battery backup protection, Customer bears the obligation of providing it.

5.2. **Access and Customer Premises Obligations.** Customer, at its sole cost and expense, shall provide Pilot with access to all Customer locations for purposes of installation, maintenance, and repair of Pilot Equipment on Customer or Customer End User's premises. For purposes of the preceding sentence, "access" shall include without limitation any necessary license(s) or agreements to access the building and or property for the duration of the Service Term. Such licenses must specifically authorize Pilot to enter the building and perform the work specified on the Service Order, and Customer must provide all necessary licenses to Pilot before a Service Order can be accepted. However, notwithstanding Customer's responsibility, if Pilot is required by a third party to obtain and maintain any such license to access the building or property, Customer agrees to reimburse Pilot for its costs related to obtaining and maintaining such licenses during the Service Term. Customer must provide such access Pilot shall provide reasonable notice under the circumstances to Customer prior to entering Customer's point of presence to install, maintain or repair any of the Pilot Equipment. Customer will provide a safe place to work and comply with all applicable laws regarding the working conditions on the Customer premises. Pilot bears no responsibility for any delay to restore or repair its services caused by Customer or a third party's failure or delay in providing necessary access for Pilot technicians.

5.3. **Customer Equipment.** Customer is responsible, at its sole cost and expense, for connecting to the Point of Demarcation specified in the Service Order. Equipment and service beyond the Point of Demarcation and/or interconnection between Pilot's facilities and terminal equipment and the wiring at the Point of Demarcation ("**Customer Equipment**") shall be the sole responsibility of Customer. Customer must procure and maintain, at its sole cost and expense, Customer Equipment which is technically compatible with the Service and the Pilot network. Pilot shall have no obligation to install, maintain or repair any non-Pilot Equipment, including any Customer Equipment. If, on responding to a Customer initiated service call, Pilot reasonably determines that the cause of the service deficiency was a failure, malfunction or the inadequacy of equipment other than Pilot's Equipment, Customer shall compensate Pilot for actual time and materials expended during the service call.

## 6. **SERVICE REQUESTS AND DELIVERY.**

6.1. **Service Activation.** After Pilot has determined that the Service conforms to the relevant Service Specifications, Pilot will notify Customer that the Service is activated, meets the Service Specifications and is available for use by Customer ("**Service Activation Notice**"). The "**Service Activation Date**" shall be the date of the installation as confirmed by Pilot. Customer shall have two (2) days in which to notify Pilot that it is rejecting the Service because the Service does not meet the Service Specifications. If Customer has notified Pilot within such two (2) day period that the Service does not meet the Service Specifications, then Pilot shall take such steps reasonably necessary to cause the Service to meet the Service Specifications, at which time Pilot shall issue a new Service Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Service or failure or delay to utilize the Service on or after the Service Activation Notice date shall not prevent Pilot from billing Customer for the Service.

6.2. **Incrementally Delivered Services.** Unless otherwise specified in a Service Order, Pilot may incrementally deliver individual Services, when ready, which may result in different Service Activation Dates for such incrementally delivered Services. For multipoint Services, Pilot may incrementally deliver Service to each Customer location when ready. The Service Term for incrementally delivered multipoint Services shall begin on the Service Activation Date of the first location and/or circuit delivered and shall end after the period specified as the Service Term from the Service Activation Date of the last location and/or circuit delivered. Unless otherwise



set forth in a Service Order, the charges associated with a delivered service will be based upon Section 1.2; additionally, any Bandwidth Commitment for an incrementally delivered service will be proportionally reduced to reflect the number of locations incrementally delivered out of the total number of locations included under such Bandwidth Commitment will be determined by using the level then in effect as of the last day of each calendar month.

## **7. NETWORK-TO-NETWORK INTERFACE.**

- 7.1. Pilot may, at its sole discretion, permit a telecommunications carrier customer to obtain an NNI from Pilot subject to the requirements below. The purpose of such NNI is to eliminate the need for multiple unique demarcation points for each Service ordered by Customer from Pilot.
- 7.2. Pilot's provision of NNIs are subject to the following requirements, each one or all of which may be waived by Pilot at its sole discretion:
  - 7.2.1. Customer must have at least one Service (active or pending installation) that can be terminated on an NNI.
  - 7.2.2. For 10Gbps NNIs, customer's total committed bandwidth across all services must exceed 1Gbps at all times.
  - 7.2.3. For 100Gbps NNIs, customer's total committed bandwidth across all services must exceed 20Gbps at all times.
  - 7.2.4. Customer Equipment must support 802.1q VLAN trunking.
  - 7.2.5. Customer Equipment must support 9000 MTU frame size ("Jumbo Frames")
  - 7.2.6. Customer acknowledges and agrees that VLAN assignment is at Pilot's discretion and that Pilot need not honor requests for specific VLAN IDs when provisioning services over an NNI
  - 7.2.7. Customer must operate a 24/7/365 Network Operations Center capable of jointly troubleshooting service and network related issues with Pilot and End User Customers, if any
  - 7.2.8. Customer Equipment must include optical transceivers (10Gbps LR for a 10Gbps NNI or 100Gbps LR4 for a 100Gbps NNI respectively).
  - 7.2.9. Customer acknowledges and agrees that Pilot is not responsible for cross connect charges related to NNIs, and that Pilot will bill Customer for any cross connect charges related to Customer's NNI.
  - 7.2.10. If customer's committed bandwidth falls below the minimum thresholds above, or customer no longer meets any of the requirements in this subsection 6.2, Pilot reserves the right to terminate Customer's NNI without liability upon thirty (30) days' notice to Customer.

## **8. SERVICE LEVEL AGREEMENT**

### **Bandwidth Availability Guarantee**

Pilot guarantees that subscribed bandwidth will be 100% available between any two points on Pilot's network at all times. Pilot does not guarantee that subscribed bandwidth will be 100% available between any two points on the Internet. Third party networks may experience technical issues or limitations that can impact the performance of Customer's service. While Pilot ensures that all points of ingress and egress do not reach their provisioned capacity, Pilot cannot ensure or verify the integrity of third party networks.

If purchased bandwidth is not available as a result of congestion on Pilot's network, Pilot will commence its congestion mitigation procedure within 15 minutes of acknowledgement of a reported issue. Applicable account credits will automatically be issued in accordance with the credit schedule below.

### **Intrusive Testing Procedure**

If a service's performance is believed to be degraded or incapable of using its subscribed bandwidth, Pilot may determine that it is necessary to perform additional tests to verify the availability of subscribed bandwidth and re-certify the service's integrity.

Intrusive testing may involve disconnecting network equipment and/or disrupting live traffic across Customer's network. Pilot will schedule an intrusive testing window around the needs of the Customer, at which time a Customer representative must be on-site and a Pilot engineer will be available remotely to coordinate testing.

For purchased bandwidth of 1Gbps and greater, the usage of specialized testing devices may be required to achieve desired throughput. Pilot does not make any representations or warranties as to the performance of Customer's computers, peripherals, or other network hardware and/or their abilities to sustain data transfers at any purchased bandwidth level.

Customer agrees to participate in intrusive testing if Pilot engineers determine that these tests are necessary in demonstrating bandwidth availability. Pilot reserves the right to deny the issuance of account credits otherwise allocated under its service guarantees when a request for intrusive testing at a mutually agreeable time is refused.

If an on-site service call is required and intrusive testing by a Pilot engineer reveals full bandwidth availability and no service degradation, a dispatch fee of \$250 may apply.

### **Packet Loss**

Pilot guarantees that packet loss between any two points on Pilot's network will not exceed 0.1% at any time. In the event that packet loss is reported and observed in excess of this target, credit will automatically be applied in accordance with the credit schedule.

### **Latency**

Pilot guarantees that round-trip latency between any two points on Pilot's network will not exceed 5ms at any time for Metro services. In the event that round-trip latency is reported and observed in excess of this target, credit will automatically be applied in accordance with the credit schedule.

### **Proactive Monitoring**

Pilot provides 24/7 monitoring of Pilot-owned devices. Pilot does not proactively monitor all Customer Equipment using ICMP and/or SNMP protocols.

In the event that a Pilot-owned device becomes unreachable from our Network Operations Center, Pilot will attempt to contact Customer via phone and/or email within 15 minutes.

Failure to proactively monitor a Service will result in the automatic issuance of an account credit in accordance with the credit schedule.

### **Technical Support**

In the event of an issue with a Pilot service, Pilot guarantees a 15 minute response interval for issue acknowledgement. Issue acknowledgement may occur via email, telephone, or Pilot's internal help desk.

### **Maintenance**

From time to time, it may be necessary to perform scheduled maintenance on Pilot's network that causes a disruption to Customer's service. Pilot may conduct such maintenance on any day between the hours of 12AM and 6AM local time, provided that Pilot has provided Customer with at least 24 hours written notice of such maintenance.

In the event that Pilot must perform unscheduled maintenance on its network without providing a minimum of 24 hours written notice, credits will automatically be assessed in accordance with the service schedule.

Maintenance that is required as a result of damage to Pilot's fiber system by third parties does not qualify as scheduled maintenance or unscheduled maintenance and does not qualify for account credit.

### **Damage to the Fiber System**

In the event of physical damage to Pilot's underground or aerial fiber-optic cable system, Pilot will identify the location of the damaged components and dispatch technicians to that location within two hours of the initial issue report.

Pilot strives for a four hour repair interval in the event of damage to its underground or aerial fiber-optic cable system, however, Pilot does not accept responsibility for delays in the repair interval due to the frequent involvement of emergency responders, safety restrictions and/or access restrictions.

In the event of physical damage to indoor components of the fiber-optic cable system, Pilot will dispatch technicians within one business day, subject to building-imposed or safety related access limitations that may prevent us from making necessary repairs in a timely manner. Depending on the scope of repair, a \$250 re-installation fee may be applied at Pilot's sole discretion.

### **Use of Alternate Service**

In the event that you elect to procure or use alternate services at any time, Pilot accepts no responsibility for any charges or fees incurred in connection with their usage.

### **Force Majeure**

Pilot is not responsible for any failure to meet its service level objectives or guarantees that is caused by a Force Majeure event. Force Majeure events include, but are not limited to: fire, explosions, power failures, strikes or labor disputes, water (including flooding), physical access limitations, acts of god, the elements (including severe storms), war, civil unrest, or acts of terror.

### **Credit Issuance and Refund Policy**

Pilot will issue any applicable account credits within 15 days of the SLA event. Credits are issued at the sole discretion of Pilot. Account credit may not be redeemed for cash, and account credit will automatically be applied to future invoices. No credit issuance may exceed 100% of the monthly charges for any affected services.

No refunds will be provided by Pilot for any reason for SLA events.

### **Escalation Matrix**

Pilot's Escalation Matrix is available to Customers upon request.

### **Credit Schedule**

<b>Issue Type</b>	<b>Guarantee</b>	<b>Credit Amount</b>	<b>Credit Interval</b>
<b>Congestion (Resolved by NOC)</b>	100% bandwidth availability	5% per hour 20% per incident	1 hour
<b>Congestion (Resolved outside NOC)</b>	100% bandwidth availability	5% per hour after interval	72 hours
<b>Service Availability (100% Packet Loss)</b>	100% service availability	5% per hour	1 hour
<b>Packet Loss</b>	0.1% loss across Pilot's network	5% per hour	1 hour
<b>Latency</b>	5ms round-trip across Pilot's network	5% per hour	1 hour
<b>Proactive Monitoring</b>	Notification within 15 minutes	10% per incident	Per incident
<b>Technical Support Response</b>	Acknowledgement within 15 minutes	10% per incident	Per incident
<b>Unscheduled Maintenance</b>	Minimum notice period of 24 hours	5% per incident	Per incident

[SIGNATURE PAGE FOLLOWS]

The parties have executed this **Transport Services & IP Transit Addendum** to be effective as of the Effective Date, which is the later date of execution below.

**PILOT FIBER, INC.**

By: \_\_\_\_\_

Name:

Title: Authorized Signatory

Date:

**CUSTOMER:**

By: \_\_\_\_\_

Name:

Title:

Date:

## ADDENDUM C DARK FIBER SERVICES

This Dark Fiber Services Addendum (“**Service Addendum**”) is subject to, and made a part of, that Master Services Agreement (“**MSA**”) entered into between the undersigned Parties. Pilot operates telecommunications facilities and is in the business of leasing dark fiber optic strands on its network (“**Dark Fiber**”) (“**Dark Fiber Services**” or “**Services**”). Capitalized terms not defined herein will have the meaning ascribed to them in the MSA.

**1. DEFINITIONS.** The following additional definitions shall apply to Dark Fiber Services:

- 1.1 **Allocated MRC** means a portion of a Monthly Recurring Charge allocated by Segment on a pro-rata basis, unless otherwise specified in a Service Order.
- 1.2 **Backbone** means the primary cable(s) in a given metropolitan area. As used in a metropolitan context, a backbone is typically a multi-ring fiber optic communication system connected to the area’s central offices, carrier hotels, points of presence and other telecommunications nodes.
- 1.3 **Costs** mean any applicable cancellation, termination or other charges from a third party, charges for make ready work, permitting and engineering fees, building access or license fees, special construction charges and/or materials and equipment costs.
- 1.4 **Customer Requirements** shall have the meaning set forth in Section 4.1 below.
- 1.5 **Demarcation Point** is the network interface port where Pilot hands off service to Customer except as otherwise specified on a Service Order.
- 1.6 **Estimated Delivery Date** is the date or delivery interval, specified in a Service Order, in which Pilot estimates the Dark Fiber Service to be available.
- 1.7 **Lateral** means a discrete fiber optic communication system Segment or spur owned, operated, or acquired by Pilot that branches off from the Backbone to a Customer Location.
- 1.8 **On-Net** is a location to which, at the time that a Service Order is placed, Pilot (i) has available Dark Fiber, provisioned entirely on Pilot facilities (not including fiber optic infrastructure provided by a third-party supplier or requiring special construction) and (ii) has the right to connect its Dark Fiber to Customer at a designated termination point.
- 1.9 **Off-Net** is a location which does not meet the definition of On-Net.
- 1.10 **Service Specifications** means both the definitions and performance specifications of a Service detailed in Exhibit 2 and in a Service Order.
- 1.11 **Segment** is a span of Dark Fiber between Locations specified in a Service Order.
- 1.12 **Pilot POP** refers to Pilot’s point of presence in datacenters where which Pilot provides interconnectivity to its network routes and facilities.

**2. GRANT OF LEASE.** As of the Service Activation Date for any Dark Fiber ordered under a Service Order, Pilot agrees to lease to Customer, and Customer agrees to lease from Pilot, the number of strands of Dark Fiber in the configuration described in the Service Order. Any materials, equipment, fiber optic cable and other personal property shall remain Pilot’s personal property even if installed to the real property of the Customer. Customer acknowledges that it has no option to purchase any part of the materials, equipment, fiber optic cable and other personal property of Pilot installed between the Demarcation Points. Customer shall keep Pilot’s facilities and the Dark Fiber free from all liens, including but not limited to mechanics liens, and encumbrances by reason of the use of the Dark Fiber by Customer. If Customer fails to pay, or bring appropriate challenge to, any taxes, assessments, or other fees, and such failure results in the imposition of a lien or encumbrance on the Dark Fiber or an assessment directly against Pilot, Pilot

shall have the right to pay the same and charge the amount thereof to Customer, who shall pay the same upon demand. This right is in addition to any other right provided to Pilot herein to remedy a breach of this Addendum. Customer shall be responsible for obtaining and maintaining any rights or licenses required for it to lease, use, occupy or operate the Dark Fiber.

### 3. SERVICE REQUESTS AND DELIVERY

- 3.1. Service Order Acceptance.** Pilot may accept or reject any submitted Service Order in its sole discretion. Unless otherwise provided in the Agreement, Customer's obligations specified in an accepted Service Order are non-cancellable. Unless otherwise agreed on an individual basis, Pilot must either accept or reject a Service Order within ten (10) business days
- 3.2. Service Activation.** After Pilot has determined that the Service conforms to the relevant Service Specifications in Exhibit 2, Pilot will notify Customer that the Service is activated, meets the Service Specifications and is available for use by Customer ("**Service Activation Notice**"). The "**Service Activation Date**" shall be the date of the installation as confirmed by Pilot. Customer shall have two (2) days in which to notify Pilot that it is rejecting the Service because the Service does not meet the Service Specifications. If Customer has notified Pilot within such two (2) day period that the Service does not meet the Service Specifications, then Pilot shall take such steps reasonably necessary to cause the Service to meet the Service Specifications, at which time Pilot shall issue a new Service Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Service or failure or delay to utilize the Service on or after the Service Activation Notice date shall not prevent Pilot from billing Customer for the Service.
- 3.3. Incrementally Delivered Segments.** Unless otherwise specified in a Service Order, Pilot may incrementally deliver individual Segments of a Service, when ready, which may result in different Service Activation Dates for such incrementally delivered Segments. The initial Service Term for each incrementally delivered Segment shall begin on its respective Service Activation Date and end after the period specified as the Service Term from the Service Activation Date of the last Segment delivered. The charge associated with a delivered Segment will be based on the Allocated MRC.

### 4. EQUIPMENT AND INSTALLATION

- 4.1. Pilot Equipment.** Pilot, or its agent, may provide, install, maintain, repair, operate and control Pilot's equipment ("**Pilot Equipment**"). Pilot's Equipment shall remain the sole and exclusive property of Pilot, and nothing contained herein shall give or convey to Customer, or any other person, any right, title or interest whatsoever in Pilot's Equipment, notwithstanding that it may be, or become, attached to, or embedded in, realty. Customer shall not tamper with, remove or conceal any identifying plates, tags or labels identifying Pilot's ownership interest in Pilot's Equipment. Customer shall not adjust, align, attempt to repair, relocate or remove Pilot's Equipment, except as expressly authorized in writing by Pilot. Customer shall be liable for any loss of or damage to Pilot's Equipment caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse Pilot for the same, within thirty (30) days after receipt by Customer of a request for reimbursement. Customer at its sole cost and expense shall be required to obtain space and power to support Pilot Equipment for the Service for the duration of the Service Term. If power is necessary for Customer's services, Customer must provide Pilot with proof that Customer has all required authorizations from the building to obtain such power or electricity before executing a Service Order. Pilot will facilitate the installation of a replacement Pilot-owned device within one (1) business day of a failure acknowledged by Pilot's Network Operations team. Pilot does not accept responsibility for physical damage to Pilot-owned devices once installed in Customer's premises, whether intentional or accidental, including damages caused by power related issues such as surges and/or brownouts. If Customer desires surge protection and/or battery backup protection, Customer bears the obligation of providing it.
- 4.2. Access and Customer Premises Obligations.** Customer, at its sole cost and expense, shall provide Pilot with access to all Customer locations for purposes of installation, maintenance, and repair of Pilot Equipment on Customer or Customer End User's premises. For purposes of the preceding sentence, "access" shall include without limitation any necessary license(s) or agreements to access the building and or property for the duration of the

Service Term. Such licenses must specifically authorize Pilot to enter the building and perform the work specified on the Service Order, and Customer must provide all necessary licenses to Pilot before a Service Order can be accepted. However, notwithstanding Customer's responsibility, if Pilot is required by a third party to obtain and maintain any such license to access the building or property, Customer agrees to reimburse Pilot for its costs related to obtaining and maintaining such licenses during the Service Term. Customer must provide such access Pilot shall provide reasonable notice under the circumstances to Customer prior to entering Customer's point of presence to install, maintain or repair any of the Pilot Equipment. Customer will provide a safe place to work and comply with all applicable laws regarding the working conditions on the Customer premises. Pilot bears no responsibility for any delay to restore or repair its services caused by Customer or a third party's failure or delay in providing necessary access for Pilot technicians.

**4.3. Customer Equipment.** Customer is responsible, at its sole cost and expense, for connecting to the Demarcation Point specified in the Service Order. Equipment and service beyond the Point of Demarcation and/or interconnection between Pilot's facilities and terminal equipment and the wiring at the Demarcation Point ("**Customer Equipment**") shall be the sole responsibility of Customer. Customer must procure and maintain, at its sole cost and expense, Customer Equipment which is technically compatible with the Service and the Pilot network. Pilot shall have no obligation to install, maintain or repair any non-Pilot Equipment, including any Customer Equipment. If, on responding to a Customer initiated service call, Pilot reasonably determines that the cause of the service deficiency was a failure, malfunction or the inadequacy of equipment other than Pilot's Equipment, Customer shall compensate Pilot for actual time and materials expended during the service call.

## 5. USE OF SERVICE

5.1. Subject to the limitations set forth in this Addendum, Customer shall use the optical fiber strands of the Service solely for lawful purposes. In no event whatsoever shall Customer directly or indirectly transfer, sell, assign, swap, exchange, lease, sublease, license, sublicense, resell or grant infeasible or other rights of use in or to all or any part of the optical fiber strands as "dark fiber" as such term is commonly understood in the telecommunications industry. A violation of this provision shall be a material default and shall subject Customer to immediate termination.

5.2. Except as expressly set forth herein, the lease does not include the right of Customer to own, control, access, maintain, splice, adjust, align, cut, modify or revise the Dark Fiber. Customer will not install any equipment to be used with the Service that damages or interferes with Pilot network.

## 6. MAINTENANCE

6.1. **Maintenance.** Pilot shall provide Routine Maintenance and Non-Routine Maintenance as defined in and in accordance with Exhibit 1. Solely for Non-Routine Maintenance, Customer shall reimburse Pilot for its proportionate share of Non-Routine Maintenance allocated to User pro rata based on the ratio of the number of Customer-allocated fibers to the total fiber count in the cable of the affected segment. In the event Pilot is required to respond to a perceived or actual interruption of Customer's service and it is determined that the interruption was the result of Customer's actions and/or equipment and not attributed to the failure of Pilot's services, Pilot reserves the right to charge the Customer the full amount of such Non-Routine Maintenance expense.

## 7. CONFIDENTIALITY

7.1 The parties hereby understand and agree that the terms and existence of this Amendment and the MSA are designated as Confidential Information as defined by Section 10 of the MSA. For avoidance of confusion, Customer shall not disclose the terms or existence of this Agreement or any information regarding the subject matter thereof to any third party without the prior written consent of Pilot.



**8. ACCEPTABLE USE AND PRIVACY POLICIES.**

8.1 All Services shall be subject to and conditioned upon Pilot’s Acceptable Use Policy and Privacy Policy, as may be amended from time to time, which are published at pilotfiber.com/legal, (the “**Website**”) and are hereby incorporated into the Agreement. Customer and any Customer End Users are subject to these policies.

The parties have executed this **Dark Fiber Services Addendum** to be effective as of the Effective Date, which is the later date of execution below.

**PILOT FIBER, INC.**

By: \_\_\_\_\_

Name:

Title: Authorized Signatory

Date:

**CUSTOMER:**

By: \_\_\_\_\_

Name:

Title:

Date:

## EXHIBIT 1

### Monitoring, Maintenance & Repair

1. **Purpose.** This Exhibit describes the policies and procedures Pilot utilizes to monitor and maintain the Dark Fiber Service. Pilot shall ensure that the Dark Fiber Service is maintained according to the specifications and procedures specified herein, through application of commercially reasonable and accepted industry standards, and in accordance with manufacturers' specifications. The purpose and result of monitoring and maintenance shall be to maintain (in the case of routine maintenance), or restore (in the case of non-routine maintenance) the functionality of the Dark Fiber Service. Pilot reserves the right to modify these procedures as appropriate to ensure that performance specifications are achieved.
2. **Network Monitoring.** Pilot's Network Operations Center ("NOC") proactively monitors its network and performs cable and conduit maintenance and repair, on a twenty-four (24) hour per day, seven (7) days per week basis (24x7). Pilot utilizes only qualified personnel, vendors, office services, vehicles, and all tools and materials required for the safe and proper performance of network monitoring, maintenance procedures and emergency restoration.
3. **Routine Maintenance.** Routine Maintenance is maintenance and repairs that Pilot deems necessary to ensure proper functioning of the network, Pilot, including by and through its agents or subcontractors, shall perform routine and preventative maintenance, including route patrol and all cable and locate activities as a part of the local "Call Before You Dig" program. Planned network maintenance that does or does not potentially involve the disruption of functionality of the Dark Fiber Service is also considered Routine Maintenance. The nature of such a planned Routine Maintenance activity is such that it can be pre-scheduled so as to allow notification to Customer as appropriate. The Pilot NOC will generally schedule such planned Routine Maintenance outside normal working hours anytime between 12:00 AM to 6:00 AM (local time) seven (7) days a week. Pilot will provide Customer with ten (10) business days prior notice of Routine Maintenance that is service affecting and five (5) business days prior notice of Routine Maintenance that is not service affecting. All maintenance other than Routine Maintenance as described above shall be deemed to be Non-Routine Maintenance.
4. **Non-Routine & Emergency Maintenance.** Non-Routine Maintenance is maintenance that restores the functionality of the Dark Fiber Services. For any Non-Routine and/or emergency Maintenance (including, but not limited to, repairs required due to cable cuts, fires, remodeling work or other acts of third parties or Force Majeure events), Customer will first use commercially reasonable efforts to determine that any disruption in the functionality of the Dark Fiber Service is not on the Customer's side of the Demarcation Point. After verifying that the problem is not on Customer's side of the Demarcation Point, Customer may call Pilot toll-free on (855) 578-5500 or email [help@pilotfiber.com](mailto:help@pilotfiber.com) to open a Support Ticket. Pilot's Escalation Matrix is available to Customers upon request.
5. **Fiber Optic Cable Repair & Restoration.** Following receipt of Customer's notification of a Support, Pilot shall use its best efforts to respond on-site (if necessary) to the affected location(s) within two (2) hours of the acknowledging a Support Ticket, provided Pilot has all necessary access to the Customer Location(s), including Customer's Premises. In the event of a cable failure, Pilot shall use its best efforts to begin Service restoration within two (2) hours following identification of such failure. Pilot shall use its best efforts to then restore the functionality of the Dark Fiber Service no later than six (6) hours following initiation of restoration activities. During an outage Pilot shall contact Customer on a regular basis, to update the status of restoration. Pilot is responsible for ensuring that the maintenance personnel are properly trained and otherwise qualified to perform the maintenance on the Services. Customer shall procure for Pilot reasonable 24x7x365 access to Customer's Location(s) for purposes of both Routine and Non-Routine Maintenance.

**EXHIBIT 2**  
**TYPICAL FIBER CABLE INFORMATION FOR DARK FIBER SERVICES**

**1. Typical Fiber Attenuation and Dispersion:**

Single mode fiber specifications may vary, depending on the fiber manufacturer. All fiber will at a minimum meet ITU-T G.652D characteristics. Typical attenuation levels of 0.40 dB per km at 1310nm and 0.30 dB per km at 1550nm are expected. A typical chromatic dispersion coefficient of 16.8 ps/(nm × km) at 1550nm is expected.

**2. Typical Splice Attenuation:**

Splices shall be measured using bi-directional methods to average splice attenuation. The attenuation of a single splice will not exceed 0.3 dB at 1550nm. The average attenuation of all splices in a span will not exceed 0.15 dB at 1550nm. To calculate this measurement, the bi-directional splice attenuations measured above will be summed and divided by the number of splices within the circuit.

**3. Design Criteria:**

The number of cable splices at the time of original construction was designed to an average of 2.0 km between splices. Due to cable cuts and cable relocation, additional splices may be installed.

**4. Span Characteristics:**

- Maximum total span attenuation must not exceed 35.0 dB at 1550nm for a 100 km span.
- Span attenuation will be the sum of cable attenuation in dB/km plus System splice attenuation in dB.
- Maximum total span chromatic dispersion must not exceed 2250 ps/nm at 1550nm for a 100 km span.