TERMS AND CONDITIONS
FOR CONTENT DELIVERY NETWORK SERVICE

1. Applicability. These term and conditions apply only to Service Schedules for Content Delivery Network services, as more fully defined below ("**CDN Service**" or "**Service**"), which have been submitted by Customer and accepted by The Switch in accordance with the Master Service Agreement ("MSA").

1.1 Affiliates. Customer and Customer's Affiliates may purchase Services pursuant to these terms and conditions, provided that an authorized representative of such Customer Affiliate executes the applicable Service Schedule. The terms of this Agreement shall apply to any such Service Schedule as if the relevant Affiliate had executed the Agreement. Customer shall be the customer of record for all Services provided hereunder and, together with any ordering Affiliate, shall be jointly and severally liable for all obligations set forth in this Agreement, notwithstanding that the Service Schedule may be signed by Customer's Affiliate or that the invoices for a Service may be sent to Customer's Affiliate at the address designated in the applicable Service Schedule. If an Affiliate of Customer enters into a Service Schedule pursuant to this Agreement, then references to "Customer" herein shall be deemed references to the ordering Customer Affiliate and Customer.

1.2 Services Provided by The Switch Affiliates. If a Service Schedule provides for the provision of Services in a jurisdiction other than a jurisdiction within which The Switch is authorized to provide services, such Services may be provided to Customer and/or to Customer's end-user by an Affiliate of The Switch and The Switch may coordinate or manage that Affiliate's Services in that jurisdiction. In certain jurisdictions where an Affiliate of The Switch is providing the Services, then the relevant The Switch Affiliate has the right to require a letter of undertaking or similar document (a "letter of undertaking" or "LOU") from Customer and/or Customer's end-user in a format prescribed by The Switch Affiliate. The Switch and The Switch Affiliate shall have no obligation to provide any Services until it receives the LOU. If a Service Schedule requires the delivery of Services in a jurisdiction where, in order for such Service Schedule to be enforceable, additional terms must be added, the Parties shall incorporate such additional terms in the Service Schedule (preserving to the fullest practicable extent this Agreement).

2. Definitions. Terms used herein but not otherwise defined shall have the meanings ascribed to them in the MSA. For purposes of these terms and conditions, the following terms have the meanings set forth below:

2.1 "Billing Month" means thirty (30) days multiplied by twenty-four (24) hours or seven hundred and twenty (720) hours.

2.2 "CDN Service" means a service offered by The Switch that provides delivery of Customer Objects stored on The Switch Origin or Customer Origin using The Switch CDN Network for the purpose of scaling the delivery of Customer Objects to Internet based clients, as specified on the applicable Service Schedule.

2.3 "Customer Object(s)" means the exact copy of data delivered to The Switch Origin or Customer Origin. It shall not be deemed to mean the content that was intended to be delivered to The Switch Origin, but which may have been damaged or modified as a result of an act or omission of Customer, its contractors or its end-users.

2.4 "Customer Origin" means hardware owned or managed by the Customer or its Affiliates, where Customer Object(s) have been stored and which is connected to The Switch CDN Network.

2.5 "Excluded Event" has the meaning specified in Section 4 below.

2.6 "Monthly Recurring Charge" or "MRC" means the fixed minimum monthly charges payable by Customer for the Service and excludes taxes and all other fees which might be charged to Customer, such as, by way of example and not limitation, set-up fees, fees for local loop, space rental fees, charges for additional services such as managed services, incremental bandwidth usage, electricity, random access memory ("RAM"), or hard drives.

2.7 "Maintenance Window" means (a) Monday through Thursday from 2:00 AM to 6:00 AM in the local time zone where service may be affected, or (b) any other scheduled time, provided that The Switch has provided Customer with prior written notice in accordance with Section 4.1 below.

2.8 "Planned Maintenance" means any impact on Service resulting from maintenance actions requested by or attributed to the Customer or from scheduled or routine The Switch maintenance operations.

2.9 "Service Outage" means that The Switch CDN Network did not respond to HTTP queries for a specific Customer Object stored on The Switch Origin or Customer Origin and serve the appropriate requested Customer Object within sixty (60) seconds. Service Outage does not include circumstances where the failed response occurred (i) within thirty (30) minutes following the time when the Customer Object was stored on The Switch Origin, (ii) during a Suspension (as defined below) or (iii) when Customer Origin is not connected or is intermittently connected to The Switch CDN Network.

2.10 "The Switch CDN Network" means the core IP network owned by The Switch, its Affiliates and/or its sub-contractor, including the system(s), servers, and associated software deployed by The Switch or its sub-contractor and used for the delivery of the CDN Service. The Switch CDN Network does not include web sites that link to Customer Object(s), client-side web servers, client-side applications, client-side domain name service (DNS), Internet connectivity provided by third parties (except for The Switch's sub-contractor), the telecommunications links between The Switch Origin and Customer, the telecommunications links between The Switch or its sub- contractor and Customer, nor the Internet-bound routes between The Switch or its sub-contractor and Customer or Internet based client.

2.11 "The Switch Origin" means the entry storage location where Customer places its Customer Object(s) on The Switch CDN Network. The Switch Origin does not include the means to upload or update content, the content files, nor the update or removal of such Customer Object(s).

2.12 "Service Credit" means a credit to be granted by The Switch to Customer in accordance with these terms and conditions.

2.13 "Suspension" means The Switch's suspension of The Switch CDN Service to Customer on the grounds that Customer (a) is in violation of the Acceptable Use Policy ("AUP"), (b) is in default of its payment obligations, or (c) is otherwise in breach of the Service Schedule(s) or the MSA. Whether Suspension exists or is warranted shall be determined by The Switch in good faith.

2.14 "Trouble Ticket" means the method specified by The Switch to be used by the Customer for advising The Switch of a perceived Service Level Agreement ("SLA") non- compliancy.

3. Service Credits. The Switch's target objective is to achieve 100% service availability, or zero Service Outages as defined herein. Subject to these terms and conditions, Customer shall be entitled to receive a Service Credit for every Service Outage in excess of one (1) minute as set out below. Whether an interruption in Services constitutes a Service Outage shall be determined solely by The Switch in good faith.

3.1 If a particular Service Outage reported by Customer lasted for more than one (1) minute but less than four (4) consecutive hours, Customer will be entitled to receive a Service Credit equal to 1/30th of the MRC payable in respect of the affected CDN Service;

3.2 If a particular Service Outage reported by Customer lasted for four (4) or more consecutive hours, Customer will be entitled to receive a Service Credit equal to 1/15th of the MRC payable in respect of the affected CDN Service. For the avoidance of doubt this is non-cumulative so the Service Credit in 3.1 will not be apply as well.

3.3 If the CDN Service requires Customer Origin to be up for the sole purpose of either revalidating content or getting fresh content to The Switch CDN Network, the Service Credits set out in this Section 3 shall not apply if the Customer Origin is not available.

3.4 The foregoing service credits will not be available during the first 30 days following the commencement of a new Service to which such Service Credits may apply.

4. Excluded Events. For the purpose of calculating Service Credits, service failures or deficiencies resulting from any of the following events or circumstances ("Excluded Events") shall not be included:

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4.1 Planned Outage: Any impact on Service resulting from maintenance actions requested by or attributed to the Customer, or from scheduled or routine The Switch maintenance operations. The Switch will notify the Customer in writing seven (7) days in advance of a Planned Maintenance period and will endeavor to schedule maintenance at a time agreeable to the Customer.

4.2 Applications, equipment or facilities provided by the Customer, its contractors or end-users.

4.3 Misuse of the CDN Service by Customer, its contractors or end-users.

4.4 Acts or omissions of the Customer, its contractors or end-users.

4.5 Problems with Customer's domain name registrar.

4.6 Problems with Customer's servers or Customer Origin.

4.7 Outages or failures occurring outside of The Switch CDN Network (i.e., at peers).

4.8 Force Majeure Events.

4.9 "Trouble not found", a reported event that cannot be validated or duplicated by The Switch.

5. Credit Request and Payment Procedures. In the event of a deficiency with the Service, the Customer must immediately contact The Switch's CDN Service helpdesk or CDN Service support but in any event no later than five (5) days after the event took place. The granting of Service Credits is contingent upon the Customer having opened a trouble ticket with the CDN Service helpdesk or CDN Service support. For the purpose of calculating Service Credits, the start of the problem occurrence will be considered to begin when the trouble ticket is opened with the CDN Service helpdesk or CDN Service support. If the Customer does not initiate a trouble ticket with The Switch, The Switch will not be obligated to issue, and the Customer will not be eligible to receive, Service Credits for the non-compliance.

5.1 The duration of the service outage period will be determined solely by The Switch, acting reasonably, based upon The Switch's internal records and the CDN Service helpdesk or CDN Service support trouble ticket.

5.2 All Service Credits will be calculated based on the MRC for the affected CDN service during the relevant Billing Month in which the relevant Outage occurs.

5.3 If The Switch fails to meet a target objective, as set out herein, in a given calendar month, the Customer shall have the right to request a Service Credit. Any request for Service Credits must be in writing and must be received by The Switch account manager no later than thirty (30) days after the applicable Service failure. Each valid and approved Service Credit will be applied to an invoice of the Customer within two billing cycles after The Switch's receipt of Customer's request for the Service Credit. Service Credits are exclusive of any applicable taxes charged to Customer or collected by The Switch.

5.4 The Service Credit for multiple target objective failures resulting from a single incident or during one specific time frame shall not be aggregated but shall be limited to the one particular Service Credit that provides the maximum credit to the Customer.

5.5 Notwithstanding anything in these terms and conditions to the contrary, the total amount of Service Credits credited to a Customer in any calendar month shall not exceed 25% of the MRC invoiced to Customer for such month.

5.6 Notwithstanding anything in these terms and conditions to the contrary, the total amount of Service Credits credited to a Customer in any 12-month period shall not exceed 25% of the MRC paid by Customer for such 12-month period.

5.7 The Switch's failure to achieve or maintain the above target objectives is not a breach or material default of the MSA, and the award of Service Credits shall be the Customer's sole remedy and The Switch's sole liability for any such failure or corresponding degradation, interruption or loss of Service.

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