

## Internet & Voice Services

FORM ID: C004 v3

This Statement of Work (this “SOW”) is made and entered between the entity you represent, or, if you do not designate an entity in connection with a Statement of Work purchase or renewal, you individually (“Customer”) and Networkitects, Inc. (dba Diggio), a Texas corporation (“Networkitects”). This SOW is governed by the terms and conditions of that certain Master Services Agreement found at <https://diggio.com/legal/> by and between Networkitects and Customer (the “Master Services Agreement”). In the event of any conflict between the terms and conditions set forth in the Master Services Agreement and the terms and conditions set forth in this SOW, the terms and conditions of this SOW shall govern, but only for the purposes of this SOW. In all other respects, the terms and conditions of the Master Services Agreement shall remain in full force and effect.

### Section 1. DEFINITIONS

1.1 Capitalized terms used but not otherwise defined in this SOW shall have the meanings ascribed to them in the Master Services Agreement.

1.2 For purposes of this SOW, the following terms have the meanings set forth below:

(a) “Underlying Carrier” – a telecommunications company that operates the underlying network from which Networkitects will procure the services for resale or whose services are purchased by Customer directly for use as an SD-WAN leg. This includes both wireless and wireline carriers.

(b) “MPOE” – the point at which the public switched telephone network ends and connects with the customer's on-premise wiring.

(c) “CPE” – customer premise equipment provided by Networkitects or the Underlying Carrier to facilitate communications between the Customer’s local network and the Diggio SD-WAN Network or the Underlying Carrier’s network. Examples include rented phone equipment, cable modems, DSL modems, GPON ONTs, CSU/DSUs, or SD-WAN Bonders.

(d) “Customer’s LAN” – all routers, switches, access points, or power equipment that makes up the network beyond the CPE.

(e) “VoIP” - a technology that allows voice and/or video calls using a broadband Internet connection instead of a regular (or analog) phone line.

(f) “Diggio SD-WAN Network” - all equipment which is not located at the customer premise including the aggregators, gateways, routers, switches and fiber as well as any other facilities that are owned by Networkitects or other providers specifically designated by Networkitects for the Service.

(g) “SD-WAN Port” - the Customer’s access port on the Diggio SD-WAN Bonder.

(h) “User” – a person granted access to a Customer network that leverages the Diggio SD-WAN Network to access the Internet.

(i) “Affected Service” - the SD-WAN Port that fails to meet the applicable Goal.

### Section 2. DESCRIPTION OF SERVICES

2.1 Networkitects will provide customer with internet access in quantities and specification defined in Section 8, “FEES AND PRICING,” hereafter referred to as the “SD-WAN Services.” All SD-WAN Services will be billed in advance as a recurring monthly fee until this SOW is terminated.

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2.2 Customer is responsible for securing Customer's LAN to prevent unauthorized User access as necessary to enforce compliance with the Acceptable Use Policy outlined in Section 4 of this SOW.

2.3 Customer is responsible for ensuring there are adequate facilities at the premises' primary MPOE to receive SD-WAN Services, including power and backboard / rack. The Customer will also be responsible for providing any wiring extension beyond the primary MPOE. Networkitects will pass through any costs Networkitects incurs that are associated with extending wiring beyond the premises' primary MPOE. In the event the Customer chooses not to make the necessary upgrades, the Customer shall nevertheless be responsible for all associated cancellation charges.

2.4 Networkitects will provide support to troubleshoot connectivity issues for the SD-WAN Services at no additional charge to the Customer. Networkitects is not responsible for troubleshooting customer voice or internet issues beyond the CPE. Voice or internet issues on Customer's LAN or Customer's phone system are solely Customer's responsibility. If an End User's voice or internet device is not located at same physical location as the Networkitects supplied voice or internet CPE (e.g. is accessed via the Public Internet, MPLS connection, etc.), Networkitects will not be responsible for the voice or internet device's quality of service.

2.5 Some SD-WAN Services are subject to distance limitations as well as availability of copper and/or fiber facilities. Networkitects' pricing is based on estimates of distance to the local CO and availability, but the actual availability, pricing and capacity can only be determined by a field technician in the course of turn-up. These factors may result in unavailability of service, an adjustment to the pricing, a one-time build-out fee, or necessity to downgrade from the requested bandwidth plan.

2.6 Customer acknowledges that the SD-WAN Services provided may not support basic 911 or E911 dialing in the same manner as traditional wireline phone service. Customer agrees to inform of the potential complications arising from basic 911 or E911 dialing. Specifically, Customer acknowledges and agrees to inform all employees, guests, and other third persons who may use the SD-WAN Services that basic 911 and E911 services will not function in the case of a service failure for any of the following reasons: power failures, suspended or terminated broadband service, network outage, suspension of services due to billing issues, and/or any other service outages not described herein. Customer further acknowledges that failure to provide a correct physical address in the required format in Section 3 of this SOW may cause all basic 911 or E911 calls to be routed to the incorrect local emergency service provider. Furthermore, Customer recognizes that use of the SD-WAN Services from a location other than the associated Service Address will result in Basic 911 or E911 calls being routed to the incorrect local emergency service provider.

2.7 Customer acknowledges and agrees that neither Networkitects, its Underlying Carrier(s), any other third parties involved in the routing, handling, delivery or answering of emergency services or in responding to emergency calls, nor their officers or employees, may be held liable for any claim, damage, loss, fine, penalty or cost including, without limitation, attorney fees. Customer hereby waives any such claims or causes of action arising from or relating to the provision of all types of emergency services to Customer. Customer further agrees and acknowledges that it is indemnifying and holding harmless Networkitects from any claim or action for any caller placing such a call without regard to whether the caller is an employee of the Customer. Customer acknowledges and agrees to hold harmless and indemnify Networkitects from any claim or action arising out of misroutes of any 911 calls, or whether local emergency response centers or national emergency calling centers answer a 911 call or how the 911 calls are handled by any emergency operator, including operators of the national call center. The limitations apply to all claims regardless of whether they are based on breach of contract, breach of warrant, product liability, tort and any other theories of liability.

2.8 The standard installation interval for Ethernet over Fiber services is 120 calendar days from the date the order is submitted by Networkitects to the Underlying Carrier. The standard installation interval for cable and DSL services is 14-30 calendar days from when the order is submitted by Networkitects to the Underlying Carrier. The standard installation interval of SD-WAN services is 21 calendar days. Orders are subject

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to facility availability, which cannot be verified until a site survey has been completed. Ability to deliver fiber to Customer's facility may require construction that could result in extended timelines, additional upfront/one time build-out costs and/or increases to the Monthly Recurring Charge (MRC).

2.9 There are many types of bandwidth speed tests, including various public speed test websites. These sites are subject to inaccuracy and variable results, and do not provide scientific or reliable data for troubleshooting by Networkitects. Networkitects will not accept speed test results from such websites. Networkitects and its underlying providers will only utilize iperf or RFC-2544 testing terminating to on-net facilities and are considered industry standards for speed performance testing.

2.10 CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING CARRIER OR ITS AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN NETWORKITECTS AND THE UNDERLYING CARRIER. CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.

### **Section 3. SERVICE LEVEL AGREEMENT**

3.1 This Service Level Agreement (“SLA”) is effective as of the first day of the second month after initial installation of the SD-WAN Services. This SLA sets forth the provisions and commitments relating to the SD-WAN Services quality between Networkitects and Customer. The provisions of this SLA state Customer’s sole and exclusive remedies for the SD-WAN Services interruptions or the SD-WAN Services deficiencies as defined in this agreement. This SLA applies only to the SD-WAN Services (and the underlying network components of the Diggio SD-WAN Network used solely for the purpose of providing the SD-WAN Services) and does not modify or affect any other SLAs provided by Networkitects (if any) for telecommunications or information services purchased by Customer pursuant to other Statements of Work. This SLA does not apply to MPLS, Internet, Wireless, Voice, Security or any other services that are supplied in conjunction with or exclusive of the SD-WAN Services.

3.2 The availability of the SD-WAN Services (“Network Availability”) is measured by “Network Downtime” or “Network Outage” which exists when a particular SD-WAN Port is unable to transmit and receive data due to a Diggio SD-WAN Network outage for more than five (5) consecutive minutes. Network Downtime is measured from the time a trouble ticket is opened by Networkitects in the Networkitects’ NOC Trouble Ticketing System to the time the Affected Service is again able to transmit and receive data. The Diggio SD-WAN Network shall be available to Customer free of Network Outages for 99.99% of the time. If the Network availability guarantee is not met in a calendar month, Customer will receive a credit equal to one thirtieth (1/30th) of the affected SD-WAN Services monthly recurring charge (“MRC”) for each full hour of outage in excess of the 99.99% guaranteed under this SLA, at a maximum of 1 such credit accrued per day. Two or more interruptions of five (5) consecutive minutes or more during any one 24-hour period shall be considered as one interruption. In order to qualify for the credit, Customer is responsible for reporting any suspected network availability problems to Networkitects within twenty-four hours from the time Customer became aware of the problem through the opening of a Trouble Ticket in Networkitects’ NOC Trouble Ticketing System.

3.3 Customer shall be eligible for a credit during any calendar month per the procedures set forth in this SLA if Customer experiences performance that does not meet the applicable metric set forth in this SLA and is reported by Customer to Networkitects and confirmed by Networkitects’ measurements. Networkitects will issue the eligible Customer a service credit provided that the Customer submits in writing, within five (5) business days of the confirmed Goal failure to meet the specific SLA metric/s, a credit request to [support@diggio.com](mailto:support@diggio.com). For calculating credit allowances, every month is considered to have thirty (30) days. A credit allowance is applied on a pro-rata basis against the monthly recurring charges for the Affected Service in which the requisite goal failure occurred. No credits will be available for any usage-base service or the usage-based portion of any service.

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Networkitects will apply any service credits against future payments and will not entitle customer to a refund. Credits do not survive the end of the contract. Service credits may not be transferred or applied to any other account.

3.4 In no event will the total credit, in the aggregate for all credits issued in one (1) month, exceed the equivalent of 100% of the relevant SD-WAN MRCs for the Affected Service. Cumulative credits in any one (1) month must exceed \$25.00 to be processed. If Customer fails to notify Networkitects in the manner set forth above with respect to the applicable SLA credits, Customer will have waived its right to any SLA credits for that month. Total credits under this SLA are limited to the SD-WAN MRCs for the Affected Service for the monthly billing period in which the SD-WAN Services do not meet one or more of the above guarantees/goals.

3.5 Credits will not be issued where the SLA is not met as a result of:

- (a) the acts or omissions of Customer Personnel,
- (b) a simultaneous service failure of all connected Underlying Carriers,
- (c) the failure or malfunction of CPE, applications, wiring beyond the Minimum Point of Entry (MPOE) or systems, whether owned, installed or controlled by Networkitects or Customer, including the failure or malfunction of Customer's LAN, CPE or systems as a result of a power surge or loss of power originating from Customer provided electric power,
- (d) force Majeure Events,
- (e) normal maintenance or urgent maintenance scheduled by Networkitects,
- (f) service alteration or implementation,
- (g) the unavailability of required Customer Personnel, including as a result of failure to provide Networkitects with accurate, current contact information,
- (h) Networkitects' lack of access to the Customer premises where reasonably required,
- (i) Customer's failure to release the Service for testing or repair and continuing to use the Service on an impaired basis,
- (j) Networkitects' termination of Service for cause or Customer's use of Service in an unauthorized or unlawful manner, as defined in the Networkitects Acceptable Use policy, or a use policy of an Underlying Carrier,
- (k) improper or inaccurate network specifications provided by Customer,
- (l) Customer's failure to materially comply with its obligations as defined in customer's service agreement for SD-WAN Service, including failure to pay valid past-due amounts, or
- (m) the failure or malfunction of any on-premise components, including but not limited to Networkitects supplied SD-WAN Bonders, routers, switches, etc., which this SLA specifically excludes.

3.6 Any Credits issued by Networkitects as a result of goals not being met on this SLA will be reduced/adjusted as a result of:

- (a) Time attributed to customer's delay in responding to Networkitects' requests for assistance to address or investigate the issue on the Service, or
- (b) time attributed for implementation delays caused by Customer's delay in providing required technical/operational specifications or info.

### **Section 4. ACCEPTABLE USE POLICY ("AUP")**

4.1 The Diggio SD-WAN Network and SD-WAN Services must be used in a manner that is consistent with the intended purpose of the Diggio SD-WAN Network and SD-WAN Services and may be used only for lawful purposes. Users shall not use the Diggio SD-WAN Network and SD-WAN Services in order to transmit, distribute or store material:

- (a) in violation of any applicable law or regulation, including export or encryption laws or regulations;
- (b) that may adversely affect the Diggio SD-WAN Network and SD-WAN Services or other Networkitects customers ; or

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(c) that may expose Networkitects to criminal or civil liability. Users are prohibited from facilitating the violation of any part of this AUP or another Underlying Carrier's AUP, including, but not limited to transmitting, distributing, or otherwise making available any product or service that violates this AUP or an Underlying Carrier's AUP.

4.2 Customer is solely responsible for adhering to any and all of the Underlying Carrier's terms of service and use policies associated with SD-WAN Services. Customer agrees to indemnify and reimburse Networkitects of any claim, damage, loss, fine, penalty, or cost arising from Customer's breach or accused breach of these terms of service and use policies.

4.3 Users shall not use the Diggio SD-WAN Network and SD-WAN Services to transmit, distribute or store material that is inappropriate, as reasonably determined by Networkitects, or material that is obscene (including child pornography), defamatory, libelous, threatening, abusive, hateful, or excessively violent.

4.4 Material accessible through the Diggio SD-WAN Network and SD-WAN Services may be subject to protection under privacy, publicity, or other personal rights and Intellectual Property rights, including but not limited to, copyrights and laws protecting patents, trademarks, trade secrets or other proprietary information. Users shall not use the Diggio SD-WAN Network and SD-WAN Services in any manner that would infringe, dilute, misappropriate, or otherwise violate any such rights. If you use a domain name in connection with any of the Diggio SD-WAN Network and SD-WAN Services, you must not use that domain name in violation of the trademark, service mark, or other rights of any third party.

4.5 Users shall not use the Diggio SD-WAN Network and SD-WAN Services to transmit, distribute or store material that may be harmful to or interfere with the Diggio SD-WAN Network and SD-WAN Services or any third party's networks, systems, services, or web sites. Such prohibited harmful content includes, but is not limited to, viruses, worms, or Trojan horses.

4.6 Users shall not use the Diggio SD-WAN Network and SD-WAN Services to transmit or distribute material containing fraudulent offers for goods or services, or any advertising or promotional materials that contain false, deceptive, or misleading statements, claims, or representations. In addition, Users are prohibited from submitting any false or inaccurate data on any order form, contract or online application, including the fraudulent use of credit cards.

4.7 Users shall not use the Diggio SD-WAN Network and SD-WAN Services to transmit unsolicited e-mail messages, including, without limitation, unsolicited bulk email, where such emails could reasonably be expected to provoke complaints ("Spam"). Further, Users are prohibited from using the service of another provider to send Spam to promote a site hosted on or connected to the Diggio SD-WAN Network and SD-WAN Services. In addition, Users shall not use the Diggio SD-WAN Network and SD-WAN Services in order to

(a) send e-mail messages which are excessive and/or intended to harass or annoy others,  
(b) continue to send e-mail messages to a recipient that has indicated that he/she does not wish to receive them,  
(c) send e-mail with forged TCP/IP packet header information,  
(d) send malicious e-mail, including, without limitation, "mailbombing,"  
(e) send or receive e-mail messages in a manner that violates the use policies of any other Internet service provider, or  
(f) use an e-mail box exclusively as a storage space for data.

4.8 Users may have access through the Diggio SD-WAN Network and SD-WAN Services to search engines, subscription Web services, chat areas, bulletin boards, Web pages, USENET, or other services that

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promulgate rules, guidelines or agreements to govern their use. Users must adhere to any such rules, guidelines, or agreements.

4.9 Users shall not use the Diggio SD-WAN Network and SD-WAN Services to conduct activities that may be harmful to or interfere with the Diggio SD-WAN Network and SD-WAN Services or any third party's networks, systems, services, or Web sites, including, but not limited to, flooding, mail bombing, or denial of service attacks. Users are prohibited from violating or attempting to violate the security of the Diggio SD-WAN Network and SD-WAN Services or the computers, accounts, or networks of another party. Users are also prohibited from any activity considered a precursor to attempted security violations, including, but not limited to, any form of scanning, probing, or other testing or information gathering activity. Inappropriate activity may result in civil or criminal liability. Networkitects will investigate such activity, and may involve and cooperate with law enforcement authorities in prosecuting Users involved in such activity.

4.10 Networkitects takes no responsibility for any material created or accessible on or through the Diggio SD-WAN Network and SD-WAN Services. Networkitects is not obligated to monitor or exercise any editorial control over such material, but reserves the right to do so. In the event that Networkitects becomes aware that any such material may violate this AUP and/or expose Networkitects to civil or criminal liability, Networkitects reserves the right to block access to such material and suspend or terminate any User creating, storing or disseminating such material. Networkitects further reserves the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing, including disclosing the identity of the User that Networkitects deems responsible for the wrongdoing.

### **Section 5. SERVICE ADDRESS**

On-Site visits will incur additional fees at the rate of \$1.00/mile.

### **Section 6. PROJECT OWNER**

The Project Owner with respect to this SOW shall be the person, individually, who's signature on the Diggio proposal effected this SOW (the "Proposal").

### **Section 7. TERM**

7.1 This SOW shall commence on the date of the last signature on the Proposal, unless earlier terminated pursuant to the Master Services Agreement. The term shall proceed as specified in the Proposal beginning the date SD-WAN Services are activated, after which the term will automatically renew for additional successive 30-day periods unless either party gives the other party at least 30 days written notice of non-renewal prior to the end of the then-current term.

7.2 In the event Networkitects terminates this SOW prior to the end of the then-current term of this SOW pursuant to Section 3.2 of the Master Services Agreement, Customer shall promptly, and in any event within fifteen days following the date of such termination, pay Networkitects, in damages, an amount equal to the Monthly Base Rate payable for the remainder of the then-current term, in addition to any other amounts set forth in Section 3 of the Master Services Agreement.

7.3 Should Customer be determined by the Underlying Carrier to be in violation of the Underlying Carrier's terms of service and/or use policies, Customer will be in material breach of the Statement of Work, and may result in Networkitects terminating this SOW under Section 4 of the Master Service Agreement.

7.4 In the event of termination of this SOW for any reason, Customer shall, at its own cost, return all CPE to Networkitects within 30 calendar days following the date of termination. Should Customer fail to

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return CPE, or if CPE arrives damaged due to negligent handling or packaging, each unreturned item will be billed according to make and model as specified at <https://www.diggio.com/legal/termination/>.

**Section 8. FEES AND PRICING**

Customer shall be bound by the terms and pricing as stated in the Proposal.