**Order and Acceptance**

1. **Applicability.** Each quotation ("**Quotation**") and/or Statement of Work ("**SOW**") (collectively referred to as "**Offer Documents**") issued by Logicalis, Inc. ("**Logicalis**") is an offer to sell software, hardware, or Services Sold by Part Number ("**Products**"), and/or professional services, Service Desk services, or staffing services ("**Services**") to purchaser ("**Customer**") for its own internal use and not for resale. Unless otherwise specified in writing, all Offer Documents are governed by these Terms and Conditions of Sale ("**Terms of Sale**"). As used in these Terms of Sale, the term "**Services Sold by Part Number**" refers to services, which, although ordered from Logicalis, are procured from and supplied by a third party (i.e., Logicalis does not directly perform or control the work) and are therefore considered Products. For the avoidance of doubt anything stated in these Terms of Sale relates solely to the Offer Documents, dated September 25, 2024, relating to the City of Chula Vista - Services for Network Design & Build -P35-2024 (i.e., solely Quotation # 2024-189155v4b and the Professional Services Statement of Work provided thereunder (collectively, the **"Design & Build SOW"**); notwithstanding anything stated in these Terms of Sale (or the Design & Build SOW)  to the contrary, any conflict or inconsistency between these Terms of Sale and any of the below-referenced list of documents, shall be resolved in the following order or priority: (1) the City of Chula Vista Contractor/Service Provider Services Agreement (to provide Network Design & Build), dated effective as of October 1, 2024, by and between Logicalis Inc. and Customer (the **"Service Agreement"**); (2)  the Design & Build SOW (Exhibit B to the Service Agreement); (3)  Logicalis General Responsibilities and Assumptions (Exhibit B-1 to the Service Agreement); and (4) these Terms of Sale (Exhibit B-2 to the Service Agreement). The provision of Services and/or shipment of Products to Customer, alone, do not constitute acceptance of any of Customer's terms and conditions and do not serve to modify or amend these Terms of Sale.

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**Additional Terms for Product Sales**

**2.Product Returns and Warranty Assistance.**

(a) Customer acknowledges that Logicalis is reselling all Products purchased by Customer and that Products are manufactured and/or delivered by a third party.

(b) To the extent available, Logicalis shall pass through to Customer the manufacturer's warranties for each Product and agrees to facilitate the manufacturer's return policies. In no event will Logicalis provide return or warranty coverage beyond that provided by the manufacturer. Products that are accepted for return are subject to the manufacturer's applicable restocking fees.

(c) Customer acknowledges that the terms and conditions governing the use of Products shall be solely between Customer and the manufacturer of such Products.

 3. **Product Use and Product Warranty Disclaimer.** Customer will not use the Products for use in life support, life sustaining, nuclear, or other applications in which failure of such Products could reasonably be expected to result in personal injury, loss of life, or catastrophic property damage. Customer agrees that Logicalis is not liable for any claim or damage arising from such use.

**LOGICALIS MAKES NO WARRANTIES OF ANY KIND WITH REGARD TO THE PRODUCTS. LOGICALIS DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.**

 4. **Intentionally omitted.**

 5. **Product Security Interest.** Customer grants Logicalis a security interest in the Products detailed in the Quotation as security for payment in full. Customer authorizes Logicalis to file and/or record any documents it deems necessary to perfect this security interest.

**Additional Terms for Service Sales**

6. **Limited Warranty for Services.** Logicalis represents and warrants that Services will be performed in a good and workmanlike manner according to the generally accepted standards of the industry to which the Services pertain. All Services will be deemed to be in accordance with this warranty if not rejected by Customer in a reasonably detailed writing within ten (10) business days of performance of the Services. In the event Services are not in conformance with this warranty, Logicalis will take the steps necessary to correct the deficiency at no charge. THIS IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THIS WARRANTY.

7. **Limited Warranty for Staffing.** For staffing Services only, Logicalis represents and warrants that any consultant provided to Customer will have the qualifications and hold the certifications represented to Customer by Logicalis. Logicalis makes no other representations or warranties with respect to the staffing Services to be provided.

8. **Service Warranty Disclaimer. EXCEPT AS PROVIDED FOR UNDER SECTIONS 6 AND 7, LOGICALIS MAKES NO WARRANTIES OF ANY KIND WITH REGARD TO THE SERVICES. LOGICALIS DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. ALL SERVICE WARRANTIES ARE VOID IF THE SERVICE IS MODIFIED BY ANY PARTY OTHER THAN LOGICALIS OR ITS AUTHORIZED AGENT.**

9. **Logicalis Property.** Logicalis property, including without limitation, equipment, software, and tools which may be furnished or utilized by Logicalis in the performance of Services shall remain the property of Logicalis and shall be immediately returned to Logicalis upon its request or upon completion of the Services.

10. **Service Work Assignments.** Logicalis shall be fully responsible for the acts of all subcontractors to the same extent it is responsible for the acts of its own employees.

11. **Customer Coordination for Service Sales.** Customer will provide a primary point of contact and make available all technical matter, data, information, operating supplies, and computer system(s), as reasonably required by Logicalis. Where applicable, Logicalis will assign a primary contact person for the Services.

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**Terms Applicable to All Sales**

**12. Price and Payment.** The prices set forth in any Offer Documents are exclusive of all taxes, duties, licenses, and tariffs, payment of which shall be Customer's obligation. Prices quoted are firm for thirty (30) days unless otherwise specified in the Offer Documents. Payment is due thirty (30) days from the date of invoice. In the event Customer chooses to finance their purchase using a third party, Customer remains liable for payment to Logicalis until Logicalis receives complete payment from such third party. Where the Offer Documents include the purchase of both Products and Services, the transactions shall be deemed to be separate for the supply of Products and the supply of Services. No default or delay in the delivery of Products shall relieve Customer's payment obligation for Services delivered by Logicalis and no default or delay in the delivery of Services shall relieve Customer's payment obligation for Products delivered by Logicalis. Logicalis may invoice Customer separately for Products and Services. Unless otherwise agreed, Products shall be invoiced upon shipment, and Services shall be invoiced as set out in the Offer Documents. All payments will be made in US currency. Out-of-pocket expenses will be charged as incurred. Estimates are not binding. Customer will pay interest in the amount of one and one half percent (1.5%) per month, or the maximum allowed by law, whichever is lower, on any outstanding balance owed.

**13. Confidential Information.** All information that is not generally known to the public that is disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") or that is otherwise learned by the Receiving Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of, the Disclosing Party, that by the nature of the circumstances surrounding the disclosure or receipt ought to be treated as confidential, shall be considered "**Confidential Information**" which shall be held in strict confidence by the Receiving Party for three (3) years from the date of disclosure and shall be used only for purposes of the delivery of Products or Services. Except as required by law, no Confidential Information shall be disclosed to a third party

without the prior written consent of the Disclosing Party. If the Receiving Party is legally required to disclose any of the Disclosing Party's Confidential Information, the Receiving Party shall notify the Disclosing Party immediately in writing, provide the Disclosing Party with a copy of such order, and shall cooperate in seeking a reasonable protective order. If a protective order is not granted, the Receiving Party will disclose only such Confidential Information as is legally required and will use its best efforts to obtain confidential treatment for any Confidential Information that is so disclosed. This Section shall not apply to information which is (i) in the public domain, (ii) already known to the Receiving Party, (iii) developed independently, or (iv) received from a third party without similar restriction and without breach of this or a similar agreement.

**14. Export.** Customer agrees to comply with all export and re-export control laws and regulations as may be applicable to any transaction hereunder, including, without limitation, the Export Administration Regulations promulgated by the United States Department of Commerce, the International Traffic in Arms Regulations promulgated by the United States Department of State, and any of the regulations promulgated by the Office of Foreign Assets Control of the United States Department of the Treasury. Customer covenants that it will not, either directly or indirectly, sell, (re)export (including, without limitation, any deemed (re)export as defined by applicable law), transfer, divert, or otherwise dispose of any Product or Service deliverable, or related software or technology, to: (i) any country or region of a country (or nationals thereof) subject to antiterrorism controls, or a U.S. embargo, (ii) any destination prohibited (without a valid export license or other authorization) by the laws or regulations of the United States, or (iii) any person, entity, vessel, or aircraft identified on the Consolidated Screening List, a downloadable file of which is accessible at http://export.gov/ecr/eg_main_023148.asp (or utilize any such person, entity, vessel, or aircraft in connection with the activities listed above), without obtaining prior authorization from the competent government authorities, as required by the above-mentioned laws and regulations. Customer certifies, represents, and warrants that no Product or Service shall be used for any military or defense purpose, including, without limitation, being used to design, develop, engineer, manufacture, produce, assemble, test, repair, maintain, modify, operate, demilitarize, destroy, process, or use military or defense articles. Notwithstanding any sale of Products or provision of Services by Logicalis, Customer acknowledges that it is not relying on Logicalis for any advice or counseling on export control requirements. Customer agrees to indemnify, to the fullest extent permitted by law, Logicalis from and against any fines, penalties, and reasonable attorney fees that may arise as a result of Customer's breach of this Section 14.

**15. Intentionally omitted.**

**16. Encryption.** Customer shall encrypt at the application level all data that is considered sensitive data or that must be treated as confidential under state or federal law or under Customer's contractual obligations to others, which is provided to Logicalis or to which Logicalis is otherwise granted access. This includes, but is not limited to, Social Security Numbers, financial account numbers, driver's license numbers, state identification numbers, Protected Health Information (as that term is defined in Title II, Subtitle F of the Health Insurance Portability and Accountability Act, as amended (HIPAA) and regulations promulgated thereunder), and Nonpublic Personal Information (as that term is defined in Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley) and regulations promulgated thereunder). In the event that Customer fails to comply with this Section 16 and a security breach results in the dissemination of unencrypted sensitive data, Logicalis disclaims all liability for said breach. Customer agrees to indemnify, to the fullest extent permitted by law, Logicalis from and against any fines, penalties, and reasonable attorney fees that may arise as a result of Customer's breach of this Section 16.

**17. Cancelation and Termination.** The purchase of Products may be canceled by Customer only upon written approval of Logicalis and upon terms that indemnify Logicalis against all losses related to such cancelation. Services may be terminated by either party upon written notice in the event of a material breach of these Terms of Sale by the other party which is not cured within thirty (30) days of receipt of such notice. In addition, if Customer defaults in performance of any obligation under these Terms of Sale, including the payment of any amount due, Logicalis may, at its option, suspend performance, require prepayment, and/or utilize any other remedy at law or equity.

**18. Attorney Fees.** Customer shall reimburse Logicalis for any and all expenses including, without limitation, reasonable attorney fees and legal expenses, that Logicalis pays or incurs in protecting and enforcing its rights under these Terms of Sale.

**19. Publication.** Nothing contained in these Terms of Sale shall be interpreted so as to prevent Logicalis from publicizing its business relationship with Customer or the nature of the Products sold to or Services performed for Customer.

**20. No Solicitation.** Customer agrees not to solicit for employment or to employ any Logicalis employee during the term of these Terms of Sale and for a period of twelve (12) months following the conclusion of Services performed under these Terms of Sale.

**21. Indemnification.** Customer agrees to defend, at its expense, and to indemnify Logicalis against any award of damages and costs based on a claim that any materials or documentation provided by Customer infringes a U.S. patent, copyright, or other intellectual property right of any third party.

**22. No Waiver.** The failure of either party to insist upon strict performance of any of the provisions of these Terms of Sale will not be deemed a waiver of any breach or default. The remedies provided to Logicalis hereunder are not a waiver of the remedies of Logicalis under applicable law.

**23. Severability.** If any provision of these Terms of Sale is unenforceable as a matter of law, all other provisions will remain in effect.

**24. Excusable Delay** Neither Customer nor Logicalis will be liable for any delay or failure of performance whatsoever due to acts of God, earthquakes, shortage of supplies, transportation difficulties, labor disputes, riots, war, fire, epidemics, or other circumstances beyond such party's control.

**25. Time for Bringing Claims.** Any claim by either party arising from or in connection with Logicalis' sale of Products and/or Services cannot be filed, made, or maintained unless filed within six (6) months after shipment or provision of the Products and/or Services in question.

**26. Understanding of the Parties.** These Terms of Sale supersede all prior or current written or oral statements, representations, negotiations, agreements, and understandings between the parties.

**27. Amendment.** These Terms of Sale may be amended or modified only with the written consent of the parties.

**28. Third Party Beneficiaries.** These Terms of Sale do not confer any enforceable rights or remedies upon any person or party other than the parties.

**29. Compliance with Laws.** The parties will comply with all applicable federal, state, and local laws, statutes, rules, and regulations.

**30. Independent Contractors.** The parties are independent contractors and these Terms of Sale shall not create or imply an agency relationship between the parties.

**31. Survival.** Those provisions that by their nature should survive termination will survive.