

**SPECIAL FACILITIES AGREEMENT BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA,
SANTA CLARA GATEWAY I LLC, AND ARISTA NETWORKS, INC.**

PREAMBLE

This Special Facilities Agreement ("Agreement") is made and entered into on this ____ day of _____, 2018 ("Effective Date") by and between the City of Santa Clara, California, a chartered California municipal corporation, with its principal place of business located at 1500 Warburton Avenue, Santa Clara, California 95050, doing business as Silicon Valley Power ("SVP" or "City"), Santa Clara Gateway I LLC, a Delaware limited liability company, with its principal place of business located at 550 Newport Center Drive, Newport Beach, CA 92660 ("Irvine" or "Owner") and Arista Networks, Inc. a Delaware corporation, with its principal place of business located at 5453 Great America Parkway ("Arista" or "Customer"). Arista is a tenant of Irvine and the Customer of Record of SVP. The City, Owner and Customer may be referred to in this Agreement individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement".

RECITALS

- A. The City of Santa Clara owns and operates an electric utility, doing business as Silicon Valley Power ("SVP"), and has committed to provide electric service to Santa Clara Gateway I LLC, in the City of Santa Clara, California, pursuant to standard electric rate schedules authorized by the City Council of the City of Santa Clara. The customer of record of 5453 Great America Parkway in Irvine's Santa Clara Gateway complex, is Arista Networks.
- B. To accommodate the Customer's service requirements, which are outside of SVP's standard distribution service design as detailed in Silicon Valley Power's published Rules and Regulations, SVP will allow the Customer to receive two Electric Services to the building located at 5453 Great America Parkway under the provisions detailed in the Recitals of this Agreement and agreed upon by the Owner. The new second service's point of connection will be the secondary termination of the transformer.
- C. No load development fees will be assessed and no additional capacity will be reserved on SVP's system and assigned to the Owner or Customer at this address. The paid capacity of 5453 Great America Parkway will remain 2500 kVa.
- D. This Special Facilities Agreement is necessary in order for SVP to meet Arista's immediate load growth, which is projected to overload the existing transformer at 5453 Great America Parkway by 20%.

Therefore, in consideration of the foregoing, the Parties agree as follows:

AGREEMENT PROVISIONS

1. **RECITALS**

All recitals are hereby incorporated into the Agreement.

2. **SVP'S OBLIGATIONS UNDER THIS AGREEMENT**

A. **ELECTRIC SERVICE**

- SVP will provide two (2) appropriately sized services to accommodate tenant of record's stated load which shall include the transformer and all primary infrastructure to accommodate the stated load.
- SVP shall provide Electric Service, as defined in the Silicon Valley Power Rules and Regulations, including but not limited to UG 1000, to Customer and Owner, and Customer and Owner agree to be bound by such Rules and Regulations, pursuant to City Council adopted Resolution #7083, and any amendments thereto, with respect to the receipt of Electric Service at the Irvine, Santa Clara Gateway complex, 5453 Great America Parkway. The Electric Service shall be provided in a manner consistent with the Rules and Regulations, prudent utility practices and subject to the conditions set forth in this Agreement.

3. **OWNER'S OBLIGATIONS UNDER THIS AGREEMENT**

- Customer has paid for actual costs of SVP work to install and the estimated cost to remove this second new service. If Customer is no longer the tenant of record, Owner shall be responsible for any overtime costs if Owner requests to remove the second transformer outside of normal business hours.

4. **CUSTOMER'S OBLIGATIONS UNDER THIS AGREEMENT**

- The installation details of the additional service are specified by City's Developer's Work drawing and shall be completed by Customer at their sole cost.
- Customer agrees to maintain a combined total load, at any one time, not to exceed 3000 kVa between their two (2) services.
- Customer shall maintain the following balanced load between two (2) services: service 1 less than 1500 kVa, service 2 less than 1800 kVa.
- Customer shall install a load shedding scheme that must be submitted and approved by SVP in order to shed load in the event usage approaches 3000 kVa.
- Customer shall take service from SVP at 12 kV if load exceeds 3000 kVa.
- Customer shall provide SVP with documentation of corporate changes such as name change, purchase, or merger upon request, and any other such documentation as necessary to confirm Customer's status as tenant of record.
- Customer shall notify SVP of their intention to discontinue electric service at least 30 days prior to terminating its tenancy.

5. **FORCE MAJEURE**

The Parties shall not be considered to be in default in performance of any of its obligations under this Agreement when a failure of performance is due to an Uncontrollable Force. The term "Uncontrollable Force" as used in this Agreement, shall mean any cause beyond the reasonable control of the Party affected, and which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefore. Uncontrollable Force includes Act of God, flood, drought, earthquake, storm, tornado, fire, explosion, lightning, epidemic, public emergency, war, riot, civil disobedience, labor strike, labor dispute, labor or materials shortage (however labor or materials shortage does not include the mere inability to obtain that labor or material at a particular price), sabotage, restraint by court order, restraint by public authority, or action or non-action by governmental authority or accident.

No Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to take reasonable efforts to remove or remedy within a reasonable time, or due to mere fluctuations in market prices, or due to unreasonable delay by the Party claiming or seeking to claim relief from liability. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force shall give prompt written notice of such fact to the other Parties and shall exercise due diligence to remove such inability with all reasonable dispatch.

6. **NO ASSIGNMENT OF AGREEMENT/SUCCESSORS IN INTEREST**

Customer, Owner, and SVP each bind itself, its successors, and assigns, to all of its respective covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, by either Party without the prior written approval of the other Parties, which approval shall not be unreasonably withheld, conditioned or delayed; any such assignment shall not relieve the assignor from any of its obligations under this Agreement. Notwithstanding the foregoing, and without any prior consent of SVP, Owner and Customer shall have the right to assign this Agreement to an affiliate or successor of Owner and Customer.

7. **NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

8. HOLD HARMLESS/INDEMNIFICATION

To the extent permitted by law, Owner and Customer agree to protect, defend, hold harmless and indemnify City, its Directors, City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become legally liable arising from Owner's and Customer's acts, errors, or omissions with respect to or in any way connected with the prosecution of the work performed by Owner or Customer pursuant to this Agreement.

City agrees to protect, defend, hold harmless and indemnify Owner and Customer and its affiliates and their directors, officers, employees, and agents from and against any third-party claim, injury, liability, loss, cost, and/or expense or damage arising from City's access of its equipment on Owner's property, unless the underlying claim arose as a result of Owner's and/or Customer's acts, errors, or omissions.

9. AMENDMENTS

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated as an Amendment to this Agreement.

10. INTEGRATED DOCUMENT- TOTALITY OF AGREEMENT

This Agreement embodies the entire agreement between the Parties regarding the subject matter of this Agreement. No other understanding, agreements, conversations, or otherwise, with any officer, agent, or employee of City shall affect or modify any of the terms in or obligations created by this Agreement.

11. SEVERABILITY CLAUSE

In case any one or more of the provisions contained herein shall be held invalid, illegal or unenforceable by a court of competent jurisdiction, it shall not affect the validity of the other provisions which shall remain in full force and effect.

12. WAIVER

Waiver by either Party of any provision of this Agreement shall not be construed as waiver(s) of any other provision of this Agreement.

13. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to SVP addressed as follows:

Silicon Valley Power
City of Santa Clara Electric Department
1500 Warburton Avenue
Santa Clara, California 95050
Attn: Chief Electric Utility Officer
or by facsimile at (408) 249-0217

To Owner addressed as follows:

Santa Clara Gateway I LLC
c/o The Irvine Company
5451 Great America Pkwy, 201
Santa Clara, CA 95054
Attn: Property Manager
Fax Number 408-330-0101

To Customer addressed as follows:

Arista Networks, Inc.
5453 Great America Parkway
Santa Clara, CA 95054
Attn: Office of the General Counsel
Facsimile at (408) 538-8920

If notice is sent via facsimile, a signed, hard copy of the material shall also be transmitted via First Class U.S. Mail the same day. The date the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. Pacific on a Friday shall be deemed to have been transmitted on the following Monday.

14. CAPTIONS

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

15. STATUTES AND LAW GOVERNING CONTRACT

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

16. COMPLIANCE WITH LAWS

Owner, Customer, and SVP shall comply with all laws, ordinances, codes and regulations of the federal, state and local governments applicable to their respective obligations and activities contemplated by this Agreement.

17. DISPUTE RESOLUTION

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Owner, Customer, and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement
- C. The costs of mediation shall be borne by the Parties equally.
- D. Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation or mediation that arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

18. VENUE

In the event that suit shall be brought by either Party, the Parties agree that venue shall be exclusively vested in the Superior Court of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

19. OTHER AGREEMENTS

This Agreement shall not prevent the City from entering into similar agreements with other entities or individuals, except if such similar agreements are in conflict or contravene with any of the terms of this Agreement.

20. TERMINATION OF AGREEMENT

A. TERMINATION FOR CAUSE

For purposes of this Agreement, the term "default" shall mean the failure of any Party to perform any material obligation in the time and manner provided by

this Agreement. Any one of the Parties may terminate this Agreement in the event of a default by one of the Parties by providing a written Notice of Termination to the defaulting Party (and the non-defaulting Party). Such Notice of Termination shall become effective no less than thirty (30) calendar days after Parties receive such notice. Such Notice of Termination for cause shall include a statement by the terminating Party setting forth grounds for determination of default under the Agreement.

B. OPPORTUNITY TO CURE DEFAULT

Upon receipt of a Notice of Termination by a Party arising from its default under this Agreement, the defaulting Party shall have ten (10) days from the receipt of such notice to cure the default by making such payment or performing the required obligation. If the default is cured to the mutual satisfaction of the Parties, the Agreement shall remain in effect upon written acceptance of the cure by the Party who issued the Notice of Termination for cause.

C. TERMINATION WITHOUT CAUSE

Notwithstanding anything to the contrary herein, the Parties may terminate this Agreement, prior to the date the City issues a Notice to Proceed to its construction contractor, whether or not a default under this Agreement exists, by providing Notice of Termination to the other Party. In the event Owner terminates this Agreement under this section, Owner will reimburse City for all costs incurred or committed to be incurred by City in connection with any and all design and material procurement work required to implement Customer's requested work up to the date of Owner's Notice of Termination. Such Notice of Termination shall become effective no less than thirty (30) calendar days after City receives such notice and Owner may revoke such Notice of Termination at any time.

D. CONVERSION TO 12 kV SERVICE

This agreement shall automatically terminate if Customer converts to a 12 kV service.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation
doing business as Silicon Valley Power

APPROVED AS TO FORM:

Approved as to Form:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“SVP”

SANTA CLARA GATEWAY I, LLC
A Delaware limited liability company

Date: _____

By: TODD HEDRICK
Title: Regional Vice President
Address: 5451 Great America Parkway, Suite 201
Santa Clara, CA 95054
Email: thedrick@irvinecompany.com
Telephone: 408-330-0126
Fax: 408-330-0101

Date: _____

By: TODD ARRIS
Title: Senior Vice President
Address: 5451 Great America Parkway, Suite 201
Santa Clara, CA 95054
Telephone: 408-330-0128
Fax: 408-330-0101
Email: tarris@irvinecompany.com
"OWNER"

ARISTA NETWORKS, INC.
A Delaware corporation

Date: _____

By: JOHN MCCOOL
Title: Chief Platform Officer
Senior VP of Engineering and Operations
Address: 5453 Great America Parkway
Santa Clara, CA 95054
Telephone: 408-547-5278
Fax: (408) 538-8920
Email: jmccool@arista.com
"CUSTOMER"