

Dallas Colo – Enterprise Master Service Agreement

The following Master Service Agreement (“**MSA**” or “**Agreement**”) is entered into between Focus Colocation LLC, d/b/a Dallas Colo, a Texas limited liability company (“**Dallas Colo**”), and the customer executing this online transaction (“**Customer**”). This Agreement incorporates by reference all Dallas Colo service order forms submitted in connection with this online transaction (“**Service Order Form**”), the Dallas Colo Service Level Agreement and Appropriate Use Policy (as in effect from time to time and posted on Dallas Colo’s website, the “**AUP**”), and any other policies that this Agreement incorporates by reference. This Agreement shall govern the lease by Dallas Colo to Customer of certain physical space within the datacenter owned by or operated on behalf of Dallas Colo (a “**Datacenter**”) and the provision by Dallas Colo of the services set forth in the Service Order Form, including, but not limited to, power, heating and cooling, fire suppression and physical security (“**Services**”), in accordance with the specifications set forth on such Service Order Form (the “**Specifications**”). **DALLAS COLO HEREBY RESERVES THE RIGHT TO AMEND, ALTER, MODIFY, REPLACE OR SUSPEND, FROM TIME TO TIME IN ITS SOLE DISCRETION, ALL OR ANY PORTION OF THE SLA, THE AUP AND ITS PRIVACY POLICY (AS IN EFFECT FROM TIME TO TIME AS SET FORTH ON THE DALLAS COLO’S WEBSITE, THE “PRIVACY POLICY”). CURRENT COPIES OF THE DALLAS COLO’S SLA, AUP AND PRIVACY POLICY MAY BE REVIEWED OR PRINTED BY CUSTOMER AT THE LEGAL SECTION OF THE DALLAS COLO’S WEBSITE. CUSTOMER HEREBY REPRESENTS AND WARRANTS THAT IT HAS READ, UNDERSTOOD AND ACCEPTED THE TERMS OF THE SLA, AUP AND THE PRIVACY POLICY.**

By submitting the Service Order Form, executing this online transaction or by using Dallas Colo Network (as defined in the SLA) or Services, Customer hereby agrees to the terms and conditions of this Agreement.

1. **Services.** Subject to the terms and conditions contained in this Agreement and each applicable Service Order Form, upon execution of the Service Order Form, (i) Dallas Colo shall provide the Services specified in the Service Order Form to Customer in accordance with the Specifications for the Service Term as specified therein and pursuant to the terms of Section 3.b below and (ii) Dallas Colo hereby grants Customer a limited, revocable, non-exclusive right to access, enter upon the Datacenter and to use the premises for the Service Term set forth in such Service Order Form. A Service Order Form is binding only when signed by both parties, but a purchase order issued or signed by Customer is binding on both parties if Dallas Colo begins performance or acknowledges it by email, facsimile or other written means and in each such instance the terms of this Agreement shall apply. Customer shall pay for during and throughout the Service Term, those Services described in the Service Order Form, in any amendment or supplement thereto, or in a subsequent written or electronic service order form entered into between Dallas Colo and Customer (including any service order form entered into through a Dallas Colo electronic ticketing system). Dallas Colo shall attempt to provide the Services by any requested installation date, but will not be liable for any delays in the provisioning of the Services.

a. **Service Commencement Date.** The Service Commencement Date shall be **either** (A) the requested or targeted commencement date specified in the Service Order Form, if such specified date is more than thirty (30) days after the date that Dallas Colo executes this Agreement **or** (B) the sooner to occur of (i) the date that Dallas Colo notifies Customer by e-mail (according to the notice provisions of this Agreement) or (ii) thirty (30) days after the date that Dallas Colo executes this Agreement. The Service Commencement Date shall not be delayed or postponed due to, and Dallas Colo shall not be responsible for, any delays or interruptions in the provisioning or delivery of any Third Party Services (as defined in Section 2.c below). Unless Customer provides Dallas Colo with written notification within three (3) days of the Service

Commencement Date that the Services are not operational, Customer shall be deemed to have accepted delivery of the Services and the Service Term shall commence upon such deemed acceptance.

b. Customer’s use of the Services is subject to Dallas Colo’s AUP and any applicable data center rules and policies as in effect from time to time with respect to a data center facility in which Dallas Colo provides colocation services to Customer, including any third-party data center facility (“**Data Center Rules and Policies**”); all of which are available on the customer portal, at customer. Dallas Colo.com. Dallas Colo may amend any such policies from time to time, and such amendment shall be effective upon their posting at the Dallas Colo web site, customer portal, or when individually sent to Customer at its designated e-mail address. The Services will be delivered according to the Dallas Colo Service Level Agreement attached hereto as Schedule 1 (“**SLA**”) applicable to the ordered Services. Dallas Colo may amend the SLA at any time as long as such amendment does not materially affect the level or quality of Services provided to Customer or Customer’s entitlements provided for in the SLA. Except as otherwise may be agreed in writing between the parties, Customer’s continued use of any of the Services following any such amendment will constitute its agreement to be bound by the terms of the revised SLA.

c. **IP Transport Services.** Subject to Section 5 below (Limitation of Liability), Dallas Colo shall be responsible for providing any IP transport Services, if ordered by Customer, only from Dallas Colo’s data center or a Dallas Colo Network point of presence up to the minimum point of entry (the “**MPOE**”) designated by the third party local loop or telecommunications transport provider(s) that Dallas Colo utilizes in providing such Services. Customer will be responsible for obtaining, managing, and paying for all infrastructure, hardware, telecommunications and network facilities, demarcation extensions, and cross connections between the MPOE and Customer’s premises.

2. **Billing and Payment; Taxes and Charges.** Customer shall pay the fees and all invoices received from Dallas Colo during the Service Term for the Services as specified in the Service Order Form or any subsequent and effective service order form.

a. **Payment.** Unless another payment time frame is specified in the Service Order Form, payment for the fees is due fifteen (15) days after invoice date ("**Payment Due Date**"), with the first invoice to be dated as of the commencement of the Service Term and billing for partial months prorated. Dallas Colo shall bill fixed charges in advance and usage-based charges (such as overages) in arrears. Certain installation fees or advance payments specifically set forth in the Service Order Form may be payable in advance of the commencement of the Service Term. Any past due amounts that Customer owes will accrue interest at the lesser of one and a half percent (1.5%) per month or the highest rate permitted by applicable law. All invoices will be paid in U.S. dollars. Customer shall be responsible for all costs and legal fees that Dallas Colo incurs collecting any overdue payment amounts.

b. **Disputed Invoices.** If Customer reasonably disputes any invoice, Customer must pay all undisputed amounts on the Payment Due Date and submit written notice of the disputed amount, in reasonable detail, within forty-five (45) days of the applicable invoice date or the right to dispute such invoice is waived.

c. **Taxes.** Charges for the Services do not include any applicable taxes. Except for taxes on Dallas Colo's net taxable income, Customer shall be solely responsible for paying all taxes, third-party charges, and fees related to its use of the Services arising in any jurisdiction, including, without limitation, sales and personal property taxes. Customer's equipment located at any Dallas Colo Facility (as defined in the applicable Service Order Form) shall not be deemed to be fixtures. Customer shall be solely responsible for paying any and all recurring and one-time charges associated with local loops, transport facilities, or other telecommunication services or circuits purchased or leased from any third party provider by Customer, or its representatives on its behalf, to receive and use the Services (collectively, "**Third Party Services**").

3. **Term and Termination.**

a. **Term of this Agreement.** Unless earlier terminated as provided herein or otherwise extended by mutual written agreement of the parties, the term of this Agreement shall commence on the last date of signature hereto and shall continue until all Service Orders hereunder have expired or have been terminated whereupon this Agreement shall automatically expire one year thereafter.

b. **Term of Service Order.** The Service Term shall be for a period of time specified in the Service Order Form and shall continue at successive one-year renewal periods ("**Renewal Term**") at the same prices for the Services in effect during the Service Term, unless either party terminates this MSA pursuant to the terms herein or by providing the other party with written notice sixty (60) days before the end of the Service Term of its intent not to renew the Service Term. For clarity, the Customers that the Service Term is month-to-month, the

service terms shall continue for successive 30-day terms until terminated pursuant to the terms herein or upon 30-day written notice from one party to the other.

c. **Termination by Customer.** Customer hereby acknowledges and agrees that the provisions of a service credit by Dallas Colo in accordance with the SLA is Customer's sole and exclusive remedy with respect to any interruption of or failure by Dallas Colo to provide Services. Customer may terminate this MSA or any Service Order Form if Dallas Colo materially breaches its obligations to provide the Services and Dallas Colo does not cure such breach within fifteen (15) business days of receiving written notice from Customer that reasonably describes such breach; provided, however, that in the event such breach cannot reasonably be cured within such fifteen (15) day period, Dallas Colo shall not be in default if Dallas Colo commences to cure the same within such fifteen (15) day period and thereafter diligently prosecutes the curing thereof to completion.

d. **Termination by Dallas Colo.** Dallas Colo may elect to terminate this MSA or any Service Order Form, or suspend the provision of Services to Customer, at any time without liability for any of the following: (A) upon Customer's material breach or violation of the terms of this MSA that it fails to cure within fifteen (15) business days from the date that Dallas Colo delivers to Customer written notification (an email will suffice) thereof; (B) if Customer fails to cure any payment breach of this MSA or any Service Order Form within ten (10) days from the date that Dallas Colo delivers to Customer written notification thereof; (C) if Dallas Colo determines that Customer's use of the Services may subject Dallas Colo to legal liability without a need of prior notice to Customer; or (D) if Customer violates Dallas Colo's AUP or any applicable Data Center Rules and Policies.

e. **Removal of Equipment.** Upon expiration or termination of this MSA or any Service Order Form, the Services shall terminate and Customer will remove within three (3) business days ("**Removable Period**") all of the equipment and tangible items (collectively, "**Customer's Removable Equipment**") that Customer has located in the Licensed Space (as defined in Section 9 below) whether owned by Customer or a third party. If Customer fails to remove Customer's Removable Equipment within the Removable Period, Dallas Colo shall be entitled to pursue all applicable legal remedies, without liability, including, without limitation, the following: (A) removing such property and storing it at an on-site or off-site location at Customer's sole expense; (B) shipping such property to Customer, at the address provided by Customer in this MSA, at Customer's sole risk and expense; or (C) upon thirty (30) days of a written or e-mail notice to Customer, liquidate such property in a commercially reasonable manner and at Customer's sole expense. Customer's rights to remove Customer's Removable Equipment from any Dallas Colo Facility is subject to Customer's account being current (i.e. there shall be no past due invoices). Dallas Colo shall not be responsible for the value, preservation, or safekeeping of any of Customer's Removable Equipment. If Customer fails to remove Customer's Removable Property from the Dallas Colo Facility or storage in which it is located, as the case may be, within 30 days after written notice, Dallas Colo may deem all or any

part of Customer's Removable Property to be abandoned, and title to Customer's Removable Property shall be deemed to be immediately vested in Dallas Colo. If Dallas Colo provides to Customer any third party hardware, software, or other telecommunications services or connectivity media in connection with the delivery of the Services ("**Dallas Colo Equipment**") for Customer's use, then within ten (10) business days following termination of this Agreement for any reason, Customer shall either (i) at Customer's expense, return the Dallas Colo Equipment received by such Customer to Dallas Colo (at an address directed by Dallas Colo) by overnight courier with tracking, insurance, and postage prepaid in the same condition as furnished to Customer, normal wear and tear excepted, or (ii) if both parties hereto agree in a separate written agreement, purchase the Dallas Colo Equipment at the price specified in any applicable service order form or, if no price is so specified, at a rate of 75% of its original retail value, as determined by Dallas Colo.

f. **Effect of Termination.** Except as expressly provided for herein, neither Customer nor Dallas Colo shall be liable to each other for properly terminating this MSA. Upon termination of this Agreement, Customer shall (x) pay all charges and other amounts due and owing to Dallas Colo, (y) remove from Dallas Colo's premises all property owned by Customer including the Customer Equipment, and (z) return to Dallas Colo all software, access keys, and any other property provided to Customer by Dallas Colo under this Agreement. Additionally, if Customer terminates this MSA prior to the end of any Service Term for any reason, Customer will be responsible for paying all outstanding or early termination charges of any third party local loop or transport provider(s) (including reimbursements to Dallas Colo for its payment of such charges) that Dallas Colo utilizes in providing the Services under such Service Order Form.

4. **Indemnification.** Customer shall indemnify, defend, and hold harmless Dallas Colo, its directors, officers, employees, agents, and affiliates (each an "Indemnified Party") from and against any claims, causes of action, losses, damages, liabilities, penalties, proceedings, judgments, costs, or expenses (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of or relate to this Agreement or Customer's use of the Services or Dallas Colo's network, or Dallas Colo Facility, and will reimburse an Indemnified Party for all legal and other expenses, including reasonable attorney's fees incurred by such Indemnified Party in connection with investigating defending or settling any loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

5. **Disclaimer of Representations and Warranties; Force Majeure; Limitation of Liability.** EXCEPT WITH RESPECT TO CUSTOMER'S REMEDIES UNDER ANY APPLICABLE SERVICE LEVEL AGREEMENT, DALLAS COLO MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE SERVICES, ITS NETWORK, OR ITS FACILITIES AND DISCLAIMS ANY WARRANTIES OF TITLE MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. The SLA sets forth Customer's sole and exclusive remedy for any breaches or issues relating to the Services or to any malfunction or defect in any Dallas Colo Equipment or in any equipment that Dallas

Colo may utilize in providing the Services. Except as otherwise expressly provided for herein or in any service exhibit hereto, in no event shall Dallas Colo's aggregate liability to Customer for any legal or equitable claim exceed the amount paid by Customer for the Services during the one-year period prior to the date the alleged action giving rise to such claim occurred or arose.

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS, REVENUE, DATA, OR USE OF SERVICES BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR OTHER LEGAL THEORY, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Dallas Colo shall not be liable or responsible for any Service interruption, performance issues, or failures caused directly or indirectly by the performance, or failure thereof, of any Third Party Services.

Customer assumes full risk of loss or damage of, and Dallas Colo shall not in any manner be directly or indirectly responsible or liable to Customer in connection with, (a) any hardware or equipment (and any data, media, and other components resident therein) that Dallas Colo receives, unpacks, stores, configures, modifies, installs, or otherwise handles or (b) any "hands and eyes" or managed services that Dallas Colo performs with respect to Customer's hardware, with any of the aforementioned services or actions in (a) and (b) (collectively, "**Hardware Services**"). Dallas Colo makes no covenants, representations or warranties (including the level of care that it uses) in connection with, and is not responsible for obtaining insurance with respect to, any Hardware Services.

Force Majeure. Dallas Colo will not be liable, nor will any remedy provided by this MSA be available, for any failure of Services due to cause beyond the control of Dallas Colo ("**Force Majeure**") and Dallas Colo shall not be liable, nor will any remedy provided by this MSA be available to Customer due to any acts or omissions of vendors, service providers, or suppliers of Dallas Colo. Customer will not be obligated to pay Dallas Colo for Services not delivered as the result of any Force Majeure event. Any commitments of Dallas Colo under a SLA shall not apply during periods of Force Majeure.

6. **Non-Solicitation; Intellectual Property Ownership.** Customer shall not solicit for employment with Customer or with any other third party any Dallas Colo employee with whom Customer has had direct contact in connection with this Agreement during the term of this Agreement and for twelve (12) months following termination of this Agreement. Dallas Colo shall own all intellectual property that it utilizes or may develop in the course of performing the Services. Each party to this Agreement retains exclusive ownership and rights in its own trade secrets, inventions, copyrights, and other intellectual property. Upon termination of this MSA, Customer agrees to promptly release any Internet protocol numbers, addresses, or address blocks assigned to Customer in connection with the Services, and which are deemed to be the property of Dallas Colo. Neither party may publicly use the other party's logo or other trade or service

mark without that party's written consent.

7. **Insurance.** Customer shall insure all Customer Equipment in accordance with the requirements set forth below and provide proof of insurance prior to installation of Equipment in the Licensed Space (as defined in Section 8 below) and maintains such insurance at all times during the Service Term and any Renewal Term of this Agreement and during the Removable Period as described in Section 3.e above. Proof of insurance shall be provided by delivery of certificates of insurance to Dallas Colo showing the following types of insurance, in the following minimum amounts, which insurance shall be issued by companies which have a Best's Key Rating of at least A-1: (a) Worker's compensation insurance complying with the law of the state in which the Licensed Space used by Customer is situated, regardless of whether Customer is required by such law to maintain worker's compensation insurance, and employer's liability insurance with the limit of \$1 million per occurrence; (b) Occurrence form commercial general liability insurance including coverage for personal injury, bodily injury, death, contractual liability and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Customer's operations, in the amount not less than \$1 million combined single limit per occurrence; (c) Standard form property and casualty insurance insuring against the perils of fire, vandalism, and malicious mischief extended coverage (all risk) covering Customer Equipment located in the Licensed Space in an amount not less than its full replacement value; (d) Professional liability insurance (including Multimedia Errors and Omissions insurance) including coverage for losses attributable to damage, destruction, and/or fraudulent modification of electronic data; and (e) Excess or umbrella liability coverage with a combined single limit of \$1 million per occurrence to be excess of (a) and (b). Dallas Colo shall not insure or be responsible for any loss or damage to property of any kind owned or leased by Customer or its employees, servants, and agents, including but not limited to the Customer Equipment. The maintenance of insurance by Customer shall not affect or limit the extent of Customer's liability under this Agreement. Dallas Colo, except in the case of worker's compensation insurance, shall be named as an additional insured on the policies required above. The certificates of insurance shall show that the insurance is prepaid, and in full force and effect and that such insurance shall not be cancelled, non-renewed or decreased, during the Service Term or any Renewal Term of the Agreement or during the Removable Period (Section 3.e above), without at least thirty (30) days written notice to Dallas Colo. Any insurance policy covering Customer Equipment against loss or physical damage shall provide that such insurance shall be primary and noncontributing with any other insurance available to Dallas Colo.

8. **Facilities.** Subject to the terms and conditions of this MSA, and unless otherwise provided for in a Service Order Form, Customer will have access to the Licensed Space (as defined below) twenty-four hours per day, three hundred sixty-five days per year during the Service Term. For the purposes of this MSA, "**Licensed Space**" shall mean the area(s) in the Dallas Colo Datacenter in which Customer colocates the Customer Equipment. Dallas Colo will determine at all times during the Service Term the exact location at which the Licensed Space will be located and may change such location at any time

during the Service Term. To the extent that Customer orders additional Licensed Space after the initial order and requires that such additional Licensed Space be contiguously located to the original Licensed Space, Customer may be required to move Customer Equipment to a different location within the Datacenter, at Customer's own expense. Unless otherwise provided for in any Service Order Form, Customer will be responsible for configuring, providing, placing, installing, upgrading, maintaining, operating, and repairing the Customer Equipment, and will do so in accordance with this MSA and Dallas Colo's Data Center Rules and Policies. Customer will obtain and maintain throughout the Service Term consent from its subcontractors, third party providers, and any other parties necessary to permit Dallas Colo (including any contractors or others acting on Dallas Colo's behalf) to access the Customer Equipment to provide the Services. Except as expressly provided for in this MSA, Dallas Colo will not have any responsibility for any loss or damage to Customer's Equipment. For the purposes of this MSA, the term "**Customer Equipment**" shall mean all assets, including network and computer equipment (along with wiring and cross-connects between such equipment), that are located in the Licensed Space, whether such equipment is leased, owned, or licensed by Customer or its agents or representatives. Customer will be responsible and liable for all acts or omissions of its agents, employees, representatives, and any persons it authorizes to access the Licensed Space on its behalf, and all such acts or omissions will be attributed to Customer for all purposes under this MSA. This MSA, and the rights of Customer hereunder, are, without any further action by any party, subject and subordinate to the leases for any Dallas Colo owned or operated data center facility and all superior instruments to such leases. This MSA is a services agreement and is not intended to and will not constitute a lease of any real or personal property. Customer acknowledges and agrees that (i) it has been granted only a license to use the Licensed Space in accordance with this MSA; (ii) Customer has not been granted any real property interest under this MSA; and (iii) Customer has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances. Unless otherwise expressly agreed to by the parties, Dallas Colo will retain title to all parts and materials used or provided by Dallas Colo or third parties acting on Dallas Colo's behalf in the performance and furnishing of the Services.

9. **Surviving provisions.** Sections 2, 3, 4, 5, 6, and 7 and any other provisions that survive by their nature or their language shall survive the expiration or termination of this MSA.

10. **Storage Bay (If applicable).** In addition to the Licensed Space, Dallas Colo may lease some additional space within the Dallas Colo Facility as described in the applicable Service Order Form ("Storage Bay"). Customer acknowledges that the Storage Bay does not contain power or cooling. Customer grants Dallas Colo access to the Storage Bay for emergencies and when requested by the Customer to perform Remote Hands and Eyes services (as defined in the Service Order Form), pursuant to the terms described in the Service Order Form. In addition, Customer agrees that the provisions of this MSA shall govern Customer's lease of the

Storage Bay.

11. **Business Continuance Services (If applicable).** In addition to the Services, Dallas Colo may provide through its business continuity center (“BCC”) the technology, facilities and equipment to Customer. As such, Dallas Colo may lease physical office space within an office owned by or operated on behalf of Dallas Colo as specified in Schedule 2 hereto (the “**BCC Space**”) to Customer in order to provide the services set forth on such Schedule 2 (the “**BCC Services**”), in accordance with the specifications set forth on Schedule 2 (the “**BCC Specifications**”), which is hereby incorporated by reference. Dallas Colo shall in its sole discretion select all hardware and equipment to be provided by Dallas Colo in the BCC Space. To the extent that Customer requires access to any Dallas Colo Network other than in connection with the Services, all such access shall be subject to and contingent upon Customer’s acceptance of and full compliance with the AUP and Terms of Service. No photo equipment, video or voice recording equipment, weapons or hazardous material shall be brought into the BCC Space. Use of such items may result in suspension or termination of access or occupancy rights. Upon prior written consent from Dallas Colo, however, Customer may use photo equipment, video or voice recording equipment in the BCC Space. Dallas Colo shall take reasonable security efforts to limit access to the BCC Space while Customer occupies the BCC Space; provided however, that all personnel, agents and invitees of Dallas Colo shall have access to the BCC Space at all times. All Customer’s authorized representatives shall be accompanied by Customer while occupying the BCC Space. Customer’s personnel or authorized representatives found in unauthorized areas or areas outside of the BCC Space may have access rights suspended or terminated.

12. **Miscellaneous Provisions.** Customer may not assign (by operation of law, merger, business acquisition, or otherwise) its obligations or rights hereunder without Dallas Colo’s prior written consent, and any assignment without Dallas Colo’s written consent will be null and void. This MSA shall be enforceable against any permitted assignees. Customer may not resell any of the Services without Dallas Colo’s express prior written consent. The Services may be provided by Dallas Colo or an affiliate thereof. This MSA does not create any agency, partnership, or joint venture between Dallas Colo and

Customer, who are independent entities. This MSA constitutes the entire agreement between the parties and supersedes all prior agreements, discussions, and proposals regarding its subject matter. This MSA may be modified only in a writing signed by both parties hereto. Except as otherwise expressly provided for in the MSA, notices relating to the MSA shall be in writing and transmitted by overnight courier or U.S. certified or registered mail (return receipt requested), postage prepaid, addressed to the respective party based on the contact information below, or to any other address that a party may designate by notice properly given according to this section. Notices are deemed to be received (i) three days after deposit, postage prepaid, in the U.S. mail if sent by U.S. certified mail or registered mail or (ii) the next day after delivery to an overnight courier, expenses prepaid. If any provision of this MSA is held to be illegal or unenforceable, this MSA’s unaffected provisions will remain in effect. The validity, construction, and effect of this MSA Agreement shall be governed by Texas law, without reference to conflicts of laws principles, and the exclusive venue for all disputes—contractual or otherwise—arising out of, or relating to the subject matter of, this MSA shall be Dallas County, Texas, and the parties hereby waive their respective rights to contest, or assert a defense based on, inconvenient forum or improper jurisdiction. **EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM ARISING OUT OF, OR RELATED TO, THIS MSA.** No waiver by either party hereto of any breach or default of any of the covenants or agreements herein set forth shall be deemed a waiver as to any subsequent and/or similar breach or default. This MSA may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement. Customer agrees that Dallas Colo may publicly disclose that it is providing services to Customer and may include Customer’s name in any promotional materials, such as press releases or Dallas Colo’s web site.

[Service Schedules (if applicable) on following pages]

Schedule 1
DALLAS COLO Service Level Agreement

The Dallas Colo Service Level Agreement (“SLA”) provides its customers service credit remedies based on service performance and availability commitments. Customers may claim service credits as a sole and exclusive remedy resulting from Dallas Colo’s non-attainment of a specific performance or availability commitment applicable to an ordered service delivered under the Dallas Colo name, subject to the guidelines, procedures, terms, and exclusions set forth in this SLA and the MSA. Capitalized terms used herein not otherwise defined shall have the same meaning ascribed to them in the MSA. For purposes of this SLA, Dallas Colo Network means the portion internal computer network owned or operated on behalf of Dallas Colo that extends from the outbound port on a Customer’s cabinet switch to the outbound port on the border router and includes all redundant internet connectivity, bandwidth, routers, cabling and switches.

1. Network Availability Commitments.

100% Network Availability Commitment. Dallas Colo offers a 100% network availability commitment on all of its Internet Protocol (IP) bandwidth services utilizing multiple or redundant input network drops. The 100% network availability commitment is available for a **Network Outage**, which is defined as the as the sustained and continuous failure of Dallas Colo to deliver IP packets across the Dallas Colo Network in connection with its delivery of ordered Services to the Customer. To qualify for the 100% network availability commitment with respect to any colocated equipment or infrastructure, such colocated equipment or infrastructure must be utilizing multiple or redundant input network drops at all times, including at the time of any Network Outage. The 100% network availability commitment shall not be available with respect to any Network Outages directly or indirectly caused by Customer, including, without limitation, failed equipment, misconfigurations, exploited servers, or traffic in excess of the maximum allowed by the applicable Service Order Form and MSA. Service credits are available only with respect to that Customer equipment, or those Customer ordered services, adversely affected by a Network Outage. Service credits under the 100% network availability commitment shall be based on percentage of **Network Uptime**, which is defined as the sustained and continuous period of time without a Network Outage in a given month:

Network Uptime	Service Credit (percentage of current monthly charge for affected)
100.00%	Commitment
99.90%	10%
99.80%	20%
99.50%	40%
99.30%	75%
99.00%	100%

99.90% Network Availability Commitment. Subject to the same terms, conditions, and limitations of the 100% network availability commitment, Dallas Colo offers a 99.90% network availability commitment on all IP bandwidth services not covered under the 100% network availability commitment. The 99.90% network availability commitment is applicable to those IP bandwidth Services delivered to Customers via a single, non-redundant independent network drop only.

Network Uptime	Service Credit (percentage of current monthly charge for affected)
99.90%	Commitment
99.80%	10%
99.50%	20%
99.30%	40%
99.00%	75%
98.00%	100%

2. Network Performance Commitment. Dallas Colo commits to a network performance level that results in a maximum average 4 milliseconds network route originating from the network interface between Dallas Colo and Customer’s hosted devices and traversing across the Dallas Colo Network, calculated over a 24-hour period. For purposes of this Agreement, any continuous and uninterrupted time interval during which Dallas Colo fails to achieve the aforesaid network performance level is referred to as a Network Performance Failure, and service credits for a given month shall be applicable according to the following guidelines:

Network Performance Failure Duration	Service Credit (percentage of current monthly charge for affected service)
Less than 24 hours	Commitment
24 to 36 hours	10%
36 to 48 hours	20%
48 to 60 hours	40%
60 to 72 hours	75%
72 to 96 hours	100%

3. Power Availability Commitment. Subject to the terms herein, Dallas Colo commits to 100% power availability to Customer's Equipment that utilizes Dallas Colo's Network and Services provided redundant ("A/B") power in connection with the Service. Such Customer Equipment must at all times be properly utilizing A/B power from dual sources and dual UPS devices and must be plugged directly into both the A power strip and B power strip at all times. This power availability commitment does not cover outages generated, exacerbated, or extended by the actions or omissions of Customer or its representatives, including those outages caused by excessive amperage on individual Customer circuits or excessive amperage on a local power strips within Customer's Licensed Space, and are not applicable if Dallas Colo determines that Customer's consumption exceeds eighty percent (80%) of a single power circuit or forty percent (40%) of an A/B redundant power configuration. All Customer equipment and cabling must be UL approved and all equipment must be able to utilize true A/B feeds. The power unavailability for which Customer may claim service credit consists of the number of minutes that AC power to the affected Customer Equipment was not available to the primary "A" outlet and redundant "B" outlet thereof at the same time.

Power Availability	Service Credit (percentage of current monthly charge for affected service)
100.00%	Commitment
99.90%	10%
99.80%	20%
99.50%	40%
99.30%	75%
99.00%	100%

4. Service Credits. Service Credits do not constitute a refund in respect of any product or service and may not be carried forward to future months, paid for or exchanged for cash or other monetary consideration or value. Service Credits are not available (i) in respect of any outage or event associated with Schedule Maintenance (defined below) or arising from any denial of service attack, virus, hacking attempts or any other circumstances, events, equipment or hardware that is not within the control of Dallas Colo, including any Force Majeure Event, (ii) to any Customer that is more than thirty (30) days past due on any amount owing to Dallas Colo or any Customer that has breached the Agreement or (iii) in respect of any products or services contracted for with Dallas Colo that expressly exclude technical support or such Service Credits. Valid approved service credits will appear as a credit for services on the next billable invoice. All Service Credit requests must be submitted in writing and emailed directly to accounting@dallascolo.com within ten (10) days from the date of the applicable claimed service commitment failure incident. Failure to request a Service Credit within such 10-day period will result in an automatic waiver of all rights to recover service level credits hereunder for such claimed service commitment failure incident. Service Credits are calculated after deduction of all discounts and other special pricing arrangements, and are not applied to governmental fees, taxes, surcharges and similar additional charges. Service credits are based on only that Customer Equipment that is adversely affected by the claimed outage or performance failure incident. **IN THE EVENT THAT ANY OUTAGE OR RELATED SERIES OF OUTAGES GIVING RISE TO ANY SERVICE CREDIT HEREUNDER SPANS MORE THAN ONE CALENDAR MONTH, THE MAXIMUM TOTAL SERVICE CREDIT TO WHICH CUSTOMER SHALL BE ENTITLED FOR SUCH OUTAGE OR RELATED SERIES OF OUTAGES SHALL NOT EXCEED ONE HUNDRED PERCENT (100%) OF CUSTOMER'S MONTHLY RECURRING FEE FOR THE CO-LOCATION PRODUCTS AND SERVICES DURING THE FIRST MONTH IN WHICH SUCH OUTAGE OR RELATED SERIES OF OUTAGES FIRST OCCURRED AND CUSTOMER SHALL NOT BE ENTITLED TO ANY OTHER SERVICE CREDITS IN RESPECT OF SUCH OUTAGE OR RELATED SERIES OF OUTAGES FOR THE OTHER MONTHS DURING THE PENDENCY OF SUCH OUTAGE OR RELATED SERIES OF OUTAGES. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, THE MAXIMUM**

TOTAL SERVICE CREDITS TO WHICH CUSTOMER MAY BE ENTITLED UNDER THIS SLA DURING ANY CALENDAR MONTH TOGETHER WITH ALL OTHER SERVICE CREDITS, REFUNDS, GUARANTEES, WARRANTIES AND OTHER SERVICE LEVEL AGREEMENTS CUSTOMER MAY HAVE WITH DALLAS COLO, SHALL NOT EXCEED ONE HUNDRED PERCENT (100%) OF CUSTOMER'S MONTHLY RECURRING FEE FOR THE CO-LOCATION PRODUCTS AND SERVICES AFFECTED DURING SUCH MONTH.

5. Maintenance Windows. Customer hereby acknowledges that Dallas Colo may, from time to time, perform maintenance service on Dallas Colo Network, with or without notice to Customer, which may result in the unavailability of Dallas Colo Network ("Schedule Maintenance"). Service Credits shall not apply to, and no Service Credit shall be available for, interruptions due to normal Scheduled Maintenance windows, upgrades, or any interruption whether or not mutually agreed to between Customer and Dallas Colo. The Scheduled Maintenance and upgrade window for Customer may change from time to time, but it most likely will be performed from 12:01 AM to 5:00 AM US central standard time. Notification from Dallas Colo administrative staff will occur at least 72 hours prior to work performed to the email address provided by Customer. Any notification shall be deemed to have been sent by Dallas Colo if delivered to the Customer by email according to the updated contact information provided by Customer in the applicable MSA.

6. Other Terms and Exclusions. Service Credits shall not be available for any claimed outage or performance failure that results from any Force Majeure event, acts or omissions of Customer (and its agents, contractors, and representatives), or service providers of Dallas Colo. Credits issued during any calendar month, for any reason(s), will not exceed such month's monthly recurring charge associated with the affected Service. Customer shall be entitled to a service credit under only one service commitment parameter per problem incident acknowledged by Dallas Colo.

7. Disclaimer. Customer hereby acknowledges that Dallas Colo's ability to provide Customer with access to Dallas Colo Network and to provide technical support to Customer and to manage any server owned or controlled by or leased to Customer is contingent upon Dallas Colo's ability to connect Dallas Colo Network to such server and monitor such server. In the event that Customer substantially impairs Dallas Colo's ability to connect Dallas Colo Network to any server owned or controlled by or leased to Customer, including, but not limited to, through the installation of software, including, but not limited to, firewall software or load balancing software, or through the configuration of such server, then Dallas Colo shall have no obligation to provide any Service Credit under Section 4 above and Customer shall not be entitled to any Service Credit under Section 4 above with respect to such server. If Customer requests technical support services or management services for a server for which Customer has impaired the ability of Dallas Colo to connect Dallas Colo Network to such server, Dallas Colo shall provide such technical support services or management services as professional services on a time and material basis and Customer shall be billed at Dallas Colo's then-current professional services rate. Dallas Colo shall not be liable for the failure or delay in performing its obligations hereunder or under the Agreement if such failure or delay is due to external circumstances beyond its reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of interruption or delay in telecommunications, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of Dallas Colo's Services (each, a "**Force Majeure Event**"). Dallas Colo agrees to exercise reasonable efforts to mitigate the damage arising from Force Majeure Event; however, under no circumstances will Dallas Colo or its affiliates be held liable for any cost, expense, liability, claim or damage due to such interruptions. In no event shall Dallas Colo or its affiliates be liable to Customer or any other person for any special, incidental, consequential or punitive damages of any kind, including, without limitation, refunds of fees, loss of profits, cost of cover, loss of income or cost of replacement services. Customer acknowledges and agrees that the receipt of a Service Credit as provided for in this SLA constitutes Customer's sole and exclusive remedy, and Dallas Colo's sole and exclusive liability, for any failure of Dallas Colo Network or failure by Dallas Colo to provide Customer with uninterrupted electrical power in respect of the Services purchased by Customer which gives Customer the right to receive Service Credit. **DALLAS COLO RESERVES THE RIGHT TO AMEND, MODIFY OR TERMINATE THIS SLA AND THE AUP FROM TIME TO TIME, AND A CUSTOMER'S USE OF DALLAS COLO'S SERVICES AND DALLAS COLO NETWORK AFTER ANY SUCH AMENDMENT, MODIFICATION OR TERMINATION OF THIS SLA OR THE AUP IS POSTED ON THE LEGAL DEPARTMENT PAGE OF DALLAS COLO'S WEBSITE WILL CONSTITUTE THE CUSTOMER'S ACCEPTANCE OF ANY SUCH AMENDMENTS, MODIFICATIONS OR TERMINATION.**