

## MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**Agreement**”) between Allied Colo, LLC, a Deleware limited liability company (“Allied Colo”), and the person or entity specified below (the “**Customer**” along with Allied Colo collectively, the “**Parties**” and individually, a “**Party**”) is entered into as of the Effective Date as specified below.

1. **Purpose.** This Agreement governs the terms and conditions pursuant to which Allied Colo will provide Customer with co-location space for the Customer’s computer equipment and ancillary data center services such as access to cloud services, telecommunications and the Internet (collectively, the “**Services**”) as specified in the attached Service Order Form (the “Service Order Form”). The Service Order Form provides the meaning of various capitalized terms used but not otherwise defined in this Agreement.

2. **Billing and Payment.** Allied Colo shall charge Customer those fees and expenses set forth on the Service Order Form for the Services. All charges relating to the Services will be invoiced by Allied Colo on a monthly basis in advance. Any charges based on usage (including, but not limited to, overages), to the extent applicable, will be billed monthly in arrears. All invoices are due and payable upon receipt and will become past due thirty (30) days later. Any charge not paid when due will be subject to late charges in the lesser of one and one-half percent (1.5%) per month or the highest rate allowed by applicable law. Customer shall be responsible for the payment of all sales, use, gross receipts, excise, access, bypass, value added consumption or other local, state and federal taxes, fees, charges, duties, regulatory fees, or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services other than Allied Colo’ income or franchise tax obligations. All taxes shall be listed on the applicable invoice and shall be due and payable when each such invoice upon receipt. Allied Colo shall not be responsible for any taxes related to Customer Equipment. Upon written notice, Allied Colo may pass along to Customer any increase in the cost of delivering the Services that are due to any change in applicable law, regulation, rule or order that materially increases such cost or other terms of delivery of the Services.

3. **Disputes.** If Customer disputes one or more charges specified in an invoice, it must log that dispute by completing and submitting an email or letter to the Allied Colo billing department. Withheld disputed amounts determined in favor of Allied Colo must be paid by Customer within five (5) business days following written, electronic or telephonic notice of the resolution of such dispute. Any such amounts shall be subject to late charges specified in Section 2 if not paid within such time period.

4. **Term.** The initial term (the “**Initial Term**”) of this Agreement shall be for the period specified in the Service Order Form, commencing on the Effective Date of this Agreement. After the expiration of the Initial Term, this Agreement shall automatically renew for a period equal in length to the Initial Term (the “**Renewal Term**”) unless either Party provides written notice to the other Party of termination at least sixty (60) days prior to the end of the Initial Term or the Renewal Term, as applicable (the Initial Term and the Renewal Term are collectively, the “**Term**”). Notwithstanding any such expiration or nonrenewal, the Customer must still satisfy all of its obligations that arose before or as a result of such expiration, nonrenewal or earlier termination hereunder. Allied Colo shall provide the Customer with access to the co-location space specified on the Service Order Form (the “**Customer Space**”) on or before the “Commencement Date” specified on the Service Order Form in order to install its equipment (the “**Customer Equipment**”) at the data center location specified in the Service Order Form (the “**Facility**”). The effective date of this Agreement (the “**Effective Date**”) will be the date on which the Customer is given access to the Customer Space. Notwithstanding anything in this Agreement to the contrary, the Customer Space shall be located at the Facility at all times during the Term of this Agreement unless otherwise agreed to in writing by Customer.

5. **Termination by Allied Colo.** Subject to Section 6, herein, Allied Colo may terminate this Agreement and discontinue providing any or all of the Services hereunder without liability to the Customer upon the occurrence of a Customer Default, which means the occurrence of any of the following: (a) Customer fails to pay an invoice within ten (10) calendar days after its due date; (b) Customer violates any of the Allied Colo Policies (as defined herein) and fails to undertake to cure such breach within ten (10) calendar days thereafter; (c) Customer fails to undertake to cure its breach of any provision of the Agreement within ten (10) calendar days following written notice thereof from Allied Colo; or (d) Customer files for bankruptcy, reorganization or fails to obtain a discharge from an involuntary petition within sixty (60) calendar days of filing. The determination of whether or not any such breaches have been successfully cured shall be made by Allied Colo in its reasonable discretion. If Customer cures the Customer Default

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to the reasonable satisfaction of [Allied Colo](#), [Allied Colo](#) may recommence providing the Services to Customer hereunder.

6. **Allied Colo Remedies.** Upon the occurrence of a Customer Default, [Allied Colo](#) may pursue any or all of the following remedies without liability to Customer: (i) terminate this Agreement, in whole or in part, (ii) discontinue or limit providing any or all of the Services to Customer thereafter, or (iii) collect from Customer the damages that [Allied Colo](#) may incur as a result of such a Customer Default as provided for by law.

7. **Termination by Customer.** Customer may terminate this Agreement upon the occurrence of a [Allied Colo](#) Default, which means the occurrence of any of the following: (i) subject to the last sentence in this Section 7, [Allied Colo](#) fails to undertake to cure any breach (to the extent curable in the good faith determination of [Allied Colo](#)) of a material provision of this Agreement within ten (10) days following written notice thereof from Customer; (ii) [Allied Colo](#) loses its legal right to access the Facility and to provide access to the Customer Space to Customer pursuant to the [Allied Colo](#) Policies; or (iii) [Allied Colo](#) files for bankruptcy, reorganization or fails to obtain a discharge from an involuntary petition within sixty (60) days of filing. In the event of a [Allied Colo](#) Default, the Parties will work together in good faith in order to attempt to reach a mutually acceptable adjustment hereunder. However if they cannot reach such an agreement within ten (10) calendar days of a [Allied Colo](#) Default and provided that Customer has satisfied and thereafter continues to satisfy all of its obligations under the [Allied Colo](#) Policies (including its obligation to pay all charges arising due to such [Allied Colo](#) Default), Customer shall have no further duties or obligations to [Allied Colo](#) under this Agreement with respect to any charges or other obligations arising under this Agreement after such [Allied Colo](#) Default.

8 **Covenants of the Parties.** Throughout the Term and following the expiration, nonrenewal or earlier termination of this Agreement, Customer shall: (i) satisfy all of its obligations under this Agreement, expressly including the [Allied Colo](#) Policies and (ii) provide [Allied Colo](#) with prompt written notice in the event that Customer or any person gaining access to the Facility through Customer has violated and/or a Customer becomes aware that any other customer or any person gaining access to the Facilities through such other customer has violated any of the [Allied Colo](#) Policies. Throughout the Term, [Allied Colo](#) shall: (i) use its' best efforts to satisfy its obligations pursuant to this Agreement, including satisfaction of the Service Level Goals (as defined herein) and (ii) in connection with the expiration, nonrenewal or earlier termination of this Agreement for any reason other than a Customer Default to: (A) reasonably cooperate with Customer in order to minimize any potentially adverse effect on Customer and/or its customers and (B) assist Customer, at Customer's sole cost and expense, with the de-installation and removal of the Customer Equipment from the Facility.

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9. Disclaimer of Warranties; Limitations on Liability

(A) **DISCLAIMER.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, THE SERVICES TO BE PROVIDED BY ALLIED COLO TO CUSTOMER HEREUNDER ARE PROVIDED ON AN "AS IS, WHERE IS" BASIS AND NEITHER ALLIED COLO NOR ANY OF ITS AFFILIATES, SUCCESSORS, ASSIGNS, MEMBERS, OWNERS, MANAGERS, DIRECTORS, OFFICERS OR AGENTS OR ANY ALLIED COLO TELECOMMUNICATION OR INTERNET PROVIDERS (COLLECTIVELY, THE "ALLIED COLO RELATED PARTIES") HAVE MADE, AND DO NOT HEREBY MAKE, ANY WARRANTY, REPRESENTATIONS, CONDITIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, OF ANY KIND INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY AND/OR FITNESS FOR A PARTICULAR PURPOSE OR USE, WITH RESPECT TO THE SERVICES AND/OR ANY EQUIPMENT PROVIDED BY ALLIED COLO IN CONNECTION WITH THE SERVICES. ALLIED COLO, ON ITS OWN BEHALF AND ON BEHALF OF THE ALLIED COLO RELATED PARTIES, HEREBY EXPRESSLY DISCLAIMS ALL SUCH WARRANTIES, REPRESENTATIONS, CONDITIONS AND GUARANTEES. SPECIFICALLY, NONE OF THE ALLIED COLO RELATED PARTIES HAVE MADE, AND DO NOT HEREBY MAKE, ANY WARRANTY, REPRESENTATION, CONDITION OR GUARANTEE AS TO THE QUALITY OF THE SERVICES, THAT THE SERVICES OR ANY EQUIPMENT PROVIDED BY ALLIED COLO IN CONNECTION WITH THE SERVICES. WILL MEET CUSTOMER'S REQUIREMENTS, BE ERROR FREE OR OPERATE WITHOUT INTERRUPTION.

(B) **SPECIAL DAMAGES.** THE PARTIES HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT NEITHER ALLIED COLO NOR ANY OF THE ALLIED COLO RELATED PARTIES OR ANY OTHER THIRD PARTY UNDER A CONTRACTUAL RELATIONSHIP WITH ALLIED COLO TO PERFORM ONE OR MORE FUNCTIONS RELATING TO THE CREATION, PRODUCTION, PROVISION, DELIVERY, OPERATION, SUPPORT, SUSPENSION, DISCONTINUATION AND/OR TERMINATION OF ANY OR ALL OF THE SERVICES HEREUNDER (COLLECTIVELY, THE "ALLIED COLO RETAINED PROVIDERS") SHALL BE LIABLE OR RESPONSIBLE TO CUSTOMER OR ANY AFFILIATE, SUCCESSOR, ASSIGN, MEMBER, OWNER, MANAGER, DIRECTOR, OFFICER, AGENT OR REPRESENTATIVE OF CUSTOMER OR ANY OTHER THIRD PARTY TO WHICH CUSTOMER HAS AGREED TO PROVIDE ANY OR ALL OF THE SERVICES, INCLUDING, WITHOUT LIMITATION ANY END USER OF CUSTOMER (COLLECTIVELY, THE "CUSTOMER RELATED PARTIES" AND COLLECTIVELY WITH THE ALLIED COLO RELATED PARTIES, THE "RELATED PARTIES") FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSSES AND/OR EXPENSES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH (I) THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY AND BETWEEN THE PARTIES; (II) THE PERFORMANCE BY ALLIED COLO OF ANY OR ALL OF ITS OBLIGATIONS HEREUNDER, INCLUDING, WITHOUT LIMITATION, THE CREATION, PRODUCTION, PROVISION, DELIVERY, OPERATION AND/OR SUPPORT OF ANY OR ALL OF THE SERVICES; (III) THE SELECTION, RETENTION, ACTIONS OR INACTIONS OF ANY OF THE ALLIED COLO RETAINED PROVIDERS RELATING TO AND/OR INVOLVED WITH THE PERFORMANCE OF ANY OF THEIR RESPECTIVE FUNCTIONS RELATING TO, OR INVOLVING, THE SERVICES; (IV) THE EXERCISE BY ALLIED COLO OF ANY OR ALL OF ITS RIGHTS AND REMEDIES HEREUNDER, INCLUDING WITHOUT LIMITATION, THE SUSPENSION, DISCONTINUATION AND/OR TERMINATION OF ANY OR ALL OF THE SERVICES; AND/OR (V) ALLIED COLO' TEMPORARY OR PERMANENT INABILITY OR UNWILLINGNESS TO CREATE, PRODUCE, PROVIDE, DELIVER, OPERATE OR SUPPORT ANY OR ALL OF THE SERVICES AS A RESULT OF AND/OR FOLLOWING THE OCCURRENCE OF A FORCE MAJEURE EVENT (AS DEFINED HEREIN), INCLUDING WITHOUT LIMITATION, IN EACH SUCH INSTANCE, ALL DAMAGES, LOSSES OR EXPENSES RELATING TO, AND/OR INVOLVING LOST REVENUE, LOST PROFITS, LOSS OF BUSINESS OR CUSTOMERS, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA OR LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, INCURRED OR SUFFERED BY CUSTOMER, ONE OR MORE OF THE CUSTOMER RELATED PARTIES AND/OR ANY OTHER THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT OR OTHERWISE (COLLECTIVELY, THE "EXCLUDED DAMAGES"), EVEN IF CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH EXCLUDED DAMAGES. WITHOUT LIMITING THE FOREGOING, CUSTOMER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES, BOTH ON ITS OWN BEHALF AND ON BEHALF OF EACH OF THE CUSTOMER RELATED PARTIES, THAT NEITHER CUSTOMER AND/OR ANY CUSTOMER RELATED PARTY WILL HOLD ALLIED

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COLO, ANY OF THE ALLIED COLO RELATED PARTIES AND/OR ANY OF THE ALLIED COLO RETAINED PROVIDERS LIABLE OR RESPONSIBLE FOR ANY EXCLUDED DAMAGES SOUGHT: (I) BY ANY THIRD PARTY AGAINST CUSTOMER, ANY OF THE CUSTOMER RELATED PARTIES, ALLIED COLO, ANY OF THE ALLIED COLO RELATED PARTIES AND/OR ANY OF THE ALLIED COLO RETAINED PROVIDERS AND/OR (II) BY CUSTOMER AND/OR ANY OF THE CUSTOMER RELATED PARTIES AGAINST ALLIED COLO, ANY OF THE ALLIED COLO RELATED PARTIES AND/OR ANY OF THE ALLIED COLO RETAINED PROVIDERS RELATING THE SERVICES INCLUDING IN ANY SUCH INSTANCE THOSE ASSOCIATED WITH, ARISING OUT OF AND/OR INVOLVING: (i) THE RECORDS, DATA, TANGIBLE OR INTANGIBLE PROPERTY OF ANY PERSON OR ENTITY; (ii) THE DEATH OF ANY PERSON AT OR NEAR THE FACILITY; (iii) THE INOPERABILITY OF CUSTOMER EQUIPMENT OR APPLICATIONS WITH ANY COMPONENT OF THE SERVICES; (iv) COMPUTER VIRUSES, WORMS, COMPUTER SABOTAGE, DENIAL OF SERVICE ATTACKS OR BREACH OF SECURITY OF CUSTOMER'S NETWORK REGARDLESS OF WHETHER ANY REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; (v), ANY UNAUTHORIZED ACCESS TO ANY PORTION OF THE FACILITY, ANY UNAUTHORIZED USE OF ANY OF THE CUSTOMER EQUIPMENT, ANY UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT, OR DESTRUCTION OF DATA FILES, PROGRAMS, PROCEDURE, OR INFORMATION THROUGH ACCIDENT, WRONGFUL MEANS OR DEVICES, OR ANY OTHER METHOD; (vi) THE FAULT, NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL CONDUCT OF CUSTOMER AND/OR ANY PERSON GAINING ACCESS TO THE FACILITY THROUGH CUSTOMER, (vii) THE FAILURE BY CUSTOMER TO PERFORM ANY OR ALL OF CUSTOMER'S RESPONSIBILITIES OR OBLIGATIONS HEREUNDER, (viii) THE FAULT, NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL CONDUCT OF ANY OTHER CUSTOMER AT THE FACILITY AND/OR ANY PERSON GAINING ACCESS TO THE FACILITY THROUGH ANY SUCH OTHER CUSTOMER, (ix) THE FAULT, NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL CONDUCT OF ANY OTHER PERSON OR ENTITY, INCLUDING WITHOUT LIMITATION, ANY END USERS OF CUSTOMER, (x) CLAIMS AGAINST CUSTOMER AND/OR ANY OF THE CUSTOMER RELATED PARTIES BY ANY OTHER PARTY; OR (xi) HARDWARE, SOFTWARE OR ANY OTHER SERVICES OR EQUIPMENT FURNISHED OR PROVIDED BY A THIRD PARTY, INCLUDING END USER OF ANY CUSTOMER AT THE FACILITY. WITHOUT LIMITING THE FOREGOING, CUSTOMER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES, BOTH ON ITS OWN BEHALF AND ON BEHALF OF THE CUSTOMER RELATED PARTIES, THAT NEITHER ALLIED COLO NOR ANY OF THE ALLIED COLO RELATED PARTIES OR ANY OF THE ALLIED COLO RETAINED PROVIDERS ARE, OR SHALL BE, LIABLE OR RESPONSIBLE FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED THROUGH THE SERVICES. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ALL OF THE SECURITY AND CONFIDENTIALITY OF INFORMATION AND DATA THAT IT TRANSMITS USING ANY OR ALL OF THE SERVICES. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ALL CUSTOMER SUPPORT, PRICING AND SERVICE PLANS, BILLING AND COLLECTIONS, PERSONALLY IDENTIFIABLE INFORMATION OR ANY OTHER CONFIDENTIAL INFORMATION OF ANY THIRD PARTY, INCLUDING WITHOUT LIMITATION, ITS CUSTOMERS. AS WELL AS OBTAINING ALL NECESSARY LEGAL OR REGULATORY APPROVALS TO PROVIDE, SUSPEND, DISCONTINUE AND/OR TERMINATE ANY OR ALL OF THE SERVICES TO ITS CUSTOMERS. ALLIED COLO EXERCISES NO CONTROL OVER, AND ACCEPTS NO RESPONSIBILITY FOR, THE CONTENT OF THE INFORMATION PASSING THROUGH THE INTERNET IN CONNECTION WITH THE DELIVERY OF THE SERVICES HEREUNDER. CUSTOMER'S USE OF ANY SUCH SERVICE IS AT CUSTOMER'S OWN RISK.

**(C) Force Majeure.** Customer recognizes that the Internet consists of multiple participating networks that are separately owned and not subject to Allied Colo' control. As a result, Allied Colo shall not be liable or responsible to Customer and/or any of the Customer Related Parties for any failure of performance hereunder due to causes beyond Allied Colo' reasonable control (each of the following being a "Force Majeure Event"), including, but not limited to, acts of Customer or any third parties not under Allied Colo' direction and actual control, acts of God, fire, explosion, vandalism, flood, storm, or other similar catastrophe, any law, order, regulation, direction, action or request of the government, or any department, agency, commission, court, or bureau of a government, or any civil or military authority, national emergency, insurrection, riot, war, strike, lockout, or work stoppage during which the Services are temporarily or permanently unavailable due to malfunction, reduction in the amount, degradation in the quality, or cessation, whether on a temporary, intermittent or permanent basis, or cessation, whether temporary or permanent, of telecommunications or Internet services and/or electrical or any other type of power to the Facility, transmission errors in, corruption of, or any breach of the security of customer information, including personally identifiable information, carried on such networks or internet service providers by Customer as the result of actions of inactions

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by telecommunication, Internet services or power providers that are not under Allied Colo' direction and actual control. If Allied Colo claims relief under this Section 9(C), it shall notify Customer of the occurrence, existence and termination, as applicable, of each such Force Majeure Event.

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(D) **Aggregate Amount of Damages.** Allied Colo shall not be liable for loss or damage occasioned by a Force Majeure Event, and to the extent allowed by law, for injury to or death of any person and for damage to or loss of any property arising out of or attributable to its operations and performance under this Agreement (collectively, the "**Personal and Property Damages**"). Allied Colo's total liability for any and all other causes and claims hereunder, whether based in contract, warranty, negligence or otherwise and, if not excluded pursuant to the terms and conditions of the immediately preceding sentence, the Personal and Property Damages, shall be limited to the lesser of: (i) the actual direct damages sustained by Customer or (ii) an amount equivalent to the total monthly recurring revenues (not including any one-time setup charges paid by the Customer, and net of any third-party costs and charges incurred by or charged to Allied Colo on behalf of Customer) for the Services received by Allied Colo from Customer over the preceding six (6) months for the Services involved therein. Customer acknowledges their remedy expressly excludes any damages (including but not limited to special damages and/or punitive damages) beyond compensatory damages. Neither Party may bring or assert against the other Party any claim or cause of action for any recovery under any theory hereunder that accrued more than one-year prior to the filing of a complaint with a court of competent jurisdiction alleging such claim or cause of action.

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**10. Indemnification.** Customer, on its own behalf and on behalf of each of the Customer Related Parties will, and does hereby, indemnify, defend and hold harmless Allied Colo, each of the Allied Colo Related Parties and each of the Allied Colo Retained Providers from and against any and all damages, losses and expenses incurred by Allied Colo, any of the Allied Colo Related Parties and/or any of the Allied Colo Retained Providers arising under, relating to and/or involved with any claims, suits, actions, proceedings granted in favor of, or settlements entered with, any and all third parties, to the extent such damages, losses and expenses arise: (a) as a result of one or more breaches by Customer with its obligations under the Agreement; (b) from any and all claims by any of Customer's customers or other third parties in connection with the Services, regardless of the form of action, whether in contract, tort, warranty, strict liability or otherwise; provided, however, that Customer will have no obligation to indemnify and defend Allied Colo, any of the Allied Colo Related Parties or any of the Allied Colo Retained Providers from and against claims for damages, losses and expenses for bodily injury or death caused by the gross negligence or willful misconduct of Allied Colo or any of the Allied Colo Related Parties or any of the Allied Colo Retained Providers; and/or (c) from claims of copyright infringement and all manner of intellectual property claims, defamation claims, claims of publication of obscene, indecent, offensive, racist, unreasonably violent, threatening, intimidating or harassing material, and claims of violation of data protection legislation, regulations or pronouncements including without limited to, personally identifiable information, to the extent such damages, losses or expenses are based upon (i) the content of any information transmitted by Customer or by any of Customer's customers, (ii) the use and/or publication of any and all communications or information transmitted by Customer or by any of Customer's customers, or (iii) the use of any of the Services by Customer and/or any of its customers or end users in any manner inconsistent with the terms of this Agreement.

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**11. Insurance Requirement.** Customer, at Customer's own expense, shall obtain and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering property damage to both Customer Equipment and the Allied Colo data center facilities and equipment. The Customer agrees that such insurance to be on an occurrence "form" in the amount of not less than \$1.0 million for the protection of Allied Colo, its officers, affiliates and equipment. The policy shall be primary insurance with respect to Allied Colo, its employees and affiliates. Any insurance or self-insurance maintained by Allied Colo shall be excess of the Customer's insurance policy and shall not contribute to it.

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**12. Confidentiality.** Each Party (the "Receiving Party") expressly acknowledges and agrees that the terms and conditions of this Agreement and all information, agreements, documents or other material furnished to it by the other Party hereunder (the "Disclosing Party") including, but not limited to maps, pricing, financial terms, Service Level Goals, network routes, design information, methodologies, specifications, and the locations, names and addresses of other customers or prospects of the Disclosing Party under this Agreement are deemed to be confidential, proprietary and valuable information of the Disclosing Party (collectively, the "Confidential Information") and will remain the sole and exclusive property of the Disclosing Party. During the Term of this Agreement and for a period of one (1) year following the expiration, nonrenewal or earlier termination of this Agreement, each Receiving Party will treat

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the Confidential Information of the Disclosing Party in a confidential manner and, except to the extent necessary in connection with the performance of its obligations and/or the enforcement of its rights and remedies hereunder, neither Receiving Party may directly or indirectly, use or disclose any the Confidential Information of the other Disclosing Party to anyone other than employees, independent contractors, professional advisors and/or potential financing sources of such Receiving Party and then only on a need to know basis and who agree to be bound by the terms of this Section 11 (collectively, the "Other Receiving Parties"). Each Receiving Party shall be liable for both its own threatened or actual breach of this Section 11 as well as each threatened or actual breach of this Section 11 by one or more of its respective Other Receiving Parties. Information will not be deemed to be Confidential Information if it: (i) becomes generally available to the public other than through the actions of the Receiving Party, (ii) is independently developed by the Receiving Party; (iii) to the extent agreed to by the Disclosing Party in writing prior to any disclosure by the Receiving Party; (iv) was already in the possession of the Receiving Party before it was disclosed by the Disclosing Party; or (v) comes into the possession of Receiving Party by a third party that to the knowledge of Receiving Party had no obligation of confidentiality to the Disclosing Party, provided, however, Receiving Party shall notify Disclosing Party and maintain the confidentiality of said information, agreement, documents or other material. In the event that the Receiving Party is required by a governmental, judicial, regulatory or quasi-regulatory body, law, order, decree, agreement, rule, regulation or permit to disclose any or all of the Confirmation Information, it must first give the Disclosing Party prompt written notice of such requirements and cooperate in a commercially reasonable manner with the Disclosing Party (but at no cost to the Receiving Party) in such disclosure.

**13. No Violation.** [Allied Colo](#) covenants and agrees that this Agreement, the Services and all activities contemplated by this Agreement in no way conflict with, or result in any violation of, or constitute a default (or an event or condition which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or result in the creation or imposition of any encumbrance under, any contract, note, bond, mortgage, agreement, indenture, license, lease, commitment or other instrument or obligation to which [Allied Colo](#) is a party or by which the [Allied Colo](#) may be bound or affected.

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**14. General Terms.**

**(a) Applicable Law.** The Agreement shall be governed and construed in accordance with applicable federal law and the laws of the State of Texas exclusive of its choice of law provisions. The Parties hereby expressly agree to work together in good faith for a period of thirty (30) calendar days following written notice in order to resolve any and all disputes, disagreements and controversies that may arise under this Agreement prior to seeking any judicial resolution of any such disputes, disagreements or controversies. To the extent that any such disputes, disagreements and/or controversies remain unresolved to the mutual satisfaction of the Parties after such time, all remaining unresolved disputes, disagreements and controversies shall be resolved in the appropriate Texas state court in Dallas County, Texas. Customer consents to the jurisdiction and venue of such courts. In the event that suit is brought or an attorney is retained by either Party to resolve any such remaining dispute, disagreement or controversy or to enforce the terms of this Agreement, specifically including, to collect any money due hereunder or to enforce any of the rights and remedies granted to such Party hereunder, the Party that prevailed in such suit shall be entitled to recover, in addition to any other remedy, the reimbursement of all of the attorney's fees and expenses incurred by such Party in connection with such efforts.

**(b) Not a Lease.** This Agreement is a service agreement whereby Customer and Customer's agents are granted an exclusive, limited license to use and occupy the Customer Space for the sole purpose of installing, operating and maintaining the Customer Equipment and is not intended to, and does not, grant Customer or any Customer Related Party any interest in real estate. Customer acknowledges and agrees that it has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations or ordinances. Customer Equipment is not intended to be, and shall not be, considered to be, fixtures for purposes of applicable law. Customer Equipment is intended to be, and shall be considered to be at all times removable personal property of the Customer. Notwithstanding anything in this Agreement to the contrary, [Allied Colo](#) acknowledges and shall use its best efforts to ensure that Customer has an unrestricted right of access to the Customer Equipment at all times, provided Customer first gives [Allied Colo](#) reasonable notice.

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(c) **Relationship of Parties.** This Agreement does not create a partnership, joint venture, employment or agency relationship between the Parties. Neither Party shall have the authority to bind the other Party to any agreement, understanding or other instrument, in any manner whatsoever and shall not make any statements to the contrary.

(d) **No Third-Party Beneficiaries.** The representations, warranties, covenants and agreements of the Parties set forth in this Agreement are not intended for, nor shall they be for the benefit of or enforceable by, any third party or person not a Party other than the Related Parties and the [Allied Colo](#) Retained Providers to the extent provided herein. No such third party, expressly including any end user of the Customer, any other customer operating in the Facility or any end user of such other customer may enforce any of the rights and remedies granted to either Party by this Agreement.

(e) **Changes to [Allied Colo Policies](#) or Service Level Goals.** The Parties expressly agree that this Agreement includes and incorporates by reference for all purposes all of the terms and conditions of the following: [(A) the [Allied Colo Acceptable Use Policy](#) (which is posted at [www.AlliedColo.com](#)), (ii) the [Allied Colo Rules and Regulations](#) (which is posted at [www.AlliedColo.com](#)), and (iii) the [Allied Colo Security Policy](#) (which is posted at [www.AlliedColo.com](#)) (collectively, the "[Allied Colo Policies](#)" and individually, a "[Allied Colo Policy](#)") and (B) the service level goals (which are posted at [www.AlliedColo.com](#)) (collectively, the "[Service Level Goals](#)"). By accepting the Services from [Allied Colo](#) under this Agreement, Customer agrees that: (i) [Allied Colo](#) may change and/or restate any of all of the [Allied Colo Policies](#) after thirty (30) days following written notice to Customer and (ii) all such changes and restatements shall be deemed to be incorporated by reference herein for all purposes and legally binding upon Customer upon notice as described herein. [Allied Colo](#) will notify the Customer of such changes and restatements either by email or by inclusion in subsequent invoices. Any changes to the [Allied Colo Policies](#) must be applied uniformly to all customers of [Allied Colo](#).

(f) **Assignment; Binding Effect.** Neither Party may assign or transfer, voluntarily or by operation of law, whether in whole or in part, any of its obligations, rights or remedies under this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon the Parties and to the extent expressly provided herein, the Related Parties and the [Allied Colo](#) Retained Provider and in all instances, their respective successors and permitted assigns.

(g) **Notices.** Notices to be provided hereunder must be sent in writing by e-mail or first-class mail (postage prepaid, return receipt requested) to the appropriate contact point listed on the [Service Order Form](#) or at the addresses provided herein. All such notices are considered to have been made when received at such address of the intended recipient. Either Party may change its address for notice purposes by providing the other Party with notice of such change by complying with this [Section 14\(g\)](#).

(h) **Survival.** [Sections 2 - 6 and 8-14](#) are intended to, and shall, survive the expiration, nonrenewal or earlier termination of this Agreement to the fullest extent necessary for the Party that is the beneficiary of such provision to realize the full benefits intended thereby.

(i) **Further Assurances.** The Parties agree to execute and deliver any and all additional documents, agreements and instruments and to perform any and all additional acts that may be reasonably necessary or appropriate in order to effectuate and perform the transactions contemplated by this Agreement.

(j) **Counterparts/Facsimile Signatures.** This Agreement may be executed in counterpart, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed signature pages of this Agreement may be exchanged by facsimile transmission or as PDFs emailed to the other Party and all such signatures shall be treated as original signatures for all purposes hereunder.

15. **Entire Agreement.** This Agreement, together with the [Service Order Form](#), the [Allied Colo Policies](#) and the Service Level Goals, each of which are incorporated by reference herein for all purposes, constitute the entire agreement between the Parties relating to the subject matter described herein. Any prior agreements, promises, negotiations or representations, whether verbal or in writing, regarding the subject matter hereof are hereby revoked and shall no longer have any legal force or effect. No alteration or variation of the terms of any provision of this

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Agreement shall be valid unless made in writing and signed by a duly authorized representative of each Party. In the event that any one or more of the provisions of this Agreement shall for any reason be held to be illegal, invalid or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and shall remain in effect and be binding upon the Parties. Any provision so determined to be illegal, invalid or unenforceable shall be reformed to the extent necessary to affect the intent of the Parties hereunder to the fullest extent of the law. No course of dealing between the Parties and no failure to exercise any right hereunder shall be construed as a waiver of any provision hereof or prohibit either Party from subsequently exercising any of the rights and remedies granted to such Party by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Master Services Agreement to be executed by their duly authorized representatives as of the day and year first above written.

ALLIED COLO CUSTOMER

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Allied Colo, LLC [INSERT]

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Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State ZIP \_\_\_\_\_  
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