

Corporate Colocation Agreement

HNK Technology Services, Inc.
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www.hnkts.net

Start Date:

This Colocation Agreement (the "Agreement") is made by and between HNK Technology Services, Inc. ("HNK TECHNOLOGY SERVICES" or "us"), a New York corporation, with principal business offices at 351 Amsterdam Avenue Suite #2, New York, NY 10024 and _____ ("Customer" or "you"), a _____, with principle business offices at _____. This Colocation Agreement, together with the Service Level Agreement ("SLA") executed by the parties on this same date, and Customer Subscriber Agreement (the "CSA") between the parties shall together govern the provision of certain internet and product services (the "Services") by HNK TECHNOLOGY SERVICES to Customer. This Agreement is effective on the Start Date set forth above.

- 1- Term. This Agreement is effective on the Start Date set forth above, subject to a credit check, approval by HNK TECHNOLOGY SERVICES corporate management, and the availability of HNK TECHNOLOGY SERVICES facilities at your location(s). The first day of service shall be three (3) business days after the date on which HNK TECHNOLOGY SERVICES makes available the rented rack space (Space) and the network access to the Space, and notifies you of the availability of that Space for your Equipment (Actual Start Up Date). This Agreement shall automatically renew for successive periods equal in length to the initial term unless terminated.
- 2- Delivery and Setup. Except for HNK TECHNOLOGY SERVICES's assistance in identifying the Space and applicable rack(s), you, at your own expense, are solely responsible for yourself, or your third party agents, to order, deliver, unpack, and install the Equipment for use in the Space. You are required to provide HNK TECHNOLOGY SERVICES with at least 24-hour notice of the expected delivery and installation date.
- 3- License Grant / Access. Under this agreement, HNK TECHNOLOGY SERVICES grants you a non-exclusive license to install, operate, maintain and access the equipment in the Space as of the activation date. HNK TECHNOLOGY SERVICES reserves all rights not specifically granted to you under the above license, including the right to access the Space in emergency situations. The Space will be accessible to you 24 x 7 x 365. You can authorize up to four (4) individuals (see order form) to access the Space, subject to the terms and conditions listed here. No photo equipment, video or voice recording equipment, food or drink, or hazardous material shall be brought into the Data Center. Use of such items may result in suspension or termination of access rights.
- 4- Security. HNK TECHNOLOGY SERVICES shall limit access to the Space to Authorized Representatives and take reasonable security efforts to prevent unauthorized access to the Space. Only Authorized Representatives as listed on the CSA shall be granted access to the Space. Authorized Representatives may be added or removed at any time by notifying HNK TECHNOLOGY SERVICES in writing. Representatives may need to be accompanied. Such escorting may result in standard escort charges. All Data Centers have card key access, access documentation, and surveillance cameras. HNK TECHNOLOGY SERVICES shall not provide or guarantee any data back up or storage of your Equipment or content.
- 5- Acceptable Use. Customer's use of HNK TECHNOLOGY SERVICES's Network may only be for lawful purposes and is subject to Customer's compliance with HNK TECHNOLOGY SERVICES's Acceptable Use Policy, as amended from time to time (www.hnkts.net/legal.html). Customer hereby acknowledges that HNK TECHNOLOGY SERVICES's Data Transport Service is a Layer3 IP based connection. Service resale or use of the Service by service providers requires Customer to pay HNK TECHNOLOGY SERVICES's wholesale Service prices. Transmission of any material in violation of any law, regulation or HNK TECHNOLOGY SERVICES's Acceptable Use Policy is strictly prohibited. Access made to other networks connected to HNK TECHNOLOGY SERVICES's Network must comply with that network's rules. Customer shall indemnify and hold harmless HNK TECHNOLOGY SERVICES from any claims resulting from Customer's use of the Service or the use of the Service by any of Customer's end users or others throughout Customer's chain of distribution.
- 6- Service Interruption. HNK TECHNOLOGY SERVICES's sole obligation and Customer's exclusive remedy for failure of HNK TECHNOLOGY SERVICES's Network or the Service is outlined in the HNK TECHNOLOGY SERVICES SLA attached to this Agreement.
- 7- Power Specifications and Environmental Controls. HNK TECHNOLOGY SERVICES provides a continuous 24 x 7 non-switchable, single phase, 3 wire individually fused circuit, 120 VAC, 60 Hz, 20 Ampere per full rack. All racks are backed up by fully redundant Uninterruptible Power Supply (UPS) systems that condition power and protect servers from short-term power outages and surges. The Data Centers are supported by diesel-powered generators that can provide a minimum of three days auxiliary power in the event of a major power failure. The diesel generator may be refueled while operating. The Data Center fire suppression controls include smoke detection, gas suppression, and dry-pipe (2-stage) sprinkler systems. Data Center air conditioning uses the state-of-the-art HVAC cooling systems, redundant systems, redundant piping, and chilled water storage for back up.
- 8- Risk of Loss. You shall at all times before and during the term of this Agreement bear the entire risk of loss, damage, or destruction of the equipment or any part thereof, from any and every cause whatsoever, unless the loss, damage, or destruction was caused by or resulted from HNK TECHNOLOGY SERVICES's gross negligence or willful misconduct, in which case, HNK TECHNOLOGY SERVICES shall be liable for such loss, damage, or destruction.

- 9- Emergency Situations. In the event of an emergency that presents a substantial risk of a service outage, or damages to equipment or data belonging to HNK TECHNOLOGY SERVICES, a third party, the Data Center, or to any persons or property present therein, HNK TECHNOLOGY SERVICES may rearrange your Equipment (with the same care used by HNK TECHNOLOGY SERVICES in rearranging its own equipment) as is reasonably necessary to respond to the emergency; and only as necessary, HNK TECHNOLOGY SERVICES may disconnect Equipment if the emergency requires such disconnection to avoid damage. HNK TECHNOLOGY SERVICES shall use commercially reasonable efforts to notify you prior to rearranging the Equipment or disconnecting the Equipment, and in any case will notify thereafter. HNK TECHNOLOGY SERVICES will return the Equipment to the original Space (if rearranged) or re-connect the Equipment as soon as reasonably practicable given the emergency.
- 10- Relocation of Equipment. Relocation of the Equipment to another part of the Data Center, if requested by you and approved by HNK TECHNOLOGY SERVICES, shall be performed by you or your subcontractor at your own expense. HNK TECHNOLOGY SERVICES is not responsible for network access disruptions caused by Equipment relocation requirements. Further, should you request additional collocation Space after the initial order, and should you require that the original Space ordered and the new Space order be contiguously located (i.e., the two Spaces are next to each other), you may be required to move Equipment to a different location within the Data Center.
- 11- Termination. Either party may terminate the CSA and your use of the Service (a) at the end of any initial or renewal term by providing the other party with at least thirty (30) days written notice; or (b) except as otherwise stated herein, during any initial or renewal term if the other party breaches any material term or condition of this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice of the same. Except in the case of material breach by HNK TECHNOLOGY SERVICES, in the event you terminate this Agreement after the Actual Start Up Date, you agree to pay HNK TECHNOLOGY SERVICES within thirty (30) days of the termination date, as liquidated damages and not as a penalty, a single payment equal to the monthly recurring service fees multiplied by the number of months remaining in the initial Term or any renewal Term, as applicable, that have been unpaid, together with any court costs, legal, and collection agency fees HNK TECHNOLOGY SERVICES actually incurs in the collection of any actual or liquidated damages. You acknowledge that the actual damages to HNK TECHNOLOGY SERVICES caused by your early termination of this Agreement are uncertain and would be difficult to determine. You further acknowledge that these liquidated damages are reasonable and do not operate as a penalty. HNK TECHNOLOGY SERVICES will charge for reconnection of Service. All termination notices to HNK TECHNOLOGY SERVICES must be sent in writing to HNK Technology Services Incorporated, ATTN: Billing, at the address set forth below. HNK TECHNOLOGY SERVICES may restrict or suspend the CSA and your use of the Service at any time to the extent necessary to protect the HNK TECHNOLOGY SERVICES network from actions that are in violation of HNK TECHNOLOGY SERVICES's Acceptable Use Policy, with notification to you when such restriction or suspension is no longer necessary. Such restriction or suspension may continue through date of termination.
- 12- Removal of Equipment. Except as provided below, you shall remove all items of Equipment located in the Space within ten (10) business days of the date of termination of this Agreement. In the event the Equipment is not removed, such Equipment will be considered abandoned, and HNK TECHNOLOGY SERVICES may, without liability to you, remove the Equipment and charge you for such secured storage costs, plus any past due Service Fees. Acknowledging that HNK TECHNOLOGY SERVICES is providing Services in expectation of payment, in the event of your default and refusal to pay liquidated damages, or following any termination for nonpayment of Service Fees, HNK TECHNOLOGY SERVICES may deny you access to the Space, and itself remove Equipment. If payment of amounts owed is not made within a thirty (30) day period after receipt of notice of default or termination and request for payment, HNK TECHNOLOGY SERVICES will exercise all rights of ownership over such equipment.
- 13- Insurance. Customer shall provide proof of insurance prior to installation of Equipment in the Space and maintain such insurance at all times during the initial and any renewal Term of this Agreement and during any ten-day removal period pursuant to Section 12. Proof of insurance shall be provided by delivery of certificates of insurance to HNK TECHNOLOGY SERVICES 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-:
 - a. Worker's compensation insurance complying with the law of the state in which each Space to be used by you is situated, regardless of whether you are required by such law to maintain worker's compensation insurance, and employer's liability insurance with the limit of \$1 million per employee; and
 - 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 your operations, in the amount not less than \$1 million combined single limit per occurrence; and
 - c. Standard form property insurance insuring against the perils of fire, vandalism, and malicious mischief extended coverage ("all risk") covering Equipment located in the 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.
 - e. Excess or umbrella liability coverage with a combined single limit of \$1 million per occurrence to be excess of (a) and (b).

HNK TECHNOLOGY SERVICES and its landlord for each Data Center shall not insure or be responsible for any loss or damage to property of any kind owned or leased by you or your employees, servants, and agents, including but not limited to the Equipment, provided that HNK TECHNOLOGY SERVICES shall be responsible for any loss or damage to property caused by or resulting from HNK TECHNOLOGY SERVICES's gross negligence or willful misconduct. The maintenance of insurance by you shall not affect or limit the extent of your liability under this Agreement. HNK TECHNOLOGY SERVICES, 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 canceled, non-renewed or decreased, during the initial or any renewal term of the Agreement or during any ten-day removal period pursuant to section 10 of this Agreement, without at least thirty (30) days written notice to HNK TECHNOLOGY SERVICES. Any insurance policy covering the Equipment against loss or physical damage shall provide that such insurance shall be primary and noncontributing with any other insurance available to HNK TECHNOLOGY SERVICES.

- 14- Service Rates and Charges. The rates and charges for the Service are set forth in the CSA. You agree to pay all fees and charges incurred on your account, including any and all city, municipal, state, provincial or federal taxes and surcharges (except those based on HNK TECHNOLOGY SERVICES's income), whether imposed on HNK TECHNOLOGY SERVICES or directly on you. You are responsible for property tax due for the Equipment. HNK TECHNOLOGY SERVICES reserves the right to change the rates and charges for any renewal term by providing you thirty (30) days written notice in advance of the effective date of the change.
- 15- Billing and Payment. Billing is invoiced monthly in advance and will commence on the Actual Start Up Date. You agree that any additional HNK TECHNOLOGY SERVICES services requested will incur additional fees/charges, and you agree to pay these fees/charges when invoiced. Accounts are in default if payment of all amounts due is not received within forty five (45) days after date of invoice, and are subject to an interest rate on the outstanding balance of either 1.5% per month or at the maximum allowable rate under applicable law, whichever is lower. Accounts unpaid sixty (60) days after date of invoice may have the Service interrupted or terminated. Failure to pay or any other Customer default does not relieve you of the obligation to pay for the Service. Only a written request to terminate your Service, in accordance with these Terms, relieves you of your obligation to pay for the Service. If you default, you agree to pay HNK TECHNOLOGY SERVICES its reasonable expenses, including legal and collection agency fees, incurred in enforcing its rights.
- 16- You agree that you will lose all rights upon the selected services in case of a charge back by your credit card company, credit card fraud or any other reserved payment. InetServices will decide at its sole discretion whether to hold the services in its own portfolio or to release it. Since you have waived your rights to a credit card charge back under this Agreement, if you dispute a charge to your credit card issuer under the provisions of this Agreement you agree to pay InetServices an "Investigation Fee" of \$1000.00.
- 17- Responsibility for End Users. You shall be solely responsible for providing customer services, technical support, pricing and service plans, billing and collections, and any and all other services to your End Users, and HNK TECHNOLOGY SERVICES shall have no obligations whatsoever to End Users under this Agreement.
- 18- INDEMNIFICATION OF HNK TECHNOLOGY SERVICES. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS HNK TECHNOLOGY SERVICES AND ITS AFFILIATES AGAINST ANY AND ALL CLAIMS, EXPENSES, LIABILITY OR SUITS THREATENED, MADE, OR BROUGHT IN RELATION TO OR ARISING FROM (I) YOUR DESIGN, CREATION, PROVISION, DISTRIBUTION OR USE OF INFORMATION AND TECHNOLOGIES IN YOUR CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY RELATED COPYRIGHTS, TRADE SECRETS, TRADE NAMES, PATENTS, OR OTHER INTELLECTUAL PROPERTY RIGHTS, OR (II) YOU OR YOUR END USERS' VIOLATION OF LAWS PROHIBITING OBSCENITY, DEFAMATION, HARASSMENT, OR ANY OTHER LAWS, RULES, REGULATIONS, INTERNET OR OTHER COMMUNITY POLICIES, PRACTICES, OR STANDARDS, OR INTERNATIONAL TREATIES IN EFFECT IN ANY COUNTRY OR JURISDICTION IN WHICH THE CONTENT CAN BE VIEWED OR RETRIEVED; OR (III) ANY OTHER ACTS OR OMISSIONS OF YOU AND/OR YOUR END USERS THAT RESULT, DIRECTLY IN CLAIMS OR LOSSES ATTRIBUTABLE TO SERVICE OUTAGES INCURRED BY HNK TECHNOLOGY SERVICES OR HNK TECHNOLOGY SERVICES'S CUSTOMERS, OR DAMAGES TO EQUIPMENT OR DATA BELONGING TO HNK TECHNOLOGY SERVICES OR TO OTHER CUSTOMERS OF HNK TECHNOLOGY SERVICES OR HNK TECHNOLOGY SERVICES DAMAGES TO THE DATA CENTER OR TO ANY PERSONS OR PROPERTY PRESENT THEREIN.
 - a. INDEMNIFICATION OF CUSTOMER. HNK TECHNOLOGY SERVICES AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS CUSTOMER AND ITS AFFILIATES AGAINST ANY AND ALL DAMAGES AND LOSSES TO PROPERTY OR PERSONS CAUSED BY OR RESULTING FROM HNK TECHNOLOGY SERVICES'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PERFORMING SERVICES UNDER THIS AGREEMENT.
- 19- DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY. HNK TECHNOLOGY SERVICES MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HNK TECHNOLOGY SERVICES WILL NOT BE RESPONSIBLE FOR ANY DAMAGES SUFFERED BY YOU OR ANY OTHER PARTY (INCLUDING ANY SUBSCRIBERS TO OR USERS OF ANY SERVICES PROVIDED BY YOU), INCLUDING LOSS OF DATA RESULTING FROM DELAYS, NONDELIVERIES, OR SERVICE INTERRUPTIONS. HNK TECHNOLOGY SERVICES EXERCISES NO CONTROL WHATSOEVER OVER THE CONTENT OF THE INFORMATION PASSING THROUGH ITS NETWORK OR OVER THE INTERNET. USE OF ANY INFORMATION OBTAINED OVER THE HNK TECHNOLOGY SERVICES NETWORK OR THE INTERNET IS AT YOUR OWN RISK. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES. HNK TECHNOLOGY SERVICES SPECIFICALLY DENIES ANY RESPONSIBILITY FOR THE ACCURACY OR QUALITY OF INFORMATION OBTAINED THROUGH ITS SERVICE. IN NO EVENT WILL HNK TECHNOLOGY SERVICES'S LIABILITY FOR ANY CLAIM (WHETHER IN TORT, CONTRACT, OR OTHERWISE) EXCEED THE AMOUNT PAID BY YOU FOR THE SERVICE IN THE PRIOR TWELVE (12) MONTHS.
- 20- Force Majeure. Except for obligations requiring the payment of money, neither party shall be liable for delay in performance hereunder due to causes beyond its reasonable control; provided that such party shall give notice to the other party of any actual or anticipated delay, shall take steps to minimize any such delay and overcome its effects, and shall promptly resume performance when the cause of such delay is removed.
- 21- Assignment. Neither party may assign this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld under any circumstances; provided, however, that consent shall not be required in the event of any assignment to an entity acquiring substantially all of the assets of the acquired party. Notwithstanding any permitted assignment of this Agreement, the assigning party shall remain liable to the other party for all of its obligations under the provisions of this Agreement unless the consent provides otherwise.

22- Final Agreement. These Terms and any modifications by HNK TECHNOLOGY SERVICES as specified herein supersede all previous representations, understandings or agreements and shall prevail notwithstanding any variances with terms and conditions or any order submitted. Use of HNK TECHNOLOGY SERVICES's data center space and network constitutes acceptance of these Terms.

23- This Agreement for Service is made pursuant to and shall be construed and enforced in accordance with the laws of the State of New York without regard to its choice of law principles. Any action arising out of or related to this Agreement shall be brought in the State or Federal courts located in New York County, and each party consents to the jurisdiction and venue of those courts.

Customer

HNK Technology Services, Inc

By: _____

By: _____

Date: _____

Date: _____