

Master Services Agreement

85Under is pleased to have you as a customer. This Master Services Agreement (Agreement) sets out our respective roles and responsibilities. In this Agreement, 85Under, a division of PC Net, Inc., is referred to as “85Under,” “we,” “us,” or “our.” The party to whom we are providing the Services is referred to as “you” or “your.” The Effective Date of this Agreement is the date we install the Services for you.

In addition to this Agreement, there may be additional agreements that we each agree to be bound by. In addition to any addenda that have been attached to this Agreement, we each agree to be bound by 85Under’s Service Level Agreement (SLA), Acceptable Use Policy (AUP), Microsoft SPLA (SPLA) and Privacy Policy. Links to these documents are set out below. When you sign this Agreement, you acknowledge that you have read each of them, and agree to be bound by them. Each of these agreements is incorporated into this Agreement by reference. Unless the context requires otherwise, all agreements that bind the parties are referred to collectively as the “Agreement.”

We may modify this Agreement unilaterally in the following circumstances:

1. We are required to do so by law;
2. We determine that a particular use of the Services endangers us, our ability to provide the Services in general, or other customers; or
3. Upon the expiration of a Term, as defined in paragraph 4, provided we provide you with thirty calendar days’ written notice of the new terms.

Our AUP and Privacy Policy may have different modification terms. Please review them.

1. The Services we agree to provide to you.
 - a. The services, software, hardware, equipment and professional services we agree to provide to you are set out on our written statement of services (Order Form). Collectively, they are referred to in this Agreement as the “Services.” Individually, they are referred to by the names set out in the Order Form.
 - b. We agree to provide the Services to you on a commercially reasonable basis, as set out in our SLA. Our SLA provides your remedies for any deficiencies in the Services, and you agree that the SLA is your sole and exclusive remedy for any such deficiency.
 - c. The Services are configured for standard deployment in our network. It may be necessary for you to configure them to meet your specific needs. If we agree to configure the Services for you, or otherwise provide professional services to you, those efforts will be governed by the “Professional Services” section of this Agreement.
 - d. From time-to-time we may offer you the opportunity to purchase additional products and services offered by third parties (Optional Services). Optional Services are not provided by us, and are subject to the agreements provided by the third parties. You agree to be bound by the terms of these third party agreements, and agree that we may enforce them. If,

notwithstanding this paragraph, it is determined that we are responsible for the Optional Services, they will be governed by the following paragraphs: 8(h), 9, and 11(f).

- e. For the Term, we grant to you a non-exclusive, non-transferable, worldwide, royalty-free license to use the intellectual property that is necessary, and limited, to your access and use of the Services (License). To the extent that any of the Services incorporate items provided by Microsoft, they are also governed by the SPLA. This License is provided with “Restricted Rights” applicable to private and public licensees, including restrictions on use, duplication or disclosure by the U.S. Government as set forth in this Agreement and as provided in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software Restricted Rights at 48 CFR 52.227-19, as applicable.
- f. Changes to the Services must be made in writing, and agreed to by the parties. However, from time-to-time we may make minor, non-material changes to the Services. You agree that we may make these changes, without notice to you, and doing so shall not be a breach of this Agreement. Should it be necessary for us to make a material change to the Services, we agree to notify you in writing no fewer than thirty calendar days prior to our intended change. Should you not object to this change in writing within this thirty-day period, you will be deemed to have accepted the change. If you do present us with a written objection to the change, within the thirty day period, you may terminate the affected Services without penalty or charge. In the case of platform changes, we agree to provide notice to you and only implement such changes after your renewal of the Term. Entities providing services to us may have reserved the right to make changes in those services, including material changes. If we are unable to secure substitute services with commercially reasonable terms, we may terminate the affected Services. Should we do so, we agree to refund any Fee paid by you for the affected Service, prorated by the time you used them. This shall be your only remedy for such a termination. Either we, or third parties, may stop supporting elements of the Service in favor of updated versions (End of Life). You agree that we shall have no obligation to you to provide support to End of Life elements of the Service, and may, at our discretion, require you to cease using them, or upgrade to a newer version at your expense.
- g. If we provide equipment to you as part of the Services, this equipment is leased, and not sold. You agree that you will not take any action that is contrary to the interests of the owner of the equipment.
- h. If we provide an IP address to you, it is leased, and not sold. It may be necessary to change this address from time-to-time. We agree to provide you thirty calendar days’ notice of such a change, unless an emergency requires us to change it sooner. When your use of the Services associated with an IP address ceases or terminates, your use of the IP address will also terminate.
- i. We take the security of the Services seriously, and will use industry standard methods to secure them. However, many of the resources associated with the Services are co-managed with you. You are solely responsible for the security of those aspects of the Services that are co-managed, and agree to manage them in a way that does not impact the security of our network as a

whole. The Services are configured for standard deployment. This configuration may not meet your security needs. It is your responsibility to configure the Services to meet your Security needs. We are not responsible for the manner in which you customize the configuration to suit your needs, or its results. Should we determine that there has been unauthorized access to the Services (Breach), we agree to notify you in writing as soon as the Breach is detected by us (Breach Notification). We may take action, including suspending all, or part of the Services, to isolate and mitigate the cause of a Breach. We have no liability to you for the effects of that suspension. The Breach Notification may contain preliminary and unconfirmed information; however, it is provided to you to assist in your efforts to mitigate the effects of a Breach. To the extent you rely on a Breach Notification, you do so at your own risk. We each agree to reasonably cooperate with each other to investigate the facts and circumstances involved in a Breach. To the extent our cooperation requires us to devote time and resources above and beyond those extended by us in conjunction with a typical Breach investigation, or should we be asked to cooperate with a governmental investigation, you will be billed at our standard consulting Fees. Any information we provide to you in conjunction with a Breach, including the Breach Notification, shall be our Confidential Information.

- j. We agree that the material you place on our Services is not our property, and is yours, your licensor's or another party's. Unless you agree otherwise in writing, we shall have no right, title, claims or interest in this property, other than a license to use it to provide the Services. We further agree not to decompile, disassemble or reverse engineer this property, or grant any other person or entity the right to do so unless necessary to provide the Services.
- k. If we provide dynamic Services, such as "cloud" services, to you, your incoming and outgoing bandwidth will be monitored, combined and you will be charged the Fees set out in this Agreement.
- l. Dynamic Services may have limitations on both the bandwidth and/or throughput you may use. These limitations are generally set out on your Order Form. However, you may not use the Services in a way that jeopardizes our ability to provide services to other customers, or the stability of our network. Should we determine that you have used the Services in this manner, we reserve the right to limit your use of the Services to minimize these effects. Following our limitation of this use, we will notify you in writing of steps you may take to mitigate these effects. If you do not accept these steps, we reserve the right to impose permanent limitations on your use of the Services.
- m. Backup Services
 - i. The Order Form describes the Backup Services that may be purchased separately from the Services. If you purchase off the shelf Backup Services, we have designed those Backup Services in a general manner. It is your responsibility to configure them to serve your unique needs. If you purchase custom Backup Services, we will rely on your instructions to configure those Backup Services. You agree to release us from liability should these instructions be incomplete, or fail to provide us with sufficient information to configure custom Backup Services that may have captured particular data.

- ii. Backup Services are provided on an as-is and as-available basis, as a supplement to, and not in lieu of, your own backup efforts. While we will use commercially reasonable efforts to ensure the effective operation of the Backup Services, you expressly agree that no backup program or service is error-free or fail-safe.
 - iii. Backup Services are expressly subject to paragraphs 8 and 9. In the event of an interruption or failure of Service, our only obligation is to restore your server to operating condition. It is your responsibility to restore the functionality of your website. You may wish to maintain an operating copy of your website for this purpose.
 - iv. Backup Services are designed for disaster recovery. Should you, or a third party, request that data held by us using the Backup Services be used for a purpose other than disaster recovery, for example in litigation, we have no obligation to provide the data to you. Should we determine, in our sole and exclusive judgment, to provide the data to you, or should your data be subpoenaed, or disclosure of it otherwise compelled, it will be provided at our convenience and you will be charged our prevailing hourly rate. You will also be responsible for any attorneys' fees we incur in reviewing, responding to, or producing your data, and required to pay us a retainer to secure your obligations.
- n. Dedicated Services
- i. The Order Form describes the Dedicated Services that may be purchased separately from the Services. We agree to sell to you the amount of bandwidth specified in your Order Form. Your site will be the only site operating on the equipment we use to provide the Dedicated Services; however, we or our lessors will retain ownership in this equipment.
 - ii. We will install equipment necessary to provide the Dedicated Services in our data center as set out on your Order Form.
 - iii. Connection to our network – you have the right to connect to our network, using the equipment, on a 24 x 7 basis, limited by this Agreement.
 - iv. We will provide, at no cost to you, one primary IP address by default, which will be subject to change according to the policies set forth in Section 1(h). We work under the ARIN policy of allocation of IP address space and may only provide IP addresses to customers if they adhere to ARIN's terms and conditions.
- o. Colocation Services
- i. If you purchase Colocation Services from us, we grant you a license to occupy the space defined by our best effort of efficient allocation. The Space is located in a data center leased by us (Data Center). You are only granted a license to occupy the Space. You will have no ownership rights in the Space or Data Center.
 - ii. The license set out above gives you the right to colocate hardware, software and other equipment owned, licensed or leased by you (Your Equipment), or your authorized

designees, to receive Colocation Services provided by us, and provide your own services, in the Space. You may occupy the Space and place Your Equipment in it, at your own expense.

- iii. We agree to perform such environmental systems and power plant maintenance and janitorial and other services as are reasonably required to maintain the Space and Data Center in a manner in which a reasonable user of colocation services would expect to find them. Should you have specific maintenance or environmental needs, you agree to provide them to us in writing, and we have no obligation to agree to provide those services to you. Except as expressly provided in this paragraph 1(o)(iii), the Space shall be delivered and accepted “as-is.”
- iv. The Data Center will be monitored twenty-four hours per day, seven days per week, with card key access, vehicle gate access outside the underground facility, all visitors must be prescheduled and escorted, 24 x 7 x 365 Live Guard – continuously monitored video across the facility, man-trap (photo on file comparison with card holder, card ID, biometric) access into the facility, segmented secure areas, buildings, cages and racks – card ID and pin pad access control, non-badge (card ID) holders (visitors) must provide photo ID even when escorted and conditioned power using UPS systems with back-up power generator capability.
- v. If you fail to pay us any amounts due for the Colocation Services, we may terminate your use of the Space, disconnect and remove any or all of Your Equipment from the Space (including any data and/or software thereon), place a lien on Your Equipment and store any of Your Equipment for a period not to exceed three months, and assess you reasonable charges for such storage. Upon conclusion of the applicable storage period, we may, at your expense, dispose of Your Equipment in any manner we determine, with any proceeds applied to any unpaid amounts owed to us and the excess, if any, donated to charity. Exercise of any of the foregoing rights by us shall not relieve you of any of your payment obligations under this Agreement.
- vi. The Data Center is not owned by us. Our landlord may require you to comply with requirements of any lease, mortgage or other similar underlying agreement or instrument related to or encumbering the Data Center. You agree to do so at your own expense, and upon our reasonable request.
- vii. We may require you to relocate Your Equipment. We will provide you with at least thirty calendar days prior written notice of our need for you to move Your Equipment, but, in the case of an emergency, we may require you to relocate it sooner. We will bear the reasonable costs of packing, unpacking and transporting Your Equipment for any relocation required by us. We will use commercially reasonable efforts to minimize interruption of the Colocation Services during such relocation.
- viii. We do not insure Your Equipment. During the Term, you shall maintain insurance coverage with reputable insurance companies with a Best Rating of no less than “A,” which are licensed to do business in the state in which the Space is located as follows: (a)

Commercial General Liability insurance of at least \$1 million per occurrence for bodily injury and property damage or loss, covering your activities hereunder, naming us as an additional insured; (b) “all risk” property insurance or adequate self-insurance covering all Your Equipment; and (c) legally required workers’ compensation insurance and Employer’s Liability insurance in an amount not less than \$500,000 each accident. Such insurance policies shall be primary and noncontributing with respect to any policies carried by, and shall deny the insurer/underwriter any rights of subrogation against, us. You waive any rights of subrogation or recovery against us for damage or loss to its property.

p. Managed Services

- i. Managed Services may be purchased separately from the Services.
- ii. We will use commercially reasonable efforts to provide you with the services specified in the Managed Services plan you select during the Term.
- iii. The support you are eligible to receive is determined by the plan you select. The support included in each plan is set out on the Order Form. The amount and type of support may be changed at any time without notice. While we strive to provide the highest level of support for the Services, you are ultimately responsible for the final result and condition of the Services.
- iv. You agree and understand that Managed Services and/or related support may not be available at certain times as a result of technical difficulties, equipment malfunctions, during scheduled maintenance, or as a result of circumstances beyond our reasonable control. You also understand and agree that we make no representation that Managed Services and/or related support will be available on a continuous or uninterrupted basis.
- v. Your acceptance of this Agreement authorizes us to log in and access your server as necessary for installing and configuring the Managed Services, for general server maintenance, and for other purposes reasonably required by us to provide the Managed Services to you.
- vi. Monitoring: Pulse85 see <http://www.85under.com/support>
- vii. Software Patches: We will monitor and install any third-party software that is in a stable branch of a repository base package system (Patch). These “patch” installations shall be completed within seven calendar days of the software release, or as requested by you if you decline scheduled patches.
- viii. Firewall Settings: We will select all your initial firewall settings for Managed Services. You may request changes to your initial firewall settings by submitting a ticket (through ServerPortal.com). If approved, your initial firewall settings will be changed within twenty-four hours after our receipt of your ticket. Our breach of this guarantee will be referred to as a “Firewall Setting Interruption.”

q. Domain Name Services

- i. We provide domain name registration services (Domain Services) to you through our third party vendor, Registrar Inc. (Registrar). By purchasing domain name services through us, you are bound by the Registrar terms and conditions, which can be found at www.Registrar.com/terms/default.asp and are hereby incorporated into this Agreement. We strongly encourage you to review the Registrar terms and conditions prior to your purchase of the Domain Services.
- ii. You understand and agree that your domain name is not actually registered until you receive a registration confirmation from us. We have no liability for the failure of a domain name to register during the registration process.
- iii. It is your responsibility to maintain, secure, update and keep strictly confidential all domain name login IDs and passwords.
- iv. You must provide certain current, complete and accurate account and WHOIS information for your domain name(s). You must maintain and update this information as needed to keep it current, complete and accurate. You agree and understand that WHOIS information will be made public and that WHOIS information is not subject to our Privacy Policy.
- v. Only you, and not us or Registrar, are not responsible for determining whether the domain name(s) you select, or the use you or others make of the domain name(s), infringes the legal rights of others. It is your responsibility to know whether or not the domain name(s) you select or use or allow others to use infringe the legal rights of others.
- vi. Registrar may reject your domain name application, or discontinue providing Domain Services to you, for any reason within thirty calendar days of a Domain Service initiation or renewal. Outside of this period, Registrar may terminate or suspend the domain name at any time for cause, which, without limitation, includes: (i) registration of prohibited domain name(s); (ii) abuse of the domain name; (iii) payment irregularities; (iv) allegations of illegal conduct; (v) failure to keep your account or WHOIS information accurate and up to date; (vi) failure to respond to inquiries from Registrar for over ten calendar days; or (vii) if your use of the Domain Services involves us in a violation of any third party's rights or acceptable use policies, including, but not limited to, the transmission of unsolicited email or the violation of any copyright. No refund will be made when there is a suspension or termination of Domain Services for cause.
- vii. At any time and for any reason, Registrar may terminate the Domain Services thirty calendar days after sending a notice of termination via mail or email to the WHOIS contact information for your domain name registration. Following notice of termination other than for cause, you must transfer your domain name within such thirty day notice period or risk that Registrar may delete your domain name, transfer the registration services associated with your domain name, or suspend or modify Domain Services related to your

domain name. If Registrar terminates the Domain Services for a reason other than cause, it will provide a pro-rata refund of your fees.

- viii. Registrar/ we will notify you when renewal fees are due. It is your responsibility to keep current payment details on file with us. We have no liability should your domain name registration lapse because either we, or our partners, are unable to process your payment information.
- ix. Registrar owns all database, compilation, collective and similar rights, title and interests worldwide in its domain name database, and all information and derivative works generated from the domain name database.
- x. YOU REPRESENT AND WARRANT THAT NEITHER THE REGISTRATION OF A DOMAIN NAME, NOR THE MANNER IN WHICH IT IS DIRECTLY OR INDIRECTLY USED, NOR THE USE OF OTHER OF THE DOMAIN SERVICES, INFRINGES THE LEGAL RIGHTS OF A THIRD PARTY OR WILL OTHERWISE SUBJECT REGISTRAR OR US TO A LEGAL CLAIM. THE DOMAIN SERVICES ARE INTENDED FOR USE BY PERSONS WHO ARE AT LEAST 18 YEARS OLD AND BY USING THE DOMAIN SERVICES, YOU REPRESENT AND WARRANT THAT YOU ARE AT LEAST 18 YEARS OLD AND ALL INFORMATION PROVIDED BY YOU IN CONNECTION WITH YOUR PROCUREMENT OF THE DOMAIN SERVICES IS ACCURATE. ALL DOMAIN SERVICES ARE PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS.

r. Support Services

- i. We offer three levels of support for our Services: (i) Pulse85 IT Outsourcing; (ii) 85Under Silver; and (iii) 85Under Bronze. The level of support you have elected is set forth on your Order Form.
- ii. Pulse85 IT Outsourcing: We manage and monitor your network, systems, back-up and connectivity as your outsourced support team.
- iii. 85Under Silver: We provide you with 24/7/365 access to our support team. During normal business hours (8am-6pm, M-F, Central Time), our response time is 30 minutes; at other times, our response time is 1 hour.
- iv. 85Under Bronze: At no additional cost, we provide you with access to our support team for basic services. Response time is 1 hour during normal business hours.

t. Professional Services

- i. Should we provide Professional Services to you, we do so as an independent contractor.
- ii. The specific terms of any purchased Professional Services can be found on the Statement of Work (SOW). We agree to perform the Professional Services as set forth in the SOW, with reasonable time, effort and skill. The terms of this Agreement and the SOW shall

govern the Professional Services, but should they be in conflict, the SOW shall take priority.

- iii. You agree to provide us with all information and access to key personnel required for us to perform the Professional Services. We are not responsible for any delay caused by your delay or failure to provide us with such information and/or access. It is your responsibility to obtain and provide us with confirmation of any consents necessary for us to perform the Professional Services. Should you fail to do so, and we are unable to perform the Professional Services as a result, you will remain responsible for the full amount of the Fees.
- iv. Fees for Professional Services must be paid in full prior to commencement of the work.
- v. You agree to reimburse us for all reasonable out-of-pocket expenses for the Professional Services. We will bill you at cost for expenses necessary for us to uphold our obligations under the SOW.
- vi. If set out in the SOW, we shall have the authority to act as your agent solely for the procurement of goods and services necessary for us to perform the Professional Services.
- vii. With the exception of third party software and Our Work, defined below, you are the owner of the products of the Professional Services. Other than Our Work, and third party software, upon our receipt of full payment of the Fee, the Professional Services shall be works made for hire. Certain elements of the Professional Services may be based on our prior work (Our Work). We retain all rights in Our Work, including, but not limited to, content management system, website structure, coding and scripts. Our Work does not include content you provide to us to facilitate the Professional Services. Upon our receipt of full payment of the Fee, we grant you a perpetual, nonexclusive license to transmit, display and otherwise use Our Work solely to the extent it is incorporated into the Professional Services. All other rights in the Professional Services not expressly granted to you in this Agreement. You may not copy, modify, adapt, alter, translate, distribute, sublicense, lease, reverse engineer, decompile Our Work. The license set out in this paragraph shall terminate upon termination or expiration of this Agreement.

2. Your Obligations

- a. Operation of the Services requires cooperation. You agree to provide us with up-to-date contact, billing and other similar information. Should you fail to do so, and the Services be impacted by that failure, we shall have no liability to you. You also agree to provide us with all information we request that is necessary for us to implement the Services, or to ensure that we are in compliance with applicable laws, regulations and licenses. You agree to instruct any third parties associated with you to do so as well.

- b. The Services are not static, and may require that you install new versions of software, firmware or other items to ensure their continued function (Updates). You agree to install these updates within thirty calendar days of our request. If you do not install the Updates, and doing so endangers the Service, or our network, you agree that we may do so without liability to you.
- c. The security of your passwords and other access devices is your responsibility. We shall be entitled to rely on the instructions, or operations, of any entity accessing the Service using your passwords and/or access devices. You agree to notify us immediately should any of these items become lost, stolen or compromised.
- d. You understand and agree that it may be necessary for you to procure third party licenses to use aspects of the Service. You agree to do so at your own expense, provide us with written evidence of these licenses, and indemnify us should you fail to have them. You agree to use the Services in compliance with our AUP, and to flow down to those using the Services through you (End Users), terms that are no less protective of our interests as those set out in the AUP. It is your obligation to determine whether your End Users' use of the Services complies with the law and the AUP. We may suspend or terminate the Services if we determine that they are being used contrary to law and/or our AUP. We agree to give you prior written notice of our intent to do so, and an opportunity to facilitate the cessation of such a use, unless doing so would endanger our business.
- e. You agree that the Services, including, but not limited to, any software, firmware, network design, product integration or other intellectual property, is not your property, and is ours or our licensor's. Unless we agree otherwise in writing, you shall have no right, title, claims or interest in this property, other than a license to use in conjunction with the Services. You further agree not to decompile, disassemble, or reverse engineer this property, obscure any notices placed on it, or grant any other person or entity the right to do so unless necessary to use the Services.
- f. Unless you purchase managed patch services from us, it is your responsibility to maintain the patches and install updates, necessary for continued operation of the Services.
- g. It is your responsibility to back up your data. While we offer backup services, these services are neither perfect nor failsafe.

3. Fees and Payment

- a. The fees and charges for the Services are set out in the description of Services (Fees). Invoices shall be emailed to the email address we have on file for you. You agree to pay the Fees, without deduction or set off, by the date set out on the invoice (Due Date). If the invoice does not contain a Due Date, the Fees shall be due twenty eight days from the date set out on the invoice. Prepaid Fees must be received by us prior to the Due Date or the Service may be suspended. Fees that are usage based, such as bandwidth usage, and optional services, may be billed in arrears, and may not appear on an invoice in the month in which they are provided. You agree to pay these Fees regardless of when they are billed, or how they are calculated. You are responsible for usage based fees even if they accrue because of unauthorized third party

activity, unless it was our sole and exclusive obligation to prevent such activity from taking place. Fees charged to a credit card may be charged prior to the Due Date.

- b. From time-to-time we may offer special discounts on our services. These special discounts do not apply to previously purchased Services, and any special discounts we provide to you shall apply only to the Initial Term of the Service for which the special discount is given.
- c. If you purchase additional Services from us, we may increase the Fees on a pro-rated basis based on the Effective Date of these Services.
- d. If we agree to reduce the Fees from our standard Fees, this reduction will apply only during the Initial Term. After the Initial Term, the reduced Fees shall revert to our then standard Fees.
- e. Fees are billed, and will be paid, in U.S. dollars in immediately available funds. We accept payment via credit card, e-check and check. Should you place a credit card on file for us, we shall automatically charge the card upon renewal of the Term. If payment for the Fees is not made, we may suspend the Services and, in the case of Colocation Services, place a lien on Your Equipment. It is your responsibility to ensure that you provide us with up-to-date payment information so that we may collect the Fees. Fees that are not paid by the Due Date will accrue interest at the highest lawful rate until paid, and any special discounts applied to them will be removed. Should it be necessary for us to engage an outside entity to collect the fees, you will be responsible for their costs, including, but not limited to, reasonable attorneys' fees. Services suspended for non-payment may be assessed a reinstatement charge of \$250. If you initiate a credit card chargeback, and we successfully challenge that chargeback, according to the issuing authority, you will be charged a \$300 investigation fee.
- f. If you purchase pre-paid Services from us, and have a balance at termination, this balance will be refunded to you using the original form of payment. We are not responsible for any changes assessed by your payment provider as a result of a refund, or currency fluctuations.
- g. Your use of the Services may be contingent on payment of fees to Third Party Vendors. If you fail to pay these Fees when due, your use of the Services may be suspended, disrupted or terminated.
- h. Unless set out in this Agreement, Fees are non-refundable. If an SLA applies, any compensation you receive will be credited against the next month's Fees, or, if you have prepaid Fees, the next prepayment will be reduced accordingly. If you terminate a Service before a full SLA credit is applied, the SLA credit will be forfeited.
- i. We strive to provide accurate invoices. If you believe there are inaccurate Fees, it is your obligation to notify us in writing within thirty days of the Due Date (Dispute Deadline). Your notification must have sufficient facts for us to investigate the dispute. If you do not provide us with written notice prior to the Dispute Deadline, the Fees will be deemed correct, and you have waived your right to dispute them. If we receive the notice prior to the Dispute Deadline, we will investigate your claim in good faith, and provide you with a written response within sixty calendar days. If we agree with your notice, we will credit your Fee on its next Due Date. If we

disagree, we will notify you in writing, and provide you with support for our decision. If you disagree with this decision, you may pursue your remedies at law.

- j. Out of pocket expenses shall be billed to you and due upon billing terms.

4. Term

The term for the individual Services shall commence on the installation date, as set forth in the Order Form (Initial Term). After the Initial Term, each individual Service shall automatically renew for one year (Renewal Term), unless you provide us with written notice of termination (by email or letter) at least sixty calendar days prior to expiration of the then current term. The Initial Term and Renewal Term are referred to collectively in this Agreement as the "Term."

5. Expiration and Termination

- a. You are required to terminate the Services by sending us a letter or email to the address set out in section 11(e). You are required to provide us with your termination notice no later than sixty calendar days before the expiration of a Service's Term. We will acknowledge receipt of your termination notice in writing. If we do not acknowledge your notice, it is your obligation to contact us immediately, to avoid renewal of the Term.
- b. We may terminate the Term of a particular Service, or this entire Agreement, for convenience, upon thirty calendar days' written notice to you. Upon such termination, we will refund any pre-paid Fees, pro-rated by the number of days you used the Services.
- c. Either party may terminate this Agreement for a material breach. Such a termination shall be effective five calendar days after a party's written notice of such a breach (either by mail or email), and failure to cure. A party may terminate a Service immediately for a material breach, if a material breach grossly endangers the operation of their business, or is incapable of cure. If we terminate a Service, or this Agreement for a breach of our AUP, this will not be a material breach on our part.
- d. We shall not preserve your data for more than thirty calendar days after suspension or termination of this Agreement.

6. Service Levels and Maintenance

- a. Our SLA is linked above. The provisions of our SLA are your sole and exclusive remedy for interruptions and/or failures of the Service. The features of our Service, even if not covered in the SLA, are provided pursuant to this Section and paragraphs 8 and 9.
- b. Our goal is to maintain the Services as set out in this Agreement. To do so, we may need to interrupt them from time-to-time for maintenance. We agree to give you five business days' notice of our intent to suspend the Services for this reason. We will provide this notice to you by group email. Our notice will, at a minimum, set out the reasons for the maintenance, the features to be affected, and the period of time the maintenance will take place. On infrequent

occasions we may be required to undertake emergency maintenance, and will be unable to provide you with the notice set out in this paragraph. We will use reasonable efforts to ensure that maintenance does not interfere with your operations; however, in order to ensure the continued stability of our network, our maintenance activities will take precedence over your operations.

7. Confidentiality

- a. Our Privacy Policy sets out our obligations related to the processing of the vast majority of data using the Services. The Privacy Policy only applies to us. To the extent you purchase Third Party Services, or include software or other items from other entities, the Privacy Policy does not apply.
- b. During the term of this Agreement and for two years thereafter, neither party shall disclose any terms or pricing contained in this Agreement or any confidential or proprietary information disclosed by the other party. However, information covered by our Privacy Policy is outside the scope of this paragraph. Confidential Information shall remain the property of the disclosing party and shall be labeled as either “Confidential” or “Proprietary.” If information that is so labeled is covered by our Privacy Policy, the Privacy Policy shall govern. Notwithstanding the foregoing, all information concerning either party’s traffic volume or distribution, pricing, customer lists, network maps, and financial information is confidential and proprietary regardless of whether it is marked. Confidential or proprietary information may not be disclosed to any person or entity except for the recipient’s employees, contractors, consultants, lenders and/or financial advisors who have a need to know and who are bound in writing to protect the information from unauthorized use or disclosure. The term “Confidential Information” does not include any information which: (i) was already known by the receiving party free of any obligation to keep it confidential at the time of its disclosure; (ii) becomes publicly known through no wrongful act of the receiving party; (iii) is rightfully received from a third person without knowledge of any confidential obligation; (iv) is independently acquired or developed without violating any of the obligations under this Agreement; (v) is approved for release by written authorization of the disclosing party; or (vi) is covered by our Privacy Policy. Further, the recipient may disclose confidential information pursuant to a judicial or governmental request, requirement or order. The recipient, however, shall take all reasonable steps to give the disclosing party sufficient prior notice to contest such request, requirement or order, unless such notice is prohibited by law, the terms of the request, or a reasonable interpretation of the law. Confidential Information shall remain the property of the disclosing party and shall be returned to the disclosing party or destroyed upon request of the disclosing party. The recipient shall use the Confidential Information only for the purposes of this Agreement and shall protect it from disclosure using the same degree of care used to protect its own confidential or proprietary information, but in no event less than a reasonable degree of care.

8. Warranties

- a. We each warrant and represent that we have the legal authority to perform our obligations as set out in this Agreement, as limited by subparagraph (b) below.

- b. EXCEPT AS SET OUT IN SUBPARAGRAPH (a) ABOVE, WE MAKE NO EXPRESS OR IMPLIED WARRANTIES. OUR EXCLUSION OF WARRANTIES INCLUDES, BUT IS NOT LIMITED TO, THE WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, FREE FROM VIRUSES OR BACKED UP. OUR SLA IS YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY ISSUES REGARDING AVAILABILITY, AND OUR SERVICE IS PROVIDED ON AN “AS IS,” “AS AVAILABLE,” AND “WITH ALL FAULTS” BASIS.
- c. Any warranties, other than those set out in subparagraph (a) above, must be made in writing, and signed by a signatory authorized by us and you. No communication, marketing material or other item shall create a warranty, nor restrict or limit the disclaimers set out in subparagraph (b) above. If we agree to accept a purchase order from you, any terms of your purchase order attempting to create such warranties are expressly excluded.

9. Limitation of Liability

- a. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT WILL WE BE LIABLE TO YOU FOR: (I) LOST PROFITS; (II) LOSS OF BUSINESS; (III) LOSS OF REVENUES; (IV) LOSS OF DATA OR INTERRUPTION OR CORRUPTION OF DATA; (V) ANY CONSEQUENTIAL OR INDIRECT DAMAGES; OR (VI) ANY INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY OR PUNITIVE DAMAGES (IF APPLICABLE), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ANY OTHER TYPE OF DAMAGES OTHER THAN DIRECT DAMAGES. OUR MAXIMUM LIABILITY SHALL BE LIMITED TO THE FEES ACTUALLY RECEIVED BY US FOR THE SIX MONTH PERIOD PRECEDING THE INJURY GIVING RISE TO THE CLAIM.
- b. We have no, and expressly disclaim any, liability for Third Party Services, or any services or products included within the Services, even if they appear to be provided by us. There may be sites linked to ours. We have not reviewed these sites, and are not responsible for the content in them. We are also not responsible for the content of information passing through our network.
- c. The provisions of this section apply to our officers, employees, agents, contractors, representatives, suppliers, subsidiaries, parents and affiliated entities. You agree that we have set our prices, and entered into this Agreement, in reliance on this limitation of liability, and that they are, and form, an essential basis of the bargain between the parties.

10. Indemnification

- a. You agree to indemnify us, our affiliates, and any of our, or their, officers, directors, employees and/or agents against any claims, causes of action, demands, losses, damages, fines, penalties or other costs or expenses of any kind or nature, including, but not limited to, reasonable legal fees, brought by third parties as a result of:
 - Your breach of this Agreement;
 - You, or your End Users’, breach of our AUP, Privacy Policy, or law;

- Your breach of any licenses you have agreed to, when the subject of those licenses is placed on, or accessed, using the Services; or
- Your, or an End User's, use of the Services in a way that would reasonably be thought to bring a claim against us, including, but not limited to, failure to procure the necessary authorizations to place data, software or technology on the Services.

In such instances, you shall bear the entire cost thereof and shall have sole control of the defense of any indemnified claim and all negotiations for its settlement or compromise provided, however, that you provide us the opportunity to participate in such indemnification, at our expense, and object to any resolution which includes the admission of guilt or comparable plea, wrongdoing or negligence, the permitting or imposition of civil or criminal penalties or indictments, the entering of consent decrees or orders of any kind by you on behalf of us, transfer of any property, including intangible or intellectual property, or any other action that would materially prejudice our rights without our express written approval, which may be withheld. We shall cooperate fully with you in the defense of any indemnified claim.

- b. We agree to indemnify you, and hold you (including your officers, employees, agents, contractors, representatives, suppliers, subsidiaries, parents and affiliated companies) from a claim filed against you alleging that your use of the Service violates a filed U.S. patent. We shall bear the entire cost of this indemnification and shall have sole control of the defense of any indemnified claim and all negotiations for its settlement or compromise provided, however, that we provide you with the opportunity to participate in such indemnification, at your expense, and object to any resolution which includes the admission of guilt or comparable plea, wrongdoing or negligence, the permitting or imposition of civil or criminal penalties or indictments, the entering of consent decrees or orders of any kind by you on behalf of us, transfer of any property, including intangible or intellectual property, or any other action that would materially prejudice your rights without our express written approval, which may be withheld. You shall cooperate fully with us in the defense of any indemnified claim.

11. Miscellaneous Provisions

- a. While we do not routinely monitor the Services for illegal uses, such uses may come to our attention. To the extent they do, we may provide you with notice. We may also disclose this information to law enforcement entities pursuant to their requests, and to protect the integrity of our Services. We are not obligated to provide you with notice of these disclosures.
- b. If a party is unable to perform its obligations due to circumstances outside its reasonable control (Force Majeure Event), performance shall be excused for the period of time that these circumstances persist, contingent on taking steps to remedy them. The following circumstances are outside the scope of the term "Force Majeure Event:" lack or unavailability of funds. If we are unable to provide the Services for a period of thirty calendar days or more, notwithstanding attempts to remedy the Force Majeure Event, you may terminate only those Services affected without the application of an Early Termination Charge.
- c. If any provision of this Agreement is found to be illegal or unenforceable, that provision shall be deemed restated in such a way as to be legal, enforceable, and reflective of the parties intent,

and this Agreement will remain in effect. Under no circumstances shall such a finding cause this Agreement to be void or unenforceable.

- d. No person or entity, other than the parties and their respective successors and assigns, is, or shall be, entitled to bring any action to enforce any provision of this Agreement, against either of the parties.
- e. Notices we are required to provide to you will be sent to the address you have entered in your customer record. It is your obligation to ensure that this information is correct and up-to-date. We are not responsible for lost or misdelivered notices. Any notices you provide to us shall be to: 85Under / PC Net Inc. 2026 E. Phelps Street, Springfield, MO 65802. The parties agree that email notification shall be sufficient to satisfy any notice obligation; however, it is the burden of the party seeking to establish that notification has been received to demonstrate receipt. Written notices shall be deemed delivered on the date of confirmation of receipt, unless delivery is refused, in which case, they will be deemed delivered on the date of refusal.
- f. This Agreement is to be construed with, and governed by, the internal laws of the State of Missouri, without giving effect to any of its choice of law provisions that would alter the preceding statement. The parties consent to the personal and exclusive jurisdiction and venue of the federal and state courts located in St. Louis, Missouri. The parties agree not to contest this jurisdiction, and to accept notice from these courts. The parties agree that the choice of law, venue and jurisdiction statements set out in this paragraph form an essential benefit of the bargain, and that they would not have entered into this agreement absent these choices.
- g. This Agreement is governed by the laws of the United States that may restrict the export of certain technology, and individuals with whom U.S. entities may do business. You represent and warrant that you are not on the U.S. Treasury Department's list of Specially Designated Nationals and Blocked Persons, nor will you export the Services in a way that violates the laws of the United States, and the regulations promulgated by its agencies.
- h. No delay, failure or waiver of either party's exercise or partial exercise of any right or remedy under this Agreement will operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. To the extent caused by a Force Majeure Event, no delay, failure or default will constitute a breach of this Agreement.
- i. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of this or any other right under this Agreement.
- j. Neither this Agreement nor any rights under it, other than monies due or to become due, shall be assigned or otherwise transferred by either party (by operation of law or otherwise) without the prior written consent of the non-transferring party, such consent shall not be unreasonably withheld. However, if applicable, you may not assign or sublet space in our data center, and we are not required to consent to that action. Notwithstanding the above, we shall have the right to assign this Agreement to any entity who is our successor in interest, acquires us, or acquires control of us. This Agreement shall bind and inure to the benefit of the corporate successors and permitted assigns of the parties.

- k. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect, and such provision shall be enforced to fullest extent consistent with applicable law.
- l. This Agreement does not create any agency, partnership, joint venture or franchise relationship. Except as expressly set out herein, neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.
- m. This Agreement, including any documents or agreements incorporated by reference, shall be the final, full and exclusive statement of the agreement between the parties, and supersedes all prior agreements, negotiations, representations and proposals, written or oral, relating to its subject-matter.
- n. Paragraphs 6(a), 7(b), 8(b) and (c), 9, 10, 11(e), (f), (j), (k), (m) and (n) shall survive the termination of this Agreement.