



Standard Terms and Conditions for Services

These Standard Terms and Conditions for Services (the “**Terms**”) are applicable to all quotes, bids, statements of work, offerings and provisioning of services (the “**Services**”) by Gravity Data Services, LLC (“**Gravity Data**”), *however*, the price, term, scope of work, delivery location and other specifics for the Services may be separately agreed and/or set forth in a quote or statement of work delivered by Gravity Data, an order issued by the applicable customer (“**Customer**”) and accepted by Gravity Data or some other written communication between Gravity Data and the Customer (such other applicable terms and conditions, the “**Scope of Work**”), together with these Terms, the “**Service Agreement**”).

In the event of a conflict between these Terms and any term or condition in any other document, website, order or communication prepared or delivered by the Customer, these Terms shall control. No course of prior dealings, acceptance or acquiescence in a course of performance and no usage of the trade shall be relevant to supplement, explain or modify the Agreement. All representations, promises, warranties or statements by an agent or employee of Gravity Data that differ in any way from the Agreement hereof shall be given no effect or force. No waiver or alteration of Terms shall be binding unless in writing signed by an authorized employee of Gravity Data.

1. **DEFINITIONS.** Capitalized terms used in the Service Agreement, but not elsewhere defined shall have the meaning set forth in this Section 1.

“**AUP**” means Gravity Data’s then-current Acceptable Use Policy, the current version of which can be found at [Acceptable Use Policy](#)

“**Billing Start Date**” means the date the Services are first made available to Customer pursuant to a Service Order.

“**Colocation Services**” means Services for the storage of Customer Equipment in the Equipment Space.

“**Claims**” means all claims, judgments, damages, penalties, fines, costs, liabilities, and Losses.

“**Cloud Services**” means Services for the provisioning of information technology systems on behalf of Customer, which is comprised of software and hardware including data storage, physical computing equipment (hosts), and networking components owned or hosted by Gravity Data or Gravity Data’s licensors and providers.

“**Customer Data**” means all data and information provided by Customer to Gravity Data in connection with the Services under a Service Agreement.

“**Customer Equipment**” means any equipment provided by Customer in connection with a Service Agreement, whether or not owned by Customer.

“**Customer Portal**” means an Internet-accessible website which Gravity Data may make available to Customer for Customer to obtain certain information relating to the Services.

“**Dispute**” means any controversy or claim arising out of or relating to the interpretation of the terms, conditions or provisions of the MSA.

“**Event of Default**” means (a) a material breach by the other party of any of the applicable Service Agreement which breach has not been cured within 30 days after the breaching party has received notice from the other party thereof; (b) Customer is late in payment on any undisputed invoiced amounts within 5 days after written notice of such late



payments; (c) Customer violates the AUP or any Policies and Procedures; (d) Customer fails to comply with any applicable law or regulation in its use of the Services or any Gravity Data offering, (d) Customer infringes upon any intellectual property rights of Gravity Data or a third party.

“**Equipment Space**” means the designated area within the Facility that Customer may occupy and use.

“**Facility**” means the data center(s) where the Customer Equipment is located.

“**Gravity Data Equipment**” means any equipment used by Gravity Data to provide the Services. Such equipment may be located inside or outside the Equipment Space.

“**Losses**” means any costs, expenses, liabilities and other damages incurred, including the costs of attorneys’ fees and court costs.

“**Managed Services**” means those additional information technology and network/data transport Services set forth in a Service Agreement.

“**Policies and Procedures**” means any policies, rules or regulations imposed by Gravity Data or the owner of the Facility, whether set forth in the AUP, the Customer Portal, provided directly to Customer or other rules or notices posted at the Facility, as may be updated from time to time by Gravity Data or the owner of the Facility.

“**Service Term**” means the period in which the applicable Service Agreement is in effect pursuant to the provisions set forth in Section 4.

2. **SCOPE OF SERVICES.** Gravity Data will provide Customer the specific Services as expressly set forth on the Scope of Work. Each Scope of Work, together with these Terms, shall be a separate and unique Service Agreement. Gravity Data reserves the right to modify a Service Agreement by providing at least 30 days’ notice, which notice may be given, among other possible methods, posting updated Terms in the Customer Portal; *provided, however*, if Customer disputes such change it may terminate the applicable Service Agreement (without a termination fee) by providing notice to Gravity Data within 5 business days from Customer’s receipt of the proposed changes, and such termination shall become effective on the date Gravity Data proposed such modifications take effect. Gravity Data, in its discretion, may alter its provision of any Service upon notice to Customer, *provided* alteration does not result in a material adverse change in the Service, as determined in accordance with industry standards.
3. **FEES AND CHARGES; PAYMENT.** Customer agrees to pay the rates and charges for the Services set forth within the Service Agreement. All charges invoiced to Customer shall be deemed valid unless Customer disputes such charges in writing within 30 days after the invoice is sent by Gravity Data to Customer. Undisputed payments for invoiced amounts are due and within 30 days of invoice date. Recurring charges shall be invoiced monthly in arrears, beginning at the end of the calendar month of the Billing Start Date. Without limiting any other rights or remedies of Gravity Data, any amounts payable by Customer that are not paid when due shall incur a late fee of 1.5% (or the maximum amount permitted by law if such maximum amount is less than such late fee). Customer agrees to pay all taxes and fees assessed in connection with the Services, except for taxes based on Gravity Data’s net income, property and personnel.
4. **TERM.** Unless otherwise expressly agreed in writing, a Service Agreement shall become effective when the Scope of Work is agreed upon by both parties (“**Service Agreement Effective Date**”), and shall remain in effect throughout the term specified in the Scope of Work unless terminated in accordance with the express terms of the Service Agreement; *provided, however* any recurring (*e.g.*, monthly) Services which are not Colocation Services which are being provided



pursuant to a Service Agreement shall automatically be extended under the same terms and conditions for additional monthly terms unless and until such Service Agreement is terminated in accordance with the express terms of the Service Agreement, or either party provides at least 45 days prior written notice to the other party prior to the then-current recurring period of its intention to have such Service Agreement expire. Notice by Customer to Gravity Data of intent to terminate must be provided via written notice to Gravity Data Services, LLC, 2264 S Bonito Way, Suite #150, Meridian, ID 83642. In the event of termination or suspension of a Service for any reason, Customer must pay charges accrued through the date of termination or suspension.

5. **TERMINATION.** In addition to any other rights to terminate or suspend Services pursuant to a Service Agreement, a Service Agreement may also be terminated as provided in this Section 5.
- a. **TERMINATION FOR CAUSE.** Either party may terminate this Agreement or Gravity Data may suspend provision of the Service upon an Event of Default of the other party.
 - b. **TERMINATION FOR CONVENIENCE.** Customer may terminate any Services for its convenience prior to the end of the applicable Service Term (when applicable), provided that Customer gives Gravity Data at least 60 days prior written notice of such termination and pays Gravity Data an early termination fee in an amount equal to: (i) 100% of the remaining monthly recurring charges for each terminated Service for months one through 12 of the then-effective Service Term; plus (ii) 75% of the remaining monthly recurring charges for each terminated Service for months 13 through 24 of the then-effective Service Term; plus (iii) 50% of the remaining monthly recurring charges for each terminated Service for months 25 through the end of the then-effective Service Term; plus (iv) any installation or other fees identified on the Services for the terminated Service as having been previously waived; plus (v) the unamortized portion of any commissions paid by Gravity Data to any broker, agent or other authorized representative of Customer; plus (vi) all reasonable costs and expenses incurred by Gravity Data as a result of collecting such early termination fee. Such amount will be invoiced to Customer in one lump sum, and Customer agrees to pay such invoice immediately upon receipt of such invoice notwithstanding any language elsewhere to the contrary, and that any transition services to be provided by Gravity Data are conditioned upon receipt of such payment. The parties agree that in the event Customer terminates a Service Agreement for its convenience, actual damages would be difficult to determine and that these liquidated damages are a reasonable and fair estimate of the damages which may be caused by such early termination and are not a penalty.
 - c. **TRANSITION SERVICES.** Upon expiration or earlier termination of this Agreement by either party, Gravity Data will provide Customer reasonable termination assistance for up to 60 days relating to the transition to another vendor. This termination assistance will be provided to Customer at Gravity Data's then standard rates and is conditioned on all payments being made to Gravity Data. Customer will pay Gravity Data, in advance, on the first day of each calendar month and as a condition to Gravity Data's obligation to provide termination assistance to Customer during that month, an amount equal to Gravity Data's reasonable estimate of the total amount payable to Gravity Data for such termination assistance for that month.
6. **NON-DISCLOSURE.** During the Service Term, each party may have access to certain confidential and proprietary information disclosed by the other party, including information relating to either party's clients, customers, or business operations (including the terms of the Service Agreement and the rates charged for the Service), whether disclosed orally or in writing by any other media (collectively, "**Confidential Information**"); *provided, however*, "**Confidential Information**" shall not include information that: (a) was in the public domain free of any obligation of confidence at the time it was communicated to the Receiving Party; (b) is rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was communicated to the Receiving Party; or (c) was in the Receiving Party's possession free of any obligation of confidence at the time it was communicated to the Receiving Party. Each party receiving Confidential Information (the "**Receiving Party**") acknowledges that the Confidential Information disclosed by the other party (the "**Disclosing Party**") may contain information valuable to the Disclosing Party and that any such Confidential Information shall remain the property of the Disclosing Party. Each



party shall use the Confidential Information provided hereunder only for purposes directly related to the purpose for which it was provided and shall restrict disclosure of Confidential Information solely to its employees and subcontractors with a need to know, or to other third parties expressly permitted by the Disclosing Party, and not disclose such Confidential Information to any other parties, and otherwise to protect the Confidential Information with no less restrictive measures than it uses to protect its own confidential and proprietary information. The Receiving Party shall be responsible for any breach of this section by its employees, subcontractors or any third parties to whom Receiving Party discloses the Confidential Information. Notwithstanding the above, the Receiving Party shall not be in violation of this section for a disclosure made in response to a valid order by a court or other governmental body, *provided that* the Receiving Party provides the Disclosing Party with written notice of such disclosure where reasonably possible in order to permit the Disclosing Party to seek confidential treatment of such information. The obligations of confidentiality of each party under this shall survive for 3 years from the termination of the Service Agreement pursuant to which such Confidential Information was received by the Receiving Party. The parties recognize and agree that any breach of this section may cause irreparable harm and, accordingly, that injunctive relief is an appropriate remedy to prevent any threatened or ongoing breach of such confidentiality obligations. The terms of this section shall supersede any non-disclosure or confidentiality agreement entered into by the parties prior to the date on which the applicable Service Agreement takes effect with respect to any Confidential Information exchanged prior to such date; *provided, however*, any continuing confidentiality obligations with respect to information shared prior to such Service Agreement shall remain unaffected by this section.

7. **REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS OF CUSTOMER.** Customer represents, warrants and covenants that (a) it has it will comply and cause its other third-party users with permissible rights to access and benefit from the Services (including, if applicable, contractors, subcontractors or sub-licensees) to comply, with the AUP, Policies and Procedures and all applicable laws (as applicable), and (b) Customer has secured all necessary rights for access and use of the Customer Data as may be necessary or reasonably anticipated in order for Gravity Data to provide the Services. Customer shall not resell any of the Services provided by Gravity Data without Gravity Data's prior written consent. In addition, Customer agrees to notify Gravity Data and service provider immediately upon becoming aware of a security incident affecting the Services, Customer Equipment, Customer Data or Gravity Data Equipment.
8. **COLOCATION SERVICES.** The following terms and conditions apply only to the extent Customer procures Colocation Services pursuant to a Service Agreement.
 - a. **ACCESS AND USE.** For the term specified for the provisioning of the applicable Colocation Services, Gravity Data grants Customer a limited, revocable license to install and operate, maintain and access, as well as transmit and receive to and from, the Customer Equipment within the Equipment Space. Customer will be entitled to occupy and use the Equipment Space only for placement and maintenance of computer equipment, telecommunications or Internet access equipment pursuant to and in accordance with the Service Agreement. Gravity Data will have the right to access the Equipment Space for any business purpose at all times, including as reasonably required to provide the Service (including Facility maintenance). Customer acknowledges and agrees that the foregoing licenses is a space license and service agreement only, and shall not constitute a lease, sublease or easement. Except to the extent set forth to the contrary in the Service Agreement, neither party shall have any right to cancel or terminate a license, and Customer shall remain fully responsible for all obligations and amounts payable under the applicable Service Agreement, for the entire term thereof. In no event shall Customer record any Service Agreement or any memorandum or notice thereof. Except with respect to Customer's right to use the interior of any cabinet, cage, room, and suite constituting the Equipment Space as further specified in the applicable Service Agreement, all rights of Customer (and all licenses hereunder) are and shall remain non-exclusive.



- b. COLOCATION START. Gravity Data shall use commercially reasonable efforts to deliver the Equipment Space to Customer no later than 45 days after the Service Agreement Effective Date unless otherwise agreed to by Gravity Data and Customer in writing; *provided, however*, if Gravity Data fails to deliver the Equipment Space to Customer by such date, Gravity Data shall not be subject to any liability, and such failure shall not affect the validity of a license nor the obligations of the parties under any Service Agreement; the date that Gravity Data is able to deliver, and delivers, the Equipment Space shall thenceforth be the Billing Start Date for Colocation Services (and, in such event, the length of the term for Colocation Services shall not be reduced thereby, and the scheduled expiration date for the Colocation Services shall be extended, if necessary, to provide for the full term specified in the applicable Service Agreement).
- c. INSTALLATION OF EQUIPMENT. Except to the extent Customer procures Services from Gravity Data to install or maintain the Customer Equipment, Customer will be responsible for all installation of the Customer Equipment in the Equipment Space and Customer shall install and maintain the Customer Equipment in a reasonable and professional manner that does not adversely impact the operations of Gravity Data or other Gravity Data customers. Gravity Data, in its sole discretion, may require that Customer and any of Customer's agents be escorted while they are in the Facility, and may suspend Customer's access per the Facility's policies, or as required in exigent and emergency situation.
- d. SPACE AND EQUIPMENT. The Customer Equipment shall be industry-accepted information and communication technology equipment suitable for use in a data center. All Customer Equipment, where possible, must be accompanied by industry-standard blanking panels and must be installed in a configuration reasonably acceptable to Gravity Data, and the location and power density of all racks and other Customer Equipment shall be subject to the prior consent of Gravity Data. Customer shall have no access to subsurface environments (*i.e.*, beneath the raised floor) unless approved in advance by Gravity Data, supervised by Gravity Data, and performed in accordance with the Policies and Procedures.
- e. MAINTENANCE OF EQUIPMENT SPACE. Customer will maintain the Equipment Space in an orderly and safe condition. Failure to do so may result in Gravity Data cleaning the Equipment Space and Customer agrees to pay Gravity Data the reasonable cost incurred by Gravity Data for the same.
- f. INSTALLATION AND OPERATION. Gravity Data will not be responsible for the operation or maintenance of Customer Equipment except to the limited extent Customer has been engaged to provide Services pursuant to one or more Service Agreement(s).
- g. ACCESS TO EQUIPMENT SPACE; ACCESS DEVICES. Customer will provide to Gravity Data a written authorization of those employees, agents, or contractors of Customer who may physically access the Equipment Space. Any changes to the listing must be provided to Gravity Data in writing or by use of the Customer Portal in accordance with Gravity Data's and the Facility's' then-in-effect Policies and Procedures. Gravity Data retains the right to deny physical access to the Equipment Space to any individual if Customer has not included such individual on the listing to be provided to Gravity Data pursuant to this Section or that does not adhere to or meet the Facility's access requirements. Gravity Data may also provide Customer with access cards, keys or other access devices ("**Devices**") to permit Customer entry to the Equipment Space. Customer will be responsible for any damages incurred as a result of any access to the Facility or the Equipment Space (whether authorized or unauthorized) through the Devices. Customer will be responsible for the cost of replacing any Devices lost or stolen after delivery thereof to Customer.
- h. ABILITY TO CHANGE EQUIPMENT SPACE. Gravity Data reserves the right to change the location or configuration of the Equipment Space; *provided, however*, that Gravity Data will not arbitrarily or discriminatorily require such changes. Gravity Data and Customer will work in good faith to minimize any disruption in Customer's Services that may be caused by such changes in location or configuration of the Equipment Space.
- i. FACILITY LEASE. Customer acknowledges that Gravity Data is or may be currently a tenant under a lease with respect to the Facility ("**Master Lease**"), and that Gravity Data's interest in the Equipment Space and Facility is that of tenant, rather than owner. Notwithstanding anything to the contrary in any Service Agreement,

Customer's use and occupancy of the Equipment Space shall be subject and subordinate to any Master Lease. The foregoing provisions of this section are hereby declared to be self-operative and no further instrument shall be required to effect such subordination of the Service Agreement(s) and Customer's use and occupancy of the Equipment Space; *provided, however*, Customer shall, within 10 days after Gravity Data's written request therefor, execute and acknowledge any documents reasonably requested by Gravity Data to assure the subordination thereof to the Master Lease, or otherwise in connection with this section.

- j. **END OF COLOCATION SERVICES.** On the date of the expiration or termination of the Colocation Services, Customer shall have no further rights with respect to the Equipment Space and shall, by such date, (i) remove all Customer Equipment, and repair all damage resulting from such removal, and (ii) vacate and return and surrender the Equipment Space to Gravity Data in the same condition as it was when delivered to Customer, with the same property as existed when delivered to Customer (*e.g.*, ladder racking, cage walls, power drops, power panels and ductwork), ordinary wear and tear excepted. If Customer does not timely remove the Customer Equipment, or if Customer is past due or otherwise delinquent in any payments, Gravity Data may, without limiting any other rights or remedies, at Customer's expense, remove and store the Customer Equipment and/or sell or otherwise dispose of the same and apply the proceeds therefrom to amounts owing to Gravity Data. Gravity Data shall be entitled to dispose of any Customer Equipment or other Customer property as Gravity Data sees fit, including destruction or sale of the property in question, all at Customer's risk and expense. Gravity Data shall not be liable to Customer or any third party as a result of such disposal for any reason or under any legal theory whatsoever. Customer shall pay Gravity Data all reasonable costs incurred in connection with the storage and disposal of any Customer Equipment or Customer property. If Customer continues to use or occupy the Equipment Space after the expiration or termination of the applicable Colocation Services, such use shall be from month-to-month and terminable by either Gravity Data or Customer upon 30 days' written notice. Such use or occupation of the Equipment Space shall not constitute a renewal or extension of the existing Service Agreement; rather, in such case, Customer shall pay Gravity Data monthly fees for the Equipment Space equal to the full monthly fees in effect during the final month of the term of the Colocation Services provided under the terminated or expired Service Agreement.

9. **CLOUD AND MANAGED SERVICES.** The following terms and conditions apply only to the extent Customer procures Cloud Services, Managed Services or both pursuant to a Service Agreement.
- a. **LICENSE RIGHTS.** Customer shall be solely responsible for securing all necessary rights for Gravity Data to provide the Services as contemplated by the Service Agreement and Customer grants to Gravity Data a non-exclusive, irrevocable, royalty-free, worldwide, sublicensable, transferable license to use the Customer Data for the purposes of fulfilling its obligations, and for the purposes of enhancement of security measures relating to the Services.
 - b. **DATA STORAGE.** Customer shall have no obligation to keep, maintain or store any Customer Data beyond the applicable Service Term. If Customer desires Gravity Data keep or store Customer Data beyond the applicable Service Term is shall notify Gravity Data in writing before the end of the applicable Service Term, agree to indemnify Gravity Data for any Losses which may result from such request, and then Gravity Data's sole obligation with respect to the return of such Customer Data shall be in accordance with Section 5.c.
 - c. **LOCATION.** Unless otherwise set forth in the applicable Scope of Work, the location of Gravity Data Equipment used to provide Cloud Services or Managed Services is at Gravity Data's sole discretion.
 - d. **SERVICE LEVEL AGREEMENT.** The terms and conditions of Gravity Data's service level agreement, which can be found at [Service Level Agreement](#), shall apply to the Cloud Services.

10. **OTHER SERVICES.**



- a. **PROFESSIONAL SERVICES.** If Customer asks Gravity Data to perform additional Services outside the scope of a Service Agreement during any Service Term, and Gravity Data performs such Services without a Scope of Work, Customer agrees to pay Gravity Data for such Services in accordance with Gravity Data's then-applicable rates for the Services provided.
 - b. **REMOTE HANDS.** If Customer procures Colocation Services, but has not separately contracted for Gravity Data to provide on-site (*i.e.*, eyes, ears and hands) at the Facility, Customer may request such Services via phone or via the Customer Portal and Gravity Data may provide such Services. Unless otherwise set forth in a Service Agreement, Customer will be billed the then-current, non-contracted hourly rate with a minimum of 1 hour per event; additional time used on the event will be billed in 15-minute increments.
11. **DISCLAIMER OF WARRANTIES.** THE SERVICE AND ANY RELATED SOFTWARE AND/OR EQUIPMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NEITHER GRAVITY DATA NOR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS WARRANT THAT THE SERVICES SHALL BE ERROR-FREE, UNINTERRUPTED, SECURE, OR PRODUCE PARTICULAR RESULTS. NO ADVICE OR INFORMATION GIVEN BY GRAVITY DATA OR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS SHALL CREATE A WARRANTY.
12. **INDEMNIFICATION.** Except to the extent caused by Gravity Data (or the applicable Indemnified Party's) negligence or willful misconduct, Customer shall and does hereby indemnify, defend, protect and hold harmless Gravity Data and its affiliates, partners, officers, directors, principals, shareholders, representatives, employees, agents, trustees, lenders, lessors and managers, and their respective successors and assigns (each, an "**Indemnified Party**") from and against any and all Claims and Losses alleging or arising out of (a) infringement or misappropriation of any intellectual property right or other illegal action by Customer or any of its employees, contractors, personnel or invitees; (b) any breach of the Service Agreement by Customer; and (c) the use by the Equipment Space, Services, Gravity Data Equipment or the Facility.
13. **Limitation of Liability.** IN NO EVENT SHALL GRAVITY DATA OR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, AGENTS, OR INDEMNIFIED PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS, REVENUE, DATA, OR USE, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, INCLUDING LEGAL THEORIES OF CONTRACT, TORT, OR STRICT LIABILITY, EVEN IF GRAVITY DATA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, IN NO EVENT SHALL GRAVITY DATA'S TOTAL, AGGREGATE LIABILITY FOR ANY DAMAGES EXCEED THE ACTUAL DOLLAR AMOUNT PAID BY CUSTOMER FOR THE SERVICE UNDER THE APPLICABLE SERVICES AGREEMENT DURING THE 6 MONTH PERIOD PRIOR TO THE DATE THE EARLIER OF THE DATE THE CLAIM AROSE, THE DAMAGES FIRST OCCURRED, OR THE CAUSE OF ACTION AROSE. MULTIPLE CLAIMS SHALL NOT INCREASE THE FOREGOING LIABILITY CAP. With the exception of any monetary obligations under this Agreement, neither party shall be responsible for performance of its obligations hereunder where delayed or hindered by events beyond its reasonable control, including acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, accident, strike or other labor disturbance, interruption of or delay in transportation or telecommunication service, act of its vendors or suppliers or their products and Services, or inability to obtain raw materials, supplies, or power used in or equipment needed for the provision of the Service.
14. **INSURANCE.** Customer shall, at its sole cost and expense, procure and maintain the following insurance:
(a) commercial general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate for bodily injury and property damage and personal injury coverage; and (b) a policy of standard fire, extended coverage and special extended coverage insurance (all risks), in an amount equal to the full replacement value new without deduction for depreciation of all Customer Equipment and other property of Customer. All insurance under this paragraph shall be with reputable insurers licensed to do business in the State,



shall have commercially reasonable deductibles, shall be written on an occurrence basis, shall name Gravity Data and, if the Customer procures Colocation Services, then the owner of the Facility identified as additional insureds, and shall provide that such insurance cannot be canceled or modified upon less than 30 days prior written notice to Gravity Data. Prior to any access to, or installation of Customer Equipment in, the Equipment Space and prior to any expiration date of the insurance policies, Customer will furnish copies of certificates to Gravity Data which evidence that Customer has obtained the insurance required hereunder, and shall provide evidence to Gravity Data of the deductibles in connection with all policies hereunder. Customer shall require its insurers to waive (and its insurers shall waive) any rights of subrogation that such companies may have, and Customer waives, any and all rights, remedies, claims, actions and causes of action, against Gravity Data and each of the Indemnified Parties, as a result of any loss or damage to Customer Equipment, Customer Data or other property or information which is covered by insurance (or would have been, had the insurance required by this section been carried).

15. **ASSIGNMENT.** Customer shall not assign this Agreement without the prior written consent of Gravity Data; which consent shall not be unreasonably withheld.

16. **GOVERNING LAW, VENUE.** This Agreement shall be governed by the laws of the State of Idaho, without regard to its conflicts of laws principles. Each of the parties hereby irrevocably submits to the exclusive personal jurisdiction of any federal or state court of competent jurisdiction located in Boise, ID in any action or proceeding relating to this Agreement. EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL FOR ANY ACTION ARISING OUT OF THIS AGREEMENT, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, AND ALL OTHER CLAIMS.

17. **INTERPRETATION.** For the purposes of each Services Agreement, the words “including,” “included,” and “includes” mean inclusion without limitation, and headings are for convenience only and shall not have any effect on interpretation. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.