

# WINDSTREAM ENTERPRISE COLOCATION SERVICES SCHEDULE

In addition to the Service Agreement between WIN and Customer, including any document incorporated by reference therein (collectively the “Agreement”), of which this Schedule is a part, Customer agrees that the following terms and conditions apply to WIN’s Colocation Services (“Colocation Services”). Unless otherwise defined herein, capitalized terms shall have the same meaning as defined in the Agreement. In the event of a conflict between this Schedule and the Agreement, this Schedule shall control with respect to the Colocation Services. The parties agree as follows:

1. **Term; Renewal; Extended Term.** This Schedule is effective as of the execution of the Agreement between WIN and Customer and will continue for the term set forth in the Agreement from the date on which the Colocation Services are installed (the “Term”). Upon expiration of the Term, the Schedule shall renew as described in Section 1 of the Agreement.
2. **Customer Area and Customer Equipment.** Customer is granted a license pursuant to the Agreement and this Schedule to use designated locations (“Customer Area”) within the data center or shared colocation space specified in the Agreement (“Data Center”) to install, maintain, use, operate, monitor, repair and replace equipment, tools, devices, supplies and materials owned by, leased to or otherwise provided by Customer (collectively, the “Customer Equipment”). Customer is solely responsible for the maintenance and operation of Customer Equipment. Customer may not use the Customer Area for any purpose other than as disclosed to and permitted by WIN and shall use the Customer Area in accordance with the WIN Colocation Rules, Equipment Standards and Pricing, which will be provided to Customer, and may be amended from time to time. Customer acknowledges and agrees that it is not granted, and specifically disclaims, any possessory, leasehold, or other real property interest in the Customer Area, the Data Center, or any other portion of the building or premises in which the Data Center is located. Customer has no rights whatsoever under WIN’s lease, sublease, or license for the Data Center. Customer shall (i) configure the Customer Equipment according to the technical specifications reasonably provided by WIN, (ii) maintain any necessary licenses associated with the Customer’s Equipment and (iii) be responsible for the proper maintenance, repair and operation of the Customer Equipment unless WIN specifically agrees in writing to perform certain maintenance, repair and operation functions on Customer’s behalf at rates to be agreed upon by the parties. WIN has no responsibility to obtain from Customer’s licensees necessary licenses or consents to monitor or access Customer Equipment to perform the Colocation Services. Customer is responsible for purchasing and maintaining all manufacturer warranties, updates, patches, upgrades and service plans reasonably required to ensure that the Customer Equipment remains in working order through the Term, and WIN shall not be responsible for any delay or failure by Customer to purchase or maintain such coverage. Customer is solely responsible for insuring the Customer Equipment with coverage consistent with industry standards; WIN has no obligation to insure any Customer Equipment, whether or not housed in the Data Center. Upon twenty (20) days’ prior written notice, or in the event of an emergency, such notice as is reasonable, WIN may require Customer to relocate the Customer Equipment; provided, however, the site of relocation shall afford comparable environmental conditions and comparable accessibility to the Customer Equipment. Customer shall not be required to pay for the cost of improving the Data Center (or Customer Area within the same Data Center) to which the Customer Equipment may be relocated. However, Customer shall be responsible for all costs associated with the relocation of the Customer Equipment in the event said relocation is: (i) required by the owner or management of the building in which the Data Center is located; (ii) due to structural damage to the Data Center caused by force majeure; (iii) due to power or HVAC requirements exceeding Customer’s original allocation; or (iv) due to expansion of Customer’s service requirements. Customer shall remove all Customer Equipment from the Data Center within ten (10) days of termination, or WIN shall store the Customer Equipment and charge Customer storage costs or dispose of the Customer Equipment as described in Section 4 herein.
3. **Rights and Obligations of the Parties.**
  - a. **Access Control.** Customer will provide a list of permitted individuals (“Access List”) to WIN. WIN shall have the right to limit Customer’s access to the Data Center solely to the individuals that are specified on the Access List. If WIN receives conflicting Access Lists from different Customer representatives, WIN shall comply with the last Access List that was provided by Customer. Customer shall release, indemnify, defend and hold WIN harmless from and against any exposure, lawsuits, claims, demands, and liability for complying with the most recent Access List provided to WIN by Customer.
  - b. **Use and Restrictions.** Customer shall be limited to access and use of the Customer Area for the purpose of installing, operating, repairing, maintaining, replacing and removing Customer Equipment. Customer may not and shall not permit others, including its employees and agents, to reproduce, reverse engineer, de-compile, disassemble, alter, translate, modify, adapt, market, resell, or sublease any Colocation Services, unless expressly permitted by this Schedule. Other than as specified in this Schedule, no license, title, or right is granted or transferred to Customer in or to any service marks, trademarks, copyrights, patents, trade secrets, or any other intellectual property rights of WIN (“Proprietary Information”), and Customer shall not have any right to use any Proprietary Information, or any WIN software or hardware. Customer may not, directly or indirectly, resell, or permit the resale of, cabinet space, the Customer Area, or any custom floor or equipment space within the Data Center, or roof space associated with the Data Center premises, without WIN’s prior written consent which may be withheld in WIN’s sole and exclusive discretion. Customer may not directly connect Customer Equipment with equipment of a third-party within the Data Center or any other WIN facility without the prior written consent of the WIN. WIN reserves the right to take any action necessary to prevent harm to the Colocation Services, Data Center, WIN space, personnel, or WIN’s property (and that of its affiliates, vendors and customers) or other persons. In no event shall WIN be responsible or liable if Colocation Services are lost or damaged as a result of changes made by Customer or as a result of WIN making specific changes to the Colocation Services at the request or direction of Customer; Customer shall be responsible for all liability incurred for loss or damage resulting from such changes.
  - c. **Cooperation.** Customer shall reasonably, timely and in good faith cooperate with WIN and WIN’s designees and agents to facilitate WIN’s performance of the Colocation Services and shall provide WIN with reasonable access to necessary information, including system and platform designs, network architecture, IP addresses, hardware and software specifications (“Customer Information”), to provide the Colocation Services. It is essential to WIN’s performance hereunder that WIN has reasonable access to Customer Information and Customer acknowledges and agrees that a degradation in the performance of the Colocation Services may result if Customer fails to provide the Customer Information. If Customer modifies its Customer Information or Customer Equipment in a manner that necessitates a change to the Colocation Services, then Customer shall pay for the time and materials that WIN incurs to troubleshoot, modify, and make repairs necessary to adapt to Customer modifications.
  - d. **Customer Security.** Customer agrees to use reasonable security precautions in connection with the use of the Colocation Services (including encrypting any information that is subject to legal or regulatory security requirements, as well as encrypting any Protected Health Information (“PHI”), as that term is defined by HIPAA and/or its implementing regulations, that is transmitted to or from, or stored by Customer on, the services or storage devices used by Customer) and require its customers and end users to use appropriate security precautions. Customer is responsible for the security of the Customer Equipment. Customer shall be responsible for unauthorized use of the Colocation Services by any person, unless such unauthorized use results from WIN’s failure to perform its obligations hereunder. Upon request by Customer and as required for HIPAA compliance, WIN may agree to execute the WIN Business Associate Agreement with Customer to address WIN’s obligations with regard to Customer’s PHI.
  - e. **Damage to WIN’s Facilities.** WIN shall repair, or cause to be repaired, at Customer’s own cost, any and all damage to WIN’s facilities including WIN’s Data Center, buildings, grounds, equipment and furniture, caused by Customer or employees or agents of Customer. Customer shall notify WIN immediately of any and all damages. All costs incurred by WIN, as determined by WIN, for such repairs shall be repaid by Customer by cash payment upon demand.
  - f. **Termination of Customer Equipment.** Customer shall be responsible for termination of the Customer Equipment of the circuits provided by WIN. Use of a one hundred and twenty (120) volt AC convenience outlet for the occasional operation of test equipment shall be provided by WIN at no cost to Customer. WIN will provide Customer with electrical power as set forth in the Agreement, as required for the Customer Equipment at each switch site; however, Customer shall be responsible for all costs associated with: (i) adding or modifying AC electrical units, (ii) termination of negative forty-eight (48) volt DC circuits, and (iii) installation of Customer apparatus needed to power the Customer Equipment, subject to WIN’s prior approval. Forty-eight (48) volt circuits shall be served from WIN’s forty-eight (48) volt battery strings during periods of commercial power failure and generator testing. Customer will provide such information regarding power needs as may be reasonably requested by WIN, including, but not limited to, required leads and fuse capacity.

4. **Termination; Remedies.** The rights and remedies described in Section 10 of the Agreement shall apply in the event of a material breach of this Schedule. In addition to such rights and remedies, in the event of a material breach of this Schedule by Customer, WIN may, without liability and without notice beyond the initial notice required in Section 10 of the Agreement: (i) suspend or discontinue Colocation Services ordered under the Agreement or WIN's performance under this Schedule, (ii) collect liquidated damages as set forth in Section 11 of the Agreement, (iii) treat as abandoned, dispose of, or retain and use, free of any rights or claims thereto from Customer or anyone claiming by, through or under Customer, any or all of the Customer Equipment after Customer has been notified of its material breach and failed to promptly cure such breach, and then only after twenty (20) calendar days prior written notice to Customer, and (iv) restrict Customer's physical and electronic access to the Data Center and Customer Equipment except for the limited purpose of removal of the Customer Equipment after payment in full of any and all amounts owed to WIN. In the event of suspension or discontinuance of Colocation Services due to a material breach by Customer, Customer shall continue to be liable for all fees and charges for any Colocation Services that are still in use by Customer and, in addition to all other fees due and payable, agrees to pay WIN's then-current reinstallation fee. WIN shall have no liability for any damages that Customer may incur as a result of any suspension or discontinuance of Colocation Services. Notwithstanding the foregoing, all of Customer's rights with respect to the Colocation Services shall be terminated during any period of suspension. Further, in the event Customer terminates this Schedule for any reason other than for cause, Customer shall pay WIN the liquidated damages as set forth in Section 11 of the Agreement; Customer shall pay to WIN an amount equal to one hundred percent (100%) of the MRCs remaining for the terminated Colocation Services, regardless of whether usage falls below fifty percent (50%) of the original contracted rate. Each remedy of WIN as provided for in this Section 4 shall be cumulative and concurrent and shall be in addition to every other remedy provided for in this Schedule or the Agreement.
5. **Indemnification.** IN ADDITION TO THE INDEMNIFICATION OBLIGATIONS DESCRIBED IN SECTION 12 OF THE AGREEMENT, CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD WIN HARMLESS FROM AND AGAINST ANY AND ALL LOSSES RESULTING FROM OR ARISING OUT OF ANY CLAIM BROUGHT BY OR AGAINST WIN ALLEGING (I) ANY DAMAGES ARISING FROM THE CUSTOMER EQUIPMENT, CUSTOMER'S BUSINESS OR CUSTOMER'S USE OF THE COLOCATION SERVICES OR CUSTOMER CONTENT, OR (II) ANY DAMAGE OR DESTRUCTION TO A DATA CENTER OR EQUIPMENT, HARDWARE, SOFTWARE, MACHINERY, TOOLS AND DEVICES OWNED, LEASED OR LICENSED TO WIN AND LOCATED IN A DATA CENTER OR ON THE CUSTOMER'S PREMISES (COLLECTIVELY, "WIN EQUIPMENT") OR THE EQUIPMENT OF ANY OTHER WIN CUSTOMER BY CUSTOMER OR ITS REPRESENTATIVES OR DESIGNEES.
6. **Confidentiality.**
- "Confidential Information" defined** - Confidential Information may include, but is not limited to, this Schedule and the Agreement, physical security systems, specialized recovery equipment, audit and security reports, server configuration designs, technical and financial plans and information, strategic information, specifications, drawings, prices, costs, customer names or information, procedures, proposed products, processes, business systems, software programs, techniques, services and like information of, or provided by, the disclosing party and also includes the fact that such information has been provided. Confidential Information does not include any information: (i) publicly disclosed by the disclosing party; (ii) the disclosing party authorizes the receiving party in writing to disclose without restriction; (iii) the receiving party already knows at the time it is disclosed, without an obligation to keep it confidential; (iv) the receiving party lawfully obtains from any source other than the disclosing party, provided that such source lawfully disclosed such information; and (v) independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.
  - Protection of Confidential Information** - Each party shall: (i) maintain the confidentiality of the Confidential Information of the other party; (ii) use the same care to prevent disclosure of the Confidential Information of the other party to third parties as it employs to avoid disclosure, publication, or dissemination of its own information of a similar nature, but in no event less than a reasonable standard of care; and (iii) use the Confidential Information of the other party solely for the purposes of performing its obligations under this Schedule.
  - Disclosure** - Each party may disclose Confidential Information of the other party to its employees, officers, agents, and subcontractors who have: (i) a need to know such Confidential Information in order to perform their duties; and (ii) a legal duty to protect the Confidential Information. The receiving party assumes full responsibility for the acts and omissions of its employees, officers, agents, and subcontractors with respect to such Confidential Information. In the event of any disclosure or loss of Confidential Information, the receiving party shall notify the disclosing party as soon as possible, as permitted by applicable law.
  - Injunctive Relief** - Each party acknowledges that any breach of any provision of this Section 7 by either party, or its employees, officers, agents, or subcontractors, may cause immediate and irreparable injury to the other party, and in the event of such breach, the injured party shall be entitled to seek and obtain injunctive relief to the extent provided by a court of applicable jurisdiction, without bond or other security, and to any and all other remedies available at law or in equity.
  - Return of Confidential Information** - Unless it is expressly authorized by the disclosing party, the receiving party shall promptly return or destroy, at the disclosing party's option and request, any Confidential Information received from the disclosing party, including materials prepared in whole or in part based on such Confidential Information to the extent it contains Confidential Information, and all copies thereof.
7. **Miscellaneous.** (a) **Survival:** In addition to the provisions noted in Section 16(j) of the Agreement, Sections 5 and 6 of this Schedule shall survive after the Schedule ends; (b) **Independent Contractor:** Neither this Schedule nor any actions in the fulfillment of this Schedule or provision of Colocation Services hereunder will create a partnership or joint venture between Customer and WIN. Further, neither party shall have the right to bind the other; (c) **Effect:** Other than as amended by the additional terms and conditions for Colocation Services set forth herein, the Agreement shall remain unchanged and in full force and effect. For the avoidance of doubt, the provisions herein are in *addition to*, and not in lieu of, the Agreement.