

## Premium Services Co-Location Agreement

This Premium Services Co-Location Agreement is by and between RTMX Network Services (hereinafter the **Company**) and the person(s) or entity executing the Agreement on the signature page hereto as the **Customer** (defined as such).

The following is to be used as a basis for the installation and use of RTMX Networking's Internet facilities to locate the Customer's computer server at our Hillsborough, NC, facility of choice. For simplicity, the word "server" refers to the computer equipment owned by, the Customer or optionally, leased to the Customer by the Company.

The Customer's server will run at the Company's location connected through the Company's direct link to the Internet. Access to the Customer's server information will be made possible through remote access via the internet or dial-up access.

### ITEM

Premium Co-Location Package

### Description of Services to be Provided

10/100BaseT Ethernet hand-off to our Internet backbone  
Primary DNS hosting (if needed)  
24/7/365 hour access via Internet to maintain your server  
Site access during weekday business hours by appointment.

Your own IP address-range (other IP's available at additional cost)  
Environmentally Controlled facility  
19" Rack Mount Space ( 2U )or Table Top for your Equipment (as required)  
350VA UPS Service per 2U Rack Space (additional / other capacity at extra cost)

### Customer Requirements (Hardware)

Power cables for computer equipment / UPS as required  
10/100 BaseT Ethernet cables (CAT5e or CAT6)  
Power Strip for multiple AC connections, if needed (for Table Top systems)  
KVM cables & portable CRT + Keyboard as required.

### Customer Requirements (Administrative)

Record serial numbers of equipment and software  
Insurance is the responsibility of the customer  
All maintenance required for equipment, if desired  
Signed Contract (this document), duly executed **20 days PRIOR** to start of service  
Installation fee & one (1) month in advance for services rendered under contract

- 1. Access.** Upon receipt, in collected funds of the non refundable fees and the advance recurring fees described in the **Order Form**, attached hereto and incorporated herein for all purposes, and the continued timely payment of all fees. The Company shall provide the Internet services, limited only as described on the **Order Form**. Customer agrees that Company may amend and otherwise modify the terms and conditions of its services upon 30 days general notice.
- 2. Payment of Fees.** Customer unconditionally agrees and promises to pay to the order of the Company. Its successors and assigns, the fees as set forth in the Co-location Order Form. Customer waives any right to offset against the fees payable. Customer agrees that the Company has a right to change the rates as set forth on the Order Form and the Customer agrees to pay such new rates upon notice from the Company. The Customer agrees to pay for each month's service in advance. Customer shall be liable to pay for the full Contract Term fee even if service is terminated before the end of the Contract Term for any reason. Premium Service Co-Location Accounts with bills remaining unpaid ten days after the due date are liable for a \$100.00 administrative surcharge and may have their services suspended. If payment is returned or rejected, your services will be suspended and the Customer agrees to pay a \$25.00 check charge. Suspension of service does not relieve the Customer from its obligation to pay any and all fees, charges and costs due to the Company. Suspended service may be resumed upon receipt of full payment of all amounts due and a reconnect charges as determined by the Company. Past due amounts are subject to an interest rate charge of 1.5% per month from the date of invoice, subject to the maximum rate permitted by law. Customers agrees to pay all costs of collection including attorney fees and collection agency fees incurred. The Customer Agrees, without limitation to honor this Contract Agreement for Services, and further agrees to pay all fees

and expenses incurred by Company in satisfying the extent of this Contract Agreement. Setup Fees are Not Refundable.

3. **Disclaimer.** The services provided by the Company and any equipment owned by the Company and used by the Customer, are provided AS IS WITHOUT WARRANTY OF ANY KIND, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE CUSTOMER AGREES THAT THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, INTERRUPTION OF BUSINESS, OR ANY DIRECT INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF THE COMPANY AS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WAS GROSSLY NEGLIGENT. Customer acknowledges that the Company does not own or control the various telecommunications facilities to which it may provide access, except as those specifically identified as belonging to the Company.
4. **USAGE.** The Company exercises no control whatsoever over the content of information passing through its equipment. The Customer agrees to use the Internet for only lawful purposes. The Customer agrees to indemnify and hold the Company harmless for any claims, damages costs or expenses resulting from the Customer's use of the Company's service, equipment, the internet or otherwise. This Agreement of indemnification shall survive the termination of the Agreement. Customer shall have no right to assign or transfer the rights and services granted hereunder to any other person or any other location. Use of the Company's services, equipment or the Internet constitutes acceptance of this Agreement in full. Use of the Internet and the information contained thereon is at the Customer's own risk.
5. **Entire Agreement.** This agreement and the attached Schedules, as they may be amended by the Company from time to time as its sole discretion, supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the matters started herein and contains all of the covenants and agreements between the parties with respect thereto. This Agreement may be amended or modified only in writing signed by the Company.
6. **Governing Law.** THE CONSTRUCTION, VALIDITY AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA AND THE PARTIES HERETO CONSENT TO VENUE AND JURISDICTION OF ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT IN ORANGE COUNTY, NORTH CAROLINA.
7. **Cumulative Remedies.** The failure of the Company to seek redress for violation of or to insist upon the strict performance of any provision of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation. The rights and remedies provided in this Agreement are cumulative and the use of any one right or remedy by the Company shall not preclude or waive its right to use any or all of the remedies. Said rights and remedies are given in addition to any other rights the Company may have by law, statute, ordinance or otherwise.
8. **Term of Contract.** This Agreement shall commence on the date executed by all parties and shall terminate upon the earlier of (i) twelve (12) months from the 1<sup>st</sup> day of the month following the date the service becomes "live" (i.e. duly executed Agreement is received in RTMX Networking office and the Customer Server is installed and is being routed.) (ii) 60-day prior written notice received from the Customer no sooner than ten (10) months from the initial "live date of service along with payment for all amounts owing to the date of termination; or (iii) immediately upon notice from the Company Termination of service shall not terminate Customer's obligation to pay all sums owing to the Company. This Agreement will automatically renew on a twelve (12) month basis, unless specifically terminated as described herein.
9. **General Terms.** Customer agrees to be responsible for obtaining and maintaining all insurance covering all risks of loss. Every provision in this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement. Captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of the Agreement or any provisions hereof. Use of other networks

may sometimes require the approval of the respective network authorities and use will be subject to any acceptable usage policies such networks establish. The Customer shall not self, transfer or assign this Agreement. Any such assignment shall be null and void and shall not relieve the Customer of its obligations to the Company. The Company shall not be liable for delays or defaults in furnishing goods or services hereunder, if such delays or defaults on the part of the Company, are due to (i) acts of God or of a public enemy, (ii) acts of the United States or any state or political subdivision thereof, (iii) fires, severe weather, floods, explosions or other catastrophes, (iv) embargoes, epidemics and quarantine restrictions, (v) shortage of goods, labor strikes, slowdowns, differences with workmen or labor stoppages of any kind. (vi) delays of supplier of delay of transportation for any reason, or (vii) causes beyond the control and of the Company in furnishing items of services including, but not limited to breakdown or failure of plant machinery or equipment or delay in the Customer reporting problems or furnishing information or materials. Acceptance of delivery of the CFE goods shall constitute a waiver and release by Customer of any claim for damages on account of delay. If any contingency occurs, the Company may allocate resources and deliveries of services among the Company's customers as it, in its sole discretion, so determines.

10. **Facsimile.** Facsimile dated signatures of Customers and/or agents shall be considered a binding Agreement enforceable in accordance with the stated rates, terms and conditions of the Agreement and/or applicable service contracts attached.
11. **Controlling Document.** Notice is given to Customer that the Company objects to any terms of Customer's forms inconsistent with those contained herein. It is a condition of this Agreement that any provisions printed or otherwise contained in any acknowledgment hereof, inconsistent with or in addition to the terms and conditions herein stated, and any alteration hereof, inconsistent with or in addition to the terms and conditions herein stated, and any alteration is such acknowledgment signed by the Company, and customer agrees that any such additional provisions or any such alterations in this Agreement shall not constitute any part of this Contract Agreement for Service. The contract resulting from acceptance of this Agreement contains the complete and final agreement between Customer and the Company and no agreement or other understanding in any way purporting to modify the terms and/or conditions hereof, shall be binding upon the Company unless made in writing and signed by the Company's authorized representative.
11. **Domains and Copyrights.** RTMX Networking is not responsible for domain name requests that have been issued ( to another company individual) prior to this request. Trademark, Copyright and Communications Decency issues are the responsibility of the customer.
12. **Reselling Services.** SELLING OR HOSTING WEB SITES ON CUSTOMER SERVER ARE ALLOWED UNDER THIS AGREEMENT, BUT ARE THE SOLE RESPONSIBILITY OF THE CUSTOMER.
13. **RTMX Networking's dial-up accounts.** Subscription and Acceptable Usage Policies apply to the co-location offering and ALL dial-up, Web or direct accounts owned, operated, leased, rented or otherwise managed or routed through the Customer's Server attached to Company's Network. The Terms & Conditions can be viewed at <http://www.rtmx.net/Forms/AcceptableUsePolicy>.



PO Box 1030  
Hillsborough, NC 27278-1030  
919 644 7869 (Tel)  
919 724 4439 (Fax)  
<http://www.rtmx.net>

## Co-Location Order Form

**Customer Information:** Please complete the following Billing information.  
(Please print or type clearly)

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (day): (\_\_\_\_) \_\_\_\_\_ Fax:(\_\_\_\_) \_\_\_\_\_

Phone (evening): (\_\_\_\_) \_\_\_\_\_ Other:(\_\_\_\_) \_\_\_\_\_

**Domain Name:** (list your existing Customer Internic Domain Name)

\_\_\_\_\_

## Dial-Up Access Information

The Company may optionally supply a User ID and Password for dial-up access to RTMX Networking and your server (maximum of 8 characters or numbers). The Customer is responsible for safeguarding the User ID and Password. If the security of the Server is compromised, requiring a change in User ID and/or Password, the Customer will be charged a \$50.00 Service Fee, payable in advance, for each instance.

Assigned Username:

Assigned Password:

User ID #1: \_\_\_\_\_

Password: \_\_\_\_\_

\*\*\*\* Pick your secret word: This will be used by **RTMX Networking** to confirm that you are the account holder when calling our staff via telephone and requesting sensitive information.

\_\_\_\_\_(Secret Word for Customer use)

Example: (a word known only to you)



## Co-Location Fee Schedule

You will be billed for the setup fee and a prorated amount of the first monthly fee based on the day this agreement is received by our office. Monthly fees as indicated, or special monthly rate(s), will be charged at the first of every month. The minimum Term for this Contract is one (1) year from the 1<sup>st</sup> day of the first month following initiation of this Contract. The Customer Agrees, without limitation to honor this Contract Agreement for Services, and further agrees to pay all fees and expenses incurred by Company in satisfying the extent of this Contract Agreement. Setup Fees are Not Refundable.

**Co-location of Customer Server Equipment (per Server, 1.00Mbs bandwidth)** **Select one**

Setup Fee:     \$100.00     Monthly: Fee:     \$79.95    

**Co-location of Customer Server Equipment (per Server, 2.00Mbs bandwidth)**

Setup Fee:     \$100.00     Monthly: Fee:     \$89.95    

**Co-location of Customer Server Equipment (per Server, 3.00Mbs bandwidth)**

Setup Fee:     \$100.00     Monthly: Fee:     \$99.95    

**Co-location of Customer Server Equipment (per Server, 4.00Mbs bandwidth)**

Setup Fee:     \$100.00     Monthly: Fee:     \$109.95    

**Co-location of Customer Server Equipment (per Server, 5.00Mbs bandwidth)**

Setup Fee:     \$100.00     Monthly: Fee:     \$119.95    

**Premium Service, Co-Location Facility Fee**

Setup Fee: \_\_\_\_\_ Monthly: Fee: \_\_\_\_\_

**Setup Total:** \_\_\_\_\_ **Monthly Total:** \_\_\_\_\_

**Billing Information**

Payment Method: Check one

Invoice method:  (complete Credit Card info to provide payment guarantee)<sup>1</sup>

Credit Card:   Visa  MasterCard  American Express (check one)

Cardholder Name: \_\_\_\_\_

Card Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Card Billing Address ( if different than above): \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

With my signature below, I do hereby authorize RTMX Networking to charge my credit card account for setup and monthly fees of services listed in this agreement if not otherwise resolved through pre-payment means.

\_\_\_\_\_  
 Customer Signature (for credit card approval only)



PO Box 1030  
Hillsborough, NC 27278-1030  
919 644 7869 (Tel)  
919 724 4439 (Fax)  
<http://www.rtmx.net>

**Agreement**

The terms and conditions of this agreement are subject to the attached contractual provisions, which the Customer by signing below agrees to and acknowledges in full.

\_\_\_\_\_  
Customer Signature  
of  
Authorized Representative

Accepted: \_\_\_\_\_  
RTMX Networking Account Representative

\_\_\_\_\_  
Print Name

Date: \_\_\_\_\_

<b>For Internal use only:</b>	
<b>Date Received:</b> ____/____/____	<b>Customer #</b> _____
<b>IP Address:</b> ____ . ____ . ____ . ____	<b>IP Address end:</b> _____
<b>Special Instructions:</b>	

(rev. 11/98 Form: CLA04)

<sup>1</sup> Credit Card Information: All Co-Location Contract Agreements are expected to be with fully operational, duly incorporated businesses or organizations. Payment for Services, Setup Fees, and other expenses incurred on behalf of the Customer, or at the request of the Customer will be invoiced at the end of each month, with payment due upon receipt. Excessively late payments 'may' (at the discretion of the Company) be charged directly to the Customer's Credit Card account in order to satisfy the past due amount.