



MASTER PRODUCTS AND/OR SERVICES AGREEMENT

Metro Ethernet and IP Transit Service(s) Supplement

(For use with MPSA ONLINE 082022)

Parties:

Table with 3 columns: Field, Customer, EZEE FIBER TEXAS. Rows include Company Name, Street, Suite, and City, State ZIP.

MPSA # ONLINE 082022

This Metro Ethernet and IP Transit Service(s) Supplement ("Supplement") provides the terms and conditions applicable to Metro Ethernet and IP Transit Service and is effective as of the last date of execution below ("Supplement Effective Date") by and between the Parties listed above and is attached to and made a part of the Master Product and Services Agreement ("MPSA") by and between these same Parties.

I. ADDITIONAL DEFINITIONS

"EZEE FIBER TEXAS Demarc" is a point specified in an Order Form which is either a (i) Building Fiber Demarc; (ii) EZEE FIBER TEXAS POP Demarc; (iii) Type 2 Fiber Demarc; or (iv) Type 2 Circuit Demarc, as defined herein;

"EZEE FIBER TEXAS Equipment" means EZEE FIBER TEXAS telecommunications devices, apparatus and associated equipment located at the Customer Location that enables the ordered Service;

"EZEE FIBER TEXAS Internet Gateway" or "Gateway" refers to a location on the EZEE FIBER TEXAS Network where the interconnects with the Internet;

"EZEE FIBER TEXAS POP" refers to EZEE FIBER TEXAS's point of presence at which EZEE FIBER TEXAS provides interconnectivity to its network routes and facilities;

"EZEE FIBER TEXAS POP Demarc" is a port or common distribution point at an EZEE FIBER TEXAS POP which may be made available for Customer to access the EZEE FIBER TEXAS Network to receive the ordered Service;

"Add-On Service" shall have the meaning ascribed to it in Section 2 below;

"Allocated Monthly Charge" or "Allocated MRC" means a portion of a Monthly Charge or Bundled Monthly Charge allocated by Service and/or each Customer Location on a pro-rata basis;

"Bandwidth" or "BW" means the amount of data (quantified as "Mbps") transferred by Customer's equipment or made available to Customer;

"Building Fiber Demarc" is a point from where EZEE FIBER TEXAS generally distributes fiber strands within a building;



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"Bundled Monthly Charge" or **"Bundled MRC"** means an un-itemized Monthly Charge for multiple Services specified in an Order Form;

"Conduit" means piping that runs within a building or underground to protect cables;

"Cross-Connect" means a single mode, multimode, or copper patch cord;

"Customer Equipment" means Customer's own premise equipment used to connect to the Service;

"Customer Location" is an address wherein EZEE FIBER TEXAS will handoff Service to Customer;

"Delivery Date" is the date that EZEE FIBER TEXAS informs Customer that Service is delivered to the applicable Service Demarc(s) notwithstanding any notice provisions in the Agreement to the contrary. Notification(s), as EZEE FIBER TEXAS deems appropriate, may be in the form of email, fax, or an EZEE FIBER TEXAS Customer Service Delivery Letter (the "**CSDL**");

"Extended Demarc" indicates on an Order Form whether additional connectivity is required between the EZEE FIBER TEXAS Demarc and the Service Demarc;

"IP Transit" means internet connectivity and Bandwidth provisioned by EZEE FIBER TEXAS to Customer pursuant to an Order Form, and shall be further defined in Section 2 below;

"Location License" means the necessary building licenses, approvals or permissions from a building manager, landlord, or data center operator for a Party to (where applicable) (i) utilize building entrance or in-building ducts, (ii) install, maintain and access inside plant facilities, including, without limitation, termination panels, Riser/Cable, Conduit, or Cross-Connects or (iii) utilize necessary space and power (in each case in a form acceptable to EZEE FIBER TEXAS);

"Metro Ethernet Service" shall have the meaning ascribed to it in Section 2 below;

"Riser/Cable" means inside plant (including vertical or horizontal riser cable) or outside plant (including underground stub or bridge cables) cable;

"Service" shall mean any Metro Ethernet Service or Add-On Service;

"Service Credit" means a credit that Customer is eligible to receive if EZEE FIBER TEXAS fails to meet the Service Levels set forth in Section 8 below;

"Service Demarc" is the network interface point specified in an Order Form where EZEE FIBER TEXAS hands off the Service to Customer. Where possible, the Service Demarc will be used as the point where EZEE FIBER TEXAS tests the Service unless otherwise specified in the Order Form. Unless otherwise specified in the Order Form, the Service Demarc is the only location that the Customer may access the EZEE FIBER TEXAS Network;

"Service Handoff" refers to the type of interfaces that Customer must provide in order for its Customer Equipment to be compatible with the ordered Service;

"Service Level" shall have the meaning described in Section 8 below;

"Service Outage" means a complete interruption of a Service over and contained within the EZEE FIBER TEXAS Network;



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“Site Environment” means the requisite space, racks, power, security and other facilities and other environmental conditions necessary to support and operate the EZEE FIBER TEXAS Equipment and telemetry to support out of band management;

“SLA Exclusion” shall have the meaning ascribed to it in Section 8 below;

“Type 2” means a circuit or fiber optic infrastructure specified in an Order Form provided by a third-party carrier and/or its network and utilized by EZEE FIBER TEXAS to enable a Service;

“Type 2 Circuit Demarc” is a point where a third-party carrier terminates a Type 2 circuit or other infrastructure;

“Type 2 Limitation” means any Service Level impairment attributable to the inability of a Type 2 circuit to support one or more of the following applications over the Service, unless otherwise set forth in an Order Form: (i) jumbo frames (Ethernet frames with more than 1,500 bytes of payload (MTU)), (ii) Quality of Service, (iii) multicast transparency; or (iv) Bandwidth Availability and Packet Delivery Service Levels.

II. SERVICE DESCRIPTIONS

2.1 “Metro Ethernet Service” means one or more kinds of layer 2 Ethernet connectivity provided by EZEE FIBER TEXAS within a metropolitan region between Customer Locations. Metro Ethernet Service includes, without limitation, the following types of Services:

- a. Metro Ethernet DF:** *Ethernet connectivity between two (2) Customer Locations across a completely private managed network over dedicated optical fiber strands and dedicated EZEE FIBER TEXAS Equipment on both ends;*
- b. Metro Ethernet Dedicated:** *Ethernet connectivity between two (2) Customer Locations via reserved Bandwidth over EZEE FIBER TEXAS’s metro Ethernet network;*
- c. Metro Ethernet Type 2:** *Ethernet connectivity between two (2) Customer Locations, where at least one [1] Customer Location is served by a third-party Type 2 circuit or fiber optic infrastructure, with guaranteed Bandwidth (Metro-E DF or Dedicated service) over the portion served by EZEE FIBER TEXAS’s metro Ethernet network.*

2.2 Add-On Services - Metro Ethernet:

- a. Circuit Protection:** *The Metro Ethernet Service is provided via two (2) or more circuits as primary and secondary circuits, and will maintain the Service in the event of a failure of one of the circuits. The primary and secondary circuits may be partially collapsed (limited or no Path Protection between the primary and secondary) and therefore, may be affected by an event on the physical part of the network.*
- b. Path Protection:** *The Metro Ethernet Service is provided via two (2) or more circuits and diverse paths as primary and secondary circuits. Since the primary and secondary circuits will be routed along physically*



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diverse paths from each other, an event or circuit failure on one path will not impact operation of the other circuit.

2.3 “IP Transit” means internet connectivity provided by EZEE FIBER TEXAS to one or more Customer Locations. IP Transit includes the following types of Services:

- a. IP Transit - Dedicated:** *Bandwidth listed in the Service Order is dedicated for Customer's use and will not be oversubscribed;*
- b. IP Transit - Burst:** *Bandwidth listed in the Service Order is shared and subject to oversubscription.*

2.4 Add-On Services - IP Transit:

- a. Circuit Protection:** *The IP Transit Service is provided via two (2) or more circuits as primary and secondary to diverse EZEE FIBER TEXAS Internet Gateways and will maintain the Service in the event of a failure of one of the circuits or Gateways. The primary and secondary circuits may be partially collapsed (limited or no Path Protection between the primary and secondary) and therefore, may be affected by an event on the physical part of the network.*
- b. Path Protection:** *The IP Transit Service is provided via two (2) or more circuits and diverse paths as primary and secondary circuits to diverse EZEE FIBER TEXAS Internet Gateways. Since the primary and secondary circuits will be routed along physically diverse paths from each other, an event or circuit failure on one path will not impact operation of the other circuit.*
- c. Other:** *Customer may further request related services such as additional IP Addresses, primary and secondary DNS, or BGP. Access to and use of EZEE FIBER TEXAS's IP addresses are subject to availability and ARIN's technical or administrative requirements and amended from time to time.*

III. BILLING TERMS

3.1 Commencement Date(s). The “Commencement Date” of a Service shall be the earlier of (i) five (5) calendar days after the Delivery Date or (ii) the date that Customer begins using such Service. If the Delivery Date is delayed because of Customer’s failure to fulfill its obligations under the Agreement (including, without limitation, failure to obtain the necessary Location License(s), or viable Conduit, Riser/Cable or Cross-Connects, if applicable, that interoperate with EZEE FIBER TEXAS infrastructure or equipment), EZEE FIBER TEXAS will give Customer written notice to cure such failure within thirty (30) calendar days. If Customer fails to cure within such period, the Commencement Date will be deemed to be the expiration date of such thirty (30) calendar day period.

3.2 Incrementally Delivered Services. Customer acknowledges and agrees that, unless specified in an Order Form, EZEE FIBER TEXAS may incrementally deliver individual Services, when ready, which may result in different Commencement Dates and Terms for such incrementally delivered Services. For multiple Services listed as one line item in the Service Order, EZEE FIBER TEXAS may incrementally deliver Service to each Customer Location when ready. The Term for incrementally delivered Services shall begin on the Commencement Date of the first Customer Location(s) delivered and end after the period specified as the Term from the Commencement Date of the last Customer Location delivered. Unless separately set forth in



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an Order Form, the charges for incrementally delivered Services shall be determined on a pro rata basis.

- 3.3 Change, Cancellations, and Early Termination Charges.** Customer may submit a change to a previously submitted Service Order at any time prior to the Commencement Date. There are no non-recurring fees, change fees, or cancellation charges for changes to a Service Order prior to the Commencement Date, however, depending on the extent of the changes, the pricing may change for the Services ordered and may require an amended Service Order. If after providing a valid order for service to EZEE FIBER TEXAS, and prior to delivery of the Service by EZEE FIBER TEXAS, customer will be permitted to cancel such order within five (5) business days without incurring any charges. If the order is cancelled without cause after five (5) business days but before the Commencement Date, Customer will be liable for the costs directly incurred by EZEE FIBER TEXAS in connection with provisioning the service plus 15%. Costs must be documented and a direct result of the cancelled order. For any Service Order terminated by the Customer after the Commencement Date but prior to the expiration of its term, for reasons other than EZEE FIBER TEXAS's default, or if EZEE FIBER TEXAS cancels any Service Order due to Customer's default, the Customer shall pay all charges incurred and unpaid to date and also pay as liquidated damages, within thirty (30) days of receipt of an associated invoice, 100% of all documented and communicated unpaid or waived NRCs, 100% of all unpaid MRC for the remainder of the first year of the Service Order term, 50% of all unpaid MRC for the remainder of the second year (if any) of the Service Order term, and 25% of the unpaid MRC for the remainder of the Service Order term (if any) (the "Termination Liability"). For a Service that has completed its initial term and subsequently been re-termed by the Customer and then terminated by Customer prior to the expiration of the re-termed term, the Customer shall pay all charges incurred and unpaid to date and also pay as liquidated damages, within thirty (30) days of receipt of an associated invoice, 100% of all documented and communicated unpaid or waived NRCs, 50% of all unpaid MRC for the remainder of the first year of the Service Order re-termed term, 25% of all unpaid MRC for the remainder of the second year (if any) of the Service Order re-termed term, and 0% of the unpaid MRC for the remainder of the Service Order re-termed term (if any) (the "Re-termed Termination Liability")
- 3.4** Prior to Installation, Ezee Fiber may notify Customer in writing (including by email) of any price increase due to an off-net vendor increasing the cost or increased construction costs to deliver



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the service. Customer will have 5 business days following the notice to terminate the order effected without liability; or otherwise, Customer is deemed to accept the increase.

IV. IN-BUILDING IMPLEMENTATION REQUIREMENTS

- 4.1 Customer must procure and maintain, at its sole cost and expense, Customer Equipment which is technically compatible with the Service and the EZEE FIBER TEXAS Network. The type of Service Handoff shall be specified in the Order Form.
- 4.2 Customer is responsible, at its sole cost and expense, for connecting to the Service Demarc specified in the Order Form.
- 4.3 If an Extended Demarc is required, the Order Form shall describe the Party responsible for supplying the Riser/Cable, Conduit, and/or Cross-Connects to connect the EZEE FIBER TEXAS Demarc to the Service Demarc. Customer shall ensure that Riser/Cable supplied by Customer is technically compatible with EZEE FIBER TEXAS's facilities (e.g., fiber type, connector type, etc.). If necessary, Customer must provide reasonably sufficient descriptive information about Customer supplied Riser/Cable that interconnects with EZEE FIBER TEXAS's fiber termination panel for EZEE FIBER TEXAS to identify such Riser/Cable as belonging to Customer.
- 4.4 Each Order Form shall designate the Party responsible for the necessary Location License(s). If Customer is the responsible party, Customer, at its sole cost and expense, will obtain and maintain for the duration of the Order Form Term any necessary Location License(s). However, notwithstanding Customer's responsibility, if EZEE FIBER TEXAS is required by a third party to obtain and maintain such Location License(s) on Customer's behalf, Customer agrees to reimburse EZEE FIBER TEXAS for its costs relating to obtaining and maintaining such Location License(s) during the Term. If EZEE FIBER TEXAS is the responsible party, EZEE FIBER TEXAS will use commercially reasonable efforts to obtain and maintain the necessary Location License(s). EZEE FIBER TEXAS will notify Customer if it is unable to obtain and maintain such Location License(s) timely to deliver the related Service(s) by the Estimated Delivery Date (specified in an Order Form). In such event, unless Customer elects in writing to undertake to obtain such Location License(s) itself, either Party may terminate the related Service(s) upon written notice to the other without further liability or obligation to either Party with respect to such Service(s), except Customer agrees to reimburse EZEE FIBER TEXAS for its costs incurred through to the date of termination plus 25%.

V. USE OF SERVICE

- 5.1 EZEE FIBER TEXAS is providing the Service for Customer's exclusive use. Customer shall have no right or interest in any EZEE FIBER TEXAS-provided optical fiber strands or any EZEE FIBER TEXAS Equipment.
- 5.2 Customer may not, without the express written consent of EZEE FIBER TEXAS, perform or contract with any third party to perform, any repairs or maintenance to the EZEE FIBER TEXAS



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Network. Customer will not install any equipment to be used with the Service that damages or interferes with the EZEE FIBER TEXAS Network.

VI. EZEE FIBER TEXAS EQUIPMENT

- 6.1** All EZEE FIBER TEXAS Equipment remains the sole and exclusive property of EZEE FIBER TEXAS or its supplier and nothing contained herein shall give or convey to Customer any right, title, or interest whatsoever in such EZEE FIBER TEXAS Equipment and EZEE FIBER TEXAS Network, which may never be deemed a fixture to real property. Customer may not adjust, encumber, repair or attempt to repair the EZEE FIBER TEXAS Equipment, and may not remove or relocate the EZEE FIBER TEXAS Equipment without the prior written consent of EZEE FIBER TEXAS. Customer may not cause any liens to be placed on the EZEE FIBER TEXAS Equipment or EZEE FIBER TEXAS Network and will cause any such liens to be removed within thirty (30) days of Customer's knowledge thereof. Customer is liable to EZEE FIBER TEXAS for any loss or damage to the EZEE FIBER TEXAS Equipment other than loss or damage resulting from an act or omission of EZEE FIBER TEXAS, its employees, contractors, or agents.
- 6.2** If an Order Form specifies that Customer is required to obtain space and power to support EZEE FIBER TEXAS Equipment for managed Services, for the duration of the Term, Customer must procure, at its sole cost and expense, the Site Environment set forth in an Order Form. The Site Environment shall meet EZEE FIBER TEXAS's specifications, specified in an Order Form, to support the EZEE FIBER TEXAS Equipment where applicable.
- 6.3** If applicable, Customer agrees to provide all reasonable assistance to EZEE FIBER TEXAS in procuring and installing or activating necessary telecommunication circuits and facilities as necessary to provide telemetry from the Customer Locations to EZEE FIBER TEXAS's monitoring center(s) to enable out of band management. Customer shall provide adequate space and power to support the related telemetry equipment. Except for costs associated with local telephone lines, other monthly telecommunication costs and any reasonable installation costs shall remain the responsibility of EZEE FIBER TEXAS.

VII. MONITORING AND MAINTENANCE

- 7.1** EZEE FIBER TEXAS will perform all maintenance and repairs to the EZEE FIBER TEXAS Equipment and the EZEE FIBER TEXAS Network as it deems necessary to ensure proper functioning of the Service. EZEE FIBER TEXAS will maintain the EZEE FIBER TEXAS Network and EZEE FIBER TEXAS Equipment, at no additional charge to Customer, except as provided in Section 7.3. Should any condition exist in any portion of the EZEE FIBER TEXAS Network that may impair the integrity of the Service or if EZEE FIBER TEXAS determines that it is necessary to conduct tests and adjustments to maintain the efficient working order of the EZEE FIBER TEXAS Network, EZEE FIBER TEXAS will, at its sole discretion, initiate and coordinate planned maintenance, which may include the deactivation of a network segment or other facility that supports the Service. Except for emergency maintenance (where EZEE FIBER TEXAS shall provide such notice as is reasonably practicable), EZEE FIBER TEXAS will typically limit Service affecting work to the hours between 12 A.M. and 6 A.M. or other times as it deems



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appropriate and use all reasonable efforts to give Customer three (3) calendar days or more prior notice of scheduled maintenance events.

- 7.2** Customer shall procure for EZEE FIBER TEXAS reasonable access to the Customer Location(s) for purposes of the installation, repair, maintenance, inspection, or removal of EZEE FIBER TEXAS Equipment and/or EZEE FIBER TEXAS Network. To enable EZEE FIBER TEXAS to perform maintenance on EZEE FIBER TEXAS Equipment, Customer will permit EZEE FIBER TEXAS to install software revisions released by the related third-party equipment manufacturers. Customer shall be responsible for arranging rights-of-entry from owners or managers of any Customer Locations to which Customer has rights of access, and for obtaining any permits or licenses related to such premises.
- 7.3** If all or part of the EZEE FIBER TEXAS Equipment or EZEE FIBER TEXAS Network requires restoration, replacement, or repair by reason of an act or omission of Customer, or its employees, agents or contractors, such repair, replacement and/or restoration may be made by EZEE FIBER TEXAS, at Customer's sole expense, in accordance with EZEE FIBER TEXAS's then current time and materials rates plus Applicable Taxes. If EZEE FIBER TEXAS dispatches personnel for a Service Level failure caused by Customer equipment or personnel, EZEE FIBER TEXAS will invoice, and Customer agrees to pay EZEE FIBER TEXAS's actual costs for time and travel associated with the dispatch.
- 7.4** EZEE FIBER TEXAS or its agents will provide real-time monitoring of the Service twenty-four (24) hours a day, seven (7) days a week. EZEE FIBER TEXAS will promptly respond to all failures to meet a Service Level via (i) an acknowledgement and subsequent notification to Customer of any service-affecting alarm or (ii) directly answering Customer's report of a failure.
- 7.5** Customer may notify EZEE FIBER TEXAS's Network Operations Center ("**NOC**") of service problems by telephone to the contacts listed in the Customer Service Delivery Letter (CSDL). Such contacts may be updated by EZEE FIBER TEXAS from time to time upon notice to Customer.
- 7.6** A Service Outage is measured from the time that Customer reports such failure to EZEE FIBER TEXAS or when EZEE FIBER TEXAS opens a trouble ticket upon receiving a service affecting



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alarm until such time that EZEE FIBER TEXAS notifies Customer that effective use of the Service has been restored, minus any period attributable to a SLA Exclusion.

7.7 EZEE FIBER TEXAS may subcontract its installation and maintenance obligations to a third party, without consent of Customer, and EZEE FIBER TEXAS will remain liable for all such obligations.

VIII. SERVICE LEVEL AGREEMENT (“SLA”)

8.1 Service Levels:

Service	Description	Max. # of hours or Uptime Percentage	Measurement Timeframe	Service Credit for Affected Customer Location(s)
Dark Fiber	Time that Service remains unavailable due to a Service Outage	99.0% per Calendar Quarter	Per Incident	5% of the Allocated MRC for each full four (4) hour period, up to 50% of the MRC allocated to the affected circuit
Metro Ethernet Dedicated	Time that Service remains unavailable due to a Service Outage	99.0% Unprotected 99.9% Protected	Per Incident	5% of the Allocated MRC for each full four (4) hour period, up to 50% of the MRC allocated to the affected circuit
IP Transit Dedicated	Time that Service remains unavailable due to a Service Outage or oversubscription	99.0%	Per Incident	5% of the Allocated MRC for each full four (4) hour period, up to 50% of the MRC allocated to the affected circuit
IP Transit Dedicated (On-Net Data Center/POP)	Time that Service remains unavailable due to a Service Outage or oversubscription	99.999%	Not Applicable	Non offered, unless otherwise specified in the Service Order.
IP Transit Burst	Time that Service remains unavailable due to a Service Outage or oversubscription	Best Effort	Not Applicable	Non offered, unless otherwise specified in the Service Order.



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8.2 Service Level Exclusions:

The failure to meet a Service Level excludes any periods caused by one or more of the following: (i) an event of Force Majeure; (ii) an act or omission of Customer, its employees, agents or contractors; (iii) Customer attempting to exceed the maximum capacity of a port connection or any other rate limitation as set forth in the Order Form; (iv) failure attributed to Customer's side of the Service Demarc; (v) the use or failure of any Customer Equipment, power or Customer-provided connectivity between the EZEE FIBER TEXAS Demarc and Service Demarc; (vi) any period of time during which EZEE FIBER TEXAS personnel or contractors are denied access to Customer Locations; (vii) planned network maintenance periods; (viii) any relocation of a Customer Location or reconfiguration of a Service requested by Customer; (ix) Type 2 Limitation or; (x) events or outages on the Internet side of EZEE FIBER TEXAS's internet router (outside of the EZEE FIBER TEXAS Network) at any one of EZEE FIBER TEXAS's Internet Gateway(s) (each a "SLA Exclusion").

8.3 General Terms for Service Credits

- a. *Cumulative Service Credits in each calendar month shall not exceed 50% of the Allocated MRC associated with the affected Customer Location(s) for the month in which the Service Credit(s) accrued;*
- b. *If Customer is entitled to multiple types of Service Credits arising from the same incident, such credits shall not be cumulative, but Customer will be entitled to the highest of such Service Credits;*
- c. *To be eligible to receive Service Credits, Customer must cooperate in good faith with EZEE FIBER TEXAS to trace the root cause of the related Service Outage;*
- d. *Service Credits are applied to Customer's account upon written request and must be submitted within ten (10) business days of the end of the month in which the incident giving rise to eligibility for a Service Credit occurred;*
- e. *Requests for Service Credits must be sent to EZEE FIBER TEXAS by (i) opening a trouble ticket via the EZEE FIBER TEXAS customer portal interface or (ii) by sending an email to TSC@ezeefiber.com and include: trouble ticket number, affected Service (including addresses of the affected Customer Locations) date and time of the Service Outage, Customer's name, name of Customer's designated point-of-contact (POC) and its primary phone number, and a brief description of the problem;*
- f. *Service Credits are Customer's sole and exclusive remedy and EZEE FIBER TEXAS's sole and exclusive liability with respect to EZEE FIBER TEXAS's failure to meet the Service Levels herein and such failure shall not be deemed to be a breach of the Agreement by EZEE FIBER TEXAS.*

IX. USE AND POLICIES

- 9.1 **Illegal Use.** Customer will cooperate in any investigation of Customer's alleged illegal use of EZEE FIBER TEXAS's facilities or other networks accessed through the EZEE FIBER TEXAS Network. If Customer fails to cooperate with any such investigation, EZEE FIBER TEXAS may suspend Customer's Service. Additionally, EZEE FIBER TEXAS may modify or suspend Customer's Service in the event of illegal use of the EZEE FIBER TEXAS Network or as necessary



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to comply with any law or regulation, including, without limitation, the Digital Millennium Copyright Act of 1998, 17 U.S.C. 512, as reasonably determined by EZEE FIBER TEXAS.

- 9.2 Other Networks.** Customer is responsible for paying any fees, obtaining any required approvals, and complying with any laws or usage policies applicable to transmitting data beyond the EZEE FIBER TEXAS Network and/or through other public and private networks. EZEE FIBER TEXAS is not responsible or liable for performance or non-performance of such networks or their inter-connection points.
- 9.3 Third Party Actions.** At times, actions or inactions caused by third parties (e.g., denial of service attacks) can produce situations in which Customer connections to the Internet (or portions thereof) may be impaired or disrupted. EZEE FIBER TEXAS cannot guarantee that such situations will not occur and, accordingly, EZEE FIBER TEXAS disclaims any and all liability resulting from or related to such events. If Customer's use of the Service or interaction with the Internet or such third parties is causing harm to or threatens to cause harm to the EZEE FIBER TEXAS Network or its operations, EZEE FIBER TEXAS shall have the right to suspend the Service. EZEE FIBER TEXAS shall restore Service at such time as it reasonably deems that there is no further harm or threat of harm to the EZEE FIBER TEXAS Network or its operations.
- 9.4 Acceptable Use and SPAM.** Customer will always comply with and conform its use of the Service to EZEE FIBER TEXAS's Acceptable Use Guidelines and Anti-SPAM Policy (collectively, "EZEE FIBER TEXAS Policies") set forth at the EZEE FIBER TEXAS website, as updated from time to time, subject to notice to Customer of any material changes. In the event Customer violates the EZEE FIBER TEXAS Policies where EZEE FIBER TEXAS determines in its reasonable discretion that there is potential harm to its Network or business, EZEE FIBER TEXAS shall have the right to immediately suspend Service. In other cases of violation of the EZEE FIBER TEXAS Policies, EZEE FIBER TEXAS will provide notice and opportunity to cure, to the extent EZEE FIBER TEXAS deems reasonably appropriate, depending on the nature of the violation and the potential harm to the EZEE FIBER TEXAS Network. EZEE FIBER TEXAS, in its reasonable discretion, shall re-enable the Service upon satisfaction that all violations have ceased and with adequate assurance that such violations will not occur in the future.
- 9.5 Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when deposited in the United States Mail, certified, or registered mail, postage prepaid. Any notice to be given to a Party hereunder shall be



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addressed to:

EZEE FIBER, L.P.
14850 Woodham Drive, Ste. B-105
Houston, TX 77073
Attn:
Email:

Company Name
Company Address
City, ST Zip
Attn:
Email:

- 9.6 Applicable Law.** THE VALIDITY, CONSTRUCTION AND ENFORCEABILITY OF THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS BY THE LAWS OF THE STATE OF DELAWARE AND THE UNITED STATES, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.
- 9.7 Jurisdiction and Venue.** ALL PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE DISTRICT COURT OF THE CITY AND STATE HOUSTON, TEXAS AND HEREBY AGREE THAT ANY SUCH COURT AND ONLY SUCH COURT SHALL BE THE PROPER FORUM AND VENUE FOR THE DETERMINATION OF ANY DISPUTE ARISING HEREUNDER. EACH PARTY WAIVES ALL DEFENSES OF EACH OF PERSONAL JURISDICTION AND FORUM NON CONVENIENS. PROCESS MAY BE SERVED ON EITHER PARTY IN THE MANNER AUTHORIZED BY APPLICABLE LAW OR COURT RULE.
- 9.8 WAIVER OF JURY TRIAL & ATTORNEY'S FEES.**
- 1.1.1 Waiver of Jury Trial. Each Party hereby irrevocably waives its rights to trial by jury in any action or proceeding arising out of this Agreement or the transactions relating to its subject matter.
- 1.1.2 Attorney's Fees. The Parties agree that if either Party to the Agreement brings any civil action related in any manner to the Agreement, the prevailing party in such civil action shall recover all its reasonable attorneys' fees and litigation expenses incurred from the non-prevailing Party.
- 9.9 Survival.** The Parties' obligations for general representations, warranties, confidentiality, or any other provisions of this Agreement that by their sense and context are intended to survive, shall survive upon expiration or termination of this Agreement.
- 9.10 Electronic Signatures.** By entering into this Agreement, the Parties consent during term of this Agreement to receive electronic mail and other electronic communications with respect to any document or transaction relating to or regarding this Agreement including any notice, certificate, consent, or record. The Parties may provide documents to each other electronically by emails that include attachments or embedded links. The delivery of any Party to the other of an electronic signature to this Agreement or any notice hereunder, shall have the same effect as the delivery of an original signature.
- 9.11 Headings.** The section headings contained in this agreement are for reference purposes only and shall not affect the meaning or interpretation of this agreement.
- 9.12 Assignment.** This Agreement may not be assigned or transferred to any successor of a Party without the prior written consent of the Disclosing Party, which approval shall not be unreasonably delayed or withheld. Any successors and/or assigns shall be deemed substituted



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Metro Ethernet and IP Transit Service(s) Supplement

(For use with MPSA ONLINE 082022)

for all purposes of “a Party” under the terms of this Agreement. As used in this Agreement, the “successor” shall mean any person, firm, corporation, or business entity that at any time, whether by merger, purchase or otherwise, acquires all or substantially all of the asset’s and or business of a Party.

9.13 Acknowledgement. The Parties have read the contents of this Agreement, understand its terms, and agree to be bound by the terms, covenants and restrictions as set forth herein. Nothing in this Agreement requires either Party to enter a Project or to negotiate such Project for any specified period. By execution of this Agreement, the Parties acknowledge that they have read and understood each provision, term and obligation contained in this Agreement. This Agreement, although drawn by one Party, shall be constructed fairly and reasonably and not more strictly against the drafting party than the non-drafting Party. Each Party acknowledges and understands that it has had the opportunity to review this agreement with independent counsel and enters into this agreement with full knowledge and understanding of its terms and conditions.

The Parties have executed this Supplement as of the last date of execution below.

By EZEE FIBER TEXAS

By Customer

Signature

Signature

Print Name and Title

Print Name and Title

Dated

Dated