

Private Label Internet Agreement

This Master Agreement (the "Agreement") is entered into as of ___ / ___ / ___ is by and between Matrix Telecommunications Corporation, a New York corporation having its principal place of business at Prime Business Park, 2810 Sweet Home Road , Amherst, NY 14228 (the "Provider"), and _____ having its principal place of business at _____ (the "Customer").

RECITALS

WHEREAS, Provider has a Private Label ISP program and proprietary software and procedures for controlling multiple ISP's so that the Clients (defined as a business entity which resells to End-Users) and End-Users of Customer will be able to market Virtual ISP Services under the Customer's name or the Client's names through Customer; and

WHEREAS, Customer wishes to purchase from Provider certain Services more particularly described herein for resale to Customer's Clients and End Users.

NOW THEREFORE, in consideration of the mutual covenants and promises of Provider and Customer herein, the parties agree as follows:

1. DESCRIPTION OF SERVICES. Provider shall sell, and Customer shall purchase from Provider dial-up accounts on many networks for resale to Customer's Clients and End Users. There may be additional Services offered by Provider in the future in which event the Schedules described in this Paragraph of this Agreement shall be amended to more accurately reflect such additional Services or the parties hereto will enter a separate agreement for such Services.

2. PRICING. The current prices and rates for the Provider Services provided under the terms of this Agreement are set forth in Schedule A described in Paragraph 1 of this Agreement. Unless the parties agree otherwise in writing as to pricing and payment terms, for any Provider Services not identified in the Schedules, now existing or as hereafter amended, the Provider's list prices and rates and standard payment terms and conditions shall apply and govern.

3. PAYMENT TERMS.

3.1 Service Startup Fees. Upon acceptance of this Agreement, Customer shall immediately pay to Provider any service setup fees prior to Provider being obligated to commence or provide any Provider Services to Customer. Any required setup fees will be referenced in the Schedules described in Paragraph 1 of this Agreement.

3.2 Periodic Fees. *Provider Does Billing in the following manner:*

Wholesale: Provider will bill weekly (Sunday) for the number of users who successfully attached to the service for the preceding 7 days as determined by the Cistron Radius report recorded on both the Master Cistron Server and the actual WHL Server.

Private Label

Provider will bill for the first initial payment a sum equal to:

Down Payment of \$250.00

Provider will bill weekly (Sunday) for the number of users who are registered active subscribers as reported in the /etc/passwd and /etc/shadow files. Other services (See Schedule A) are also billed at that time.

3.2 Payment Due Date. Payments are due Net 15. Service is terminated

automatically at 30 days past invoice date. Provider reserves the right to require a significant prepayment for late payments.

3.3 Payment Discounts. Payments are due Net 15, with a 5% discount for payments made on or before that date

3.4 Late Payment Charges. Delinquent payments, or portions thereof, are subject to a late payment charge accruing from the Invoice Due Date at the rate of two and one-half percent (2.5%) per month on the amount due, but not to exceed the maximum lawful rate.

3.5 Suspension or Termination for Non-Payment. In the event Customer does not remit payment for Undisputed Charges by 30 days after the invoice date, Provider may, in its sole discretion, suspend or terminate the services provided to Customer and its Clients and End-Users. Provider shall give forty-eight (48) hours notice (delivered via facsimile transmission or electronic email) prior to any suspension or termination. In the event of suspension or termination of service pursuant to the provisions of this paragraph, reinstatement of provider services will be in accordance with provisions of Section 3.6, below.

3.6 Reinstatement. In the event service to Customer is suspended for lack of payment per Section 3.5 above and Customer wishes to have services reinstated, Customer shall pay for all amounts due as regular service charges in addition to a reconnection fee of \$100.00 which shall be invoiced and paid to Provider. Provider makes no guarantee that all services can be reinstated in full if a termination occurs.

3.7 Expenses of Enforcement. Customer agrees to pay Provider its reasonable expenses, including attorney and collection agency fees, incurred in enforcing Provider's rights under this Agreement. In the event Provider chooses not to exercise its option to terminate, Provider shall resume providing Provider Services as soon as is commercially reasonable and its past due debt has been settled in accordance with section 3.6.

3.8 Taxes. All charges to Customer hereunder are exclusive of federal, state, local and foreign sales, use, excise, utility, gross receipts and value-added taxes and other taxes, levies fees or excises of any kind, including tax-related surcharges or applicable tariffs, which Customer agrees to pay. In the event that Customer provides Provider with a duly authorized exemption certificate, Provider agrees to exempt Customer in accordance with the law, effective on the date an exemption certificate is received by Provider.

3.9 Billing Disputes. Customer must notify Provider in writing by certified postal mail with return receipt of any disputed charges within 15 days of the date of the billing for such charges. Billing disputes shall be defined as disputes in good faith, with reference to specific provisions of this Agreement, and with supporting factual documentation. If Customer does not notify Provider within that time period, Customer is deemed to have waived any right to dispute such amounts, either directly or as a set-off, recoupment or defense in any action or efforts to collect amounts due to Provider.

4. CUSTOMER OBLIGATIONS.

4.1 End-User Billing and Collections. Customer shall be responsible for all pricing and service plans, billing and collections with respect to its Client and End-Users. Customer is solely responsible for doing collections for unpaid fees for Provider Services sold to Clients and End-Users and for preparing and mailing any invoices to Clients and End-Users. Customer is responsible for all fees due to Provider, pursuant to Paragraph 3 hereof, regardless of whether Customer is paid by its Clients and/or End-Users.

4.2 Customer's Duties. Customer shall document and promptly report all errors or

malfunctions of service. Customer shall provide all services not selected for purchase, support and maintenance to provide functionality to Customer's End-Users that use Provider's services.

4.3 Compliance with Agreement, Schedules and Use Policy. Customer, its Clients and End-Users or third-parties authorized by them to use Provider Services are required to comply with all conditions of this Agreement, Schedules and ("Use Policy") located at <http://www.mtxsys.com/>, as it may be updated and amended from time to time. Any such change shall be effective upon posting. Provider reserves the right to suspend or terminate any Provider Services to Customer's Clients or End-User for any violation of this Agreement, Schedules or Use Policy. If Customer shall permit or tolerate such violation, Provider reserves the right, in its sole discretion, to suspend or terminate this agreement in accordance with section 5.3.

4.4 End-User Requirements. Customer agrees to require its Clients and End-Users to comply with terms and conditions in substance identical to those in Paragraph 4 and Paragraph 9. Customer shall defend, indemnify, and hold harmless Provider against any third-party claims arising out of or relating to any use of Provider's Services, including claims resulting from use of the Provider Services by Customer and its Clients and End-Users. This includes damages resulting from loss of data due to delays, non-deliveries, mis-deliveries, or service interruptions or a violation of a third party's intellectual property rights. Use of any information obtained via the dial-up Internet service is at the user's own risk.

4.5 Limitation on Warranties, Representations and Indemnities; Disclaimer. Neither Customer nor its agents, Clients, or End-Users shall offer warranties, representations or indemnities for the Provider Services which would obligate or otherwise bind Provider beyond any warranty, representation or indemnity expressly set forth in the Schedules of this Agreement, or make any other warranties, promises, indemnities or representations with respect to the Provider Services, to any Client or prospective Client, to any End-User or prospective End-User, or any other person or entity. PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. PROVIDER DOES NOT WARRANT THAT THE PROVIDER SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. PROVIDER DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM ITS SUPPLIER'S SERVERS AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS CAUSED BY THESE THIRD PARTIES CAN PRODUCE SITUATIONS IN WHICH PROVIDER SERVICES MAY BE IMPAIRED OR DISRUPTED. ALTHOUGH PROVIDER WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, PROVIDER CANNOT GUARANTEE THAT THEY WILL NOT OCCUR. ACCORDINGLY, PROVIDER DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

4.6 Cure. In the event of a breach of the foregoing warranty, Customer shall promptly notify Provider of the breach in writing. Upon receipt of notice, Provider will use commercially reasonable efforts to remedy the breach. If, in Provider's sole judgment, the breach cannot be remedied through commercially reasonable efforts, Provider may give the Customer an option to terminate this agreement in the next 30 days following the breach without any penalty. THE FOREGOING SETS FORTH CUSTOMER'S SOLE REMEDY AND PROVIDER'S SOLE LIABILITY FOR BREACH OF WARRANTY.

4.7 LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE (WHETHER IN CONTRACT, TORT OR OTHERWISE, INCLUDING NEGLIGENCE AND STRICT LIABILITY) FOR ANY SPECIAL, INDIRECT, SPECULATIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST SAVINGS OR COSTS ATTRIBUTED TO DELAYS OR LOSS OF TIME, EVEN IF SUCH PARTY HAS BEEN

ADVISED OF THE CLAIM OR OF THE POSSIBILITY OF SUCH DAMAGES, AND IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR PUNITIVE DAMAGES. THE LIABILITY OF PROVIDER AND ITS SUPPLIERS UNDER THIS AGREEMENT IS LIMITED TO PROVIDER'S OBLIGATIONS UNDER THE LIMITED WARRANTY SET FORTH ABOVE. IN NO EVENT SHALL THE LIABILITY OF PROVIDER OR ITS SUPPLIERS EXCEED THE AMOUNT OF THE FEE PAID TO PROVIDER FOR THE SERVICE TO WHICH THE SPECIFIC CLAIM RELATES.

5. TERM; TERMINATION.

5.1 Term: Automatic Renewal. This Agreement shall be for an initial term of (1) one year from the Effective Date (provided below) (the "Initial Term") and shall be automatically renewed for successive two (2) year terms (the "Renewal Term") (each a "Term") unless either party provides written notice by certified postal mail with return receipt to the other party of termination at least ninety (90) days prior to the end of the Term. Customer's payment obligations shall survive termination or expiration of this Agreement.

5.2 Termination without Cause; Breach. If Customer terminates this Agreement without cause prior to expiration of the Initial Term or the Renewal Term, or Provider terminates this Agreement due to material breach by Customer, Customer shall pay an early termination fee to Provider equal to the number of users averaged during the last 3 months multiplied by the number of months left in the agreement.

The parties agree that the amount of the termination fee represents an effort by the parties to estimate reasonable compensation to Provider and that the actual damages that Provider would suffer are difficult to precisely determine.

5.3 For Cause Termination. Either party may terminate this Agreement for cause and without penalty in the event that the other party breaches any material term of this Agreement. With the exception of termination by Provider due to violation of section 3.5, prior to such termination, the party intending to terminate shall first give the other party advance written notice by certified postal mail with return receipt of its intention to terminate this Agreement. The notice shall clearly describe the reason for the party's intention to terminate. The other party will have thirty (30) days from the date of receipt of such notice to correct the breach. The right to terminate this Agreement shall be Customer's sole and exclusive remedy for any breach of this Agreement by Provider or any loss or damage suffered in connection with the Provider Services.

5.4 Right to Continue Provider Service. In the event of termination of the relationship by the Provider due to Customer actions in violation of Section 3.5, Provider has the right to continue serving the Customer's entire base of Clients and End-Users at the time that termination occurs. In addition, Provider may directly solicit the Clients and End-Users to become customers of Provider or another Provider's customer. Under no other conditions shall Provider have the right to solicit the End-Users of the Customer.

5.5 Right to Discontinue Service if Product becomes Unavailable. In the event that Provider can no longer offer the services provided for herein due to unavailability from its source suppliers outside the control of Provider, then Provider reserves the right to terminate the portion of this Agreement dealing with that service without breaching the contract.

6. CONFIDENTIALITY.

6.1 Each party agrees that information disclosed by one party under this Agreement (the "Disclosing Party") to the other party (the "Receiving Party"), including pricing, marketing plans, plans, methodology, technology, and/or software, which information is considered proprietary by the Disclosing Party, shall be considered Confidential Information under this Agreement. Confidential Information will not include information that is publicly available or in the

Receiving parties possession prior to this agreement.

6.2 A Receiving Party shall not disclose the Disclosing Party's Confidential Information to any third party without the Disclosing Party's prior written consent, except under order of court or government agency, and then only if the Receiving Party gives timely notice of such order to the Disclosing Party to afford such Disclosing Party the opportunity to attempt to obtain a protective order. Each party agrees to exercise the same level of care in protecting the Confidential Information of the other party from unauthorized use and disclosure as it uses in connection with its own Confidential Information, but in no event less than reasonable care.

7. Service Level Agreement. Provider offers no service level agreement of any kind other than radius, email, hosting, and DNS (all providers servers). Availability of this service shall exceed 95% in any given month and have a yearly uptime average of over 99%. Availability and uptime shall be defined as the ability to ping the servers from all outside networks. If service does not meet these standards and customer desires a credit, a request must be made in writing by certified mail with return receipt within 30 days of the outage. Provider shall refund for the service that was affected, not to exceed the total cost for the month, in the following manner:

$((\text{Hours of Downtime} * 5 / 24 \text{ hours per day}) / \text{number of days in month}) * \text{service cost}$
(ie. 48 hours of downtime would result in a 33% credit for the month).

Customer agrees to waive their right to a billing dispute and a For Cause Termination (section 5.3) resulting from slow connections, busy signals, loss of routing, or equipment failures on the Paetec, Qwest, Adelphia, Verio and ChoiceOne Communications networks, or any future networks that the Provider services. Customer understands that Provider is a "middleman" in regards to the dial-up service and has no control over the quality of service that the customer is receiving.

8. Non-Circumvention. During the term of this Agreement, Customer, and any parent corporation or a subsidiary of the Customer, or any company having identical ownership as the Customer, or any of Customers affiliate companies will not contact the Providers service providers, suppliers or vendors for the purpose of circumventing or obtaining the Providers services directly from their sources for service. In the event of a breach of this Paragraph, the Customer shall pay the Provider its actual and consequential damages occurring from the breach of this paragraph. Damages include, but are not limited to, loss of revenue, legal fees, or any other costs associated with breach of this provision.

9. Independent Contractor. The relationship of Provider and Customer under this Agreement is that of independent contractors and not partners, joint ventures, or owners as participants. Neither party has authority to contract for or bind the other.

10. Trademarks. Neither party shall use the other's name, logo, or any other trademarks or service marks in any advertising, signage, marketing materials, web site content, brochures or any other materials in any medium without advance written consent from the party owning those rights. Nor shall either party issue a press release, announcement or public statement with respect to this Agreement without the other's advance written consent. The parties agree that they may use each other's names as a reference, and as part of their customer portfolios

11. Relationship of Parties. No agency, partnership, joint venture or employment is created as a result of this Agreement. Neither party is authorized to bind the other in any respect whatsoever.

12. Assignment. Neither party may sell, assign, transfer, or otherwise convey any right, duty, obligation, or interest under this Agreement without the prior written consent of the other party. Notwithstanding the above, Provider may assign this Agreement, without the other party's

consent, to any parent corporation or subsidiary or to a successor in interest or to any company having identical ownership. This Agreement shall be binding upon and insure to the benefit of each of the parties hereto and its respective successors and permitted assigns.

13. Force Majeure. Neither party shall be considered in default under any provision of this Agreement by reason of any delay or failure in its performance of its obligations hereunder if such delay or failure is caused by events beyond its reasonable control, including but not limited to acts of God or the public enemy; riots or insurrections; war; accidents; fire; strikes; and other labor difficulties (whether or not the party is in a position to concede to such demands); embargoes; judicial action; lack of or inability to obtain export permits or approvals, necessary labor, materials, energy, components, or machinery; and acts of civil or military authorities. The time for any performance required hereunder shall be extended by the delay incurred as a result of the events described above.

14. Governing Law; Dispute Resolution. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Washington, excluding its laws relating to conflicts of laws. The parties to this Agreement shall try to come to a settlement of any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof. If the parties fail to settle any such matter, such matter shall be finally settled in accordance with the Commercial Rules of Arbitration of the American Arbitration Association in effect at the time, and judgment upon the award rendered may be entered in any court of competent jurisdiction. The award of the arbitrator(s) may include compensatory damages against either party but under no circumstances may the arbitrator(s) award punitive or multiple damages against either party. Arbitration proceedings shall be conducted in Buffalo, New York. The parties agree not to institute any litigation or proceedings against either other in connection with this Agreement except as provided in this Article. In no event shall such an arbitration award include any award of punitive damage and the parties hereby waive the right to recover punitive damages.

ALL DISCUSSIONS AND DOCUMENTS PREPARED PURSUANT TO ANY ATTEMPT TO RESOLVE A DISPUTE UNDER THIS PROVISION ARE CONFIDENTIAL AND FOR SETTLEMENT PURPOSES ONLY AND SHALL NOT BE ADMITTED IN ANY COURT OR OTHER FORUM AS AN ADMISSION OR OTHERWISE AGAINST A PARTY FOR ANY PURPOSE INCLUDING THE APPLICABILITY OF FEDERAL AND STATE COURT RULES.

The parties agree to toll any applicable statutes of limitations during the pendency of any of the above dispute resolution proceedings. Nothing in this Paragraph will prevent any party from seeking injunctive relief in a judicial proceeding if interim relief from a court is necessary to preserve the status quo pending resolution or to prevent serious and irreparable injury to that party or others. The parties shall continue to perform all obligations under this Agreement pending the above-described dispute resolution proceedings, subject to full reservation of rights at law or under this Agreement.

15. Severability. In case any provision of this Agreement shall be invalid, illegal or unenforceable, such provision shall be construed so as to render it enforceable and effective to the maximum extent possible in order to effectuate the intention of this Agreement; and the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

16. Delays or omissions. No delay or omission to exercise any right, power or remedy accruing to a party under this Agreement shall impair any such right, power or remedy of such party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of either party of any breach or default under this Agreement, or any waiver on the part of either party of

any provisions or conditions of this Agreement must be made in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to a party, shall be cumulative and not alternative.

17. Binding Agreement. This Agreement shall be binding upon the parties hereto and their respective successors and assigns as permitted hereunder. No person or entity other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against either of the parties hereto, and the covenants and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

18. Entire Agreement. This Agreement and the attached Schedules and Use Policy accepted by Customer and Provider constitute the entire understanding and agreement between the parties and supersede any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by the parties. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

20. Counterparts; Duly Authorized. This Agreement may be executed simultaneously in two or more counterparts, each counterpart shall be deemed to be an original, and all counterparts individually or together shall constitute one and the same instrument. Each party represents and warrants that the person whose signature appears below is duly authorized to enter into this agreement on behalf of the party. In witness whereof, the parties have entered into this agreement as of the date last set forth below (the "Effective Date"):

Company: _____

Matrix Telecommunications Corporation

By (signature): _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Type: _____

(S Corp, C Corp, Partnership, Sole Proprietor, Individual, LLC, etc.)

Schedule A
Service Selection and & Pricing Terms.

1. Selected Services form. Provider shall provide a "selected services" quotation to the Customer that establishes the products and prices and returned signed to Provider. This form shall provide Provider with a list of services that the customer has elected to purchase and their associated setup / monthly fee. Customer recognizes that products and Services may be updated from time to time and that they (Customer) will have to option of purchasing any of these services at any time. Customer shall be bound to the purchase of the services selected and all terms and conditions of its use.

A. Initial Service Choice. Customer agrees to be bound by the terms of this agreement according to the terms in agreed to in section 5.1. Customer recognizes that the initial service selection will automatically change based upon the number of subscribers billed weekly.

B. Additional Service Add-Ons. Customer and Provider agree that the additional services offered on the selected services form can be added and removed at anytime during the term of the contract. Once a service has been added, the setup + monthly fees that have been invoiced are non-refundable. Customer further recognizes that the services available off this form may change by an addition or removal from this list.

C. Monthly Service Fees. Provider's monthly prices per end-user are made available off the website and its following links at www.mtxsys.com. Provider reserves the right to change or modify these prices if our costs increase. Should Provider exercise its right to raise prices, the following conditions will apply:

- 1.** Provider must show in writing that its costs have increased to each Customer that requests this information and Provider may only raise prices the same percentage as Providers costs have increased.
- 2.** Should the Customer not contest the price increase within 30 days the customer agrees to be bound by the terms of this contract at the new rate.
- 3.** If the Customer contests the price increase and Provider can show in writing that its costs have increased, Customer agrees to be bound by the term of the agreement at the new costs.
- 4.** If Provider cannot prove in writing that its costs have increased, Provider shall continue providing customer the service at the old rate.

2. Customer Application. Customer shall provide a customer application for each individual who shall be able to have contact with Provider. Anyone that is not on the customer application shall not be permitted to any information regarding the Customer account or users.

Service Quotation Addendum