



**Digital West Networks, Inc.
Internet Services Agreement: VS
Virtual Server**

Date: August 8, 2012

This Internet Services Agreement ("Agreement") is between Digital West Networks, Inc. ("DWN") and the Customer shown below and consists of this document and the Services Quotation. This Agreement may be executed by facsimile and/or in multiple counterparts. Once executed by both parties, this Agreement is effective as of the Effective Date shown below.

<p>Company: Cuesta College</p> <p>Address: Highway 1 San Luis Obispo, CA 93403-8106</p> <p>Telephone: (805)546-3100 Fax:</p> <p>Authorized Signature: _____</p> <p>(Print Name): Janice House</p> <p>Title:</p> <p>Contact: Janice House</p> <p>Email: jhouse@cuesta.edu</p>	<p>Digital West Networks, Inc. 3620 Sacramento Dr. Suite 102 San Luis Obispo, CA 93401</p> <p>T (805) 781-9378 1 (888) 781-WEST F (805) 781-9379</p> <p>Authorized Signature: _____</p> <p>(Print Name): Janice Petko</p> <p>Title: Director of Sales & Marketing</p> <p>Effective Date: 8/15/12</p> <p>Term: 3 Year Term</p>
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Quotation Number: 080812-CC-VS
Quotation Date: 8/8/12

NOTES: Please sign and date the first page of the Contract and initial all remaining pages and accompanying Quotation.



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DEFINITIONS

The following terms shall have the following meanings as used in this Agreement:

- A) "**Service**" means the provision of Virtual Hosted Server(s), bandwidth for the transmission of data to and from the Internet through the Network, together with services within a DWNI Internet Data Center ("IDC"), including 24x7 connectivity to the Internet, as further defined in this Agreement and in the Services Quotation.
- B) "**Network**" means the networks of routers, switches and communication channels that are owned or controlled by DWNI.
- C) The "**Quote**" means the Quote attached and marked as Exhibit A. Customer and DWNI may enter into subsequent Quote(s), which will automatically become part of this Agreement provided that such subsequent Quote(s) refer to this Agreement.
- D) "**Agreement**" means this agreement.
- E) "**DWNI Equipment**" means all the computer equipment, software, networking hardware or other materials belonging to or furnished by DWNI and which are not purchased by the Customer. Additional terms are defined in the DWNI Terms and Conditions below.
- F) "**Transfer Fees**" means the charges for usage of Transfer under this Agreement as such are more particularly set forth in the Quote.
- G) "**Transfer**" means the allowable quantity of data in Gigabytes which may be regularly utilized by the Customer under the Quote, without additional charge, for any calendar month under the terms of the Agreement.
- H) "**Excess Transfer Charges**" means the charges which shall be paid by the Customer, and which will be charged by DWNI, when the Customer's actual transmission of data exceeds the Transfer allotted for any given calendar month.
- I) "**Virtual Server (VS) Fees**" means the monthly charge for the VS Service under this Agreement as more particularly set forth in the Quote. Monthly VS Service fees are payable in advance, and shall be due on the first day of each calendar month.
- J) "**Installation Date**" means the date the Virtual Hosted Server(s) identified in the Quote is/are ready for Customer access and utilization.
- K) "**Customer Access List**" means the list, provided by Customer to DWNI, of up to twenty (20) persons who are authorized by Customer to make support requests for the DWNI VHS.
- L) "**Affiliate**" means any entity that (a) controls, is controlled by, or is under common control with Customer, or (b) is the surviving entity as a result of a merger with Customer. Control ("Control") means the direct or indirect ownership of more than fifty percent (50.00%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50.00%) of the voting interest in the ordinary direction of the entity's affairs.
- M) "**Excess Packet Loss**" and/or "**Latency**" shall be defined as follows: (a) Packet Loss is measured as the percentage of lost packets, averaged over a thirty (30) day month (720 hour) period, from IP POP to IP POP; (b) Latency is measured as the round trip time, averaged over a thirty (30) day month (720 hour) period, for an IP packet to travel from core IP POP to IP POP.
- N) "**Downtime**" shall be defined as any period of time, measured in minutes, that the Customer experiences sustained packet loss in excess of fifty percent (50%), based on DWNI's measurements.



AGREEMENT

SECTION 1 | COMMENCEMENT OF SERVICES

DWNI will begin installation and provide Services described in the Quote only after it receives and accepts: 1) the Quote, signed by a Customer authorized representative; 2) this Agreement, signed by a Customer authorized representative; and 3) the Initial Payment due under Section 2.1 of this Agreement (hereinafter the "Commencement of Services"). For purposes of this Section DWNI's execution of the Quote and this Agreement at DWNI's offices in San Luis Obispo, California shall be DWNI's acceptance of such agreements.

SECTION 2 | SERVICE FEES AND BILLING

Customer agrees to pay the monthly charges for Service, the Setup Fee and other charges indicated on the Quote or otherwise becoming due hereunder (collectively, "Service Charges"). Service Charges do not include applicable taxes, shipping charges (if any), or telephone service charges (Collectively "Other Charges"), all of which shall be payable by Customer in addition to the Service Charges, whether billed by DWNI or third party providers. All Other Charges shall be the responsibility of the Customer.

2.1. Initial Payment. All Service Setup Fees, together with the first month's Service Charges, as the same are identified in the Quote, shall be paid by Customer at the time Customer submits this executed Agreement to DWNI.

2.2. Recurring Service Charges. Following the Commencement of Services, DWNI will bill Customer monthly in advance for the Virtual Hosted Server Fees together with billing for any Excess Transfer Charges arising from Customer's usage of additional Transfer, above and beyond Customer's allotted Transfer amount, during the prior month (collectively "Service Charges"). Billing for monthly Service Charges will begin on the earlier of: (a) the date the Customer accepts access to the Virtual Hosting Servers, or (b) the Installation Date (. If, however, Customer is unable to use the Services commencing on the Installation Date due solely to delays caused by DWNI, then the date on which monthly Service Charges billing begins will be extended by one day for each such day of such delay.

2.3. Payment. All Service Charges and other fees will be due in U.S. dollars within thirty (30) days of the date of invoice. Late payments will accrue interest at a rate of one and one-half percent (1.5%) per month.

SECTION 3 | VIRTUAL SERVER (VS)

Customer will at all times comply with and conform its use of the Service to the DWNI Acceptable Use Guidelines and DWNI Anti-SPAM Policy set forth at DWNI's web site, <http://www.digitalwest.net/AUP.html> and hereafter collectively "AUP", as such AUP may hereafter be modified or updated by DWNI in its reasonable discretion from time to time. In the event: Customer violates the AUP and DWNI determines, in its reasonable discretion, that there is potential harm to its Network or business, DWNI shall have the right to immediately suspend all Service herein provided for (an "AUP Suspension"). DWNI shall notify Customer, in writing, of any AUP Suspension and the reasons for the same (the "Violations"). Should Customer thereafter cure the Violations, DWNI, in its reasonable discretion, may re-enable the Service upon satisfaction to DWNI that all Violations have ceased or otherwise been cured, and upon adequate assurance that such Violations will not re-occur in the future. No AUP Suspension shall be deemed to abate, suspend, or otherwise relieve Customer from the payment of any charges due for Services hereunder. In the event that the parties subsequently determine that an AUP Suspension by DWNI resulted from DWNI's error, DWNI shall provide a pro-rata credit to Customer, based upon Customer's monthly Service Fee, and in no event greater than one month's Service Fee as set forth in the Quote, against the Customer's next monthly billing.



3.1. Updates. DWNI may, in its reasonable discretion, modify, amend and/or update the DWNI Acceptable Use Guidelines, and/or DWNI Anti-SPAM Policy from time to time, by posting such updates on DWNI's web site. References herein to the DWNI Acceptable Use Guidelines, and/or DWNI Anti-SPAM Policy shall mean the most updated version of such policies or procedures as the same are then posted on DWNI's web site. DWNI shall notify Customer of any material changes to its policies and procedures.

3.2. Illegal Use. Customer will cooperate in any investigation of Customer's alleged illegal use of DWNI's facilities, network, or other networks accessed through DWNI. If Customer fails to cooperate with any such investigation, DWNI may suspend Customer's Service as an AUP Suspension. Additionally, DWNI may modify or suspend Customer's Service, (as an AUP Suspension), in the event of illegal use of the Network or as necessary to comply with any law or regulation, including the Digital Millennium Copyright Act of 1998, 17 U.S.C. 512, as reasonably determined by DWNI.

SECTION 4 | THIRD PARTY VENDORS

Customer is responsible for ordering, maintaining, terminating and paying for any data and telecommunications circuits or services provided to Customer by third party vendors or carriers, including cross-connects from DWNI to any telecommunications or data carrier. DWNI is not responsible or otherwise liable for the performance or non-performance of such circuits or services.

SECTION 5 | 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 Network and/or through other public and private networks. DWNI is not responsible or otherwise liable for the performance or non-performance of such networks or their inter-connection points.

SECTION 6 | TRANSFER

Customer shall not sell, assign, convey, or otherwise transfer (collectively "Transfer") the "Service" to any third party without first obtaining DWNI's prior written approval, for which consent shall not be unreasonably withheld. In the event DWNI approves a Transfer or Customer resells connectivity to the Internet provided under the Services herein agreed to : (a) Customer shall always remain responsible to DWNI for all of its obligations hereunder including, but not limited to, all Service Charges and liabilities arising out of or related to such third party usage, sites, communications, and the acts and omissions of such third party; (b) Customer shall indemnify DWNI for any and all claims arising out of the acts and omissions of such third party and; (c) Customer and the party(s) to whom Customer resells any portion of the Services enter into written agreement(s) pursuant to which such party(s) agree to be bound by all terms and conditions in this Agreement (including, without limitation, DWNI Acceptable Use Guidelines and DWNI Anti-SPAM Policy) as applicable to them and their use of the Services and the Network. Any such resale agreement shall terminate automatically upon expiration or termination of this Agreement. Notwithstanding the foregoing, DWNI is not liable to any third party resale customer for any claims, losses or damages, (including consequential damages) resulting from that Customer's use of the Service.

6.1 If the third party to any Transfer is an Affiliate of the Customer, the prior written approval of DWNI shall not be required prior to such Transfer, provided that all other obligations of Customer under Section 6 Transfer above shall otherwise be applicable to such Transfer.



SECTION 7 | LIMITED SERVICE LEVEL AGREEMENT

DWNI will use commercially reasonable efforts to minimize Excess Packet Loss and Latency and to avoid Downtime, as more fully set forth below.

7.1. Packet Loss and Latency. DWNI does not proactively monitor the packet loss or transmission latency of specific customers. DWNI does, however, proactively monitor the aggregate bandwidth, packet loss, and transmission latency with regard to Services purchased by customers within the Network. If Customer brings Network Excess Packet Loss or Latency issues to DWNI's attention, or if DWNI otherwise becomes aware of Excess Packet Loss or Latency on the Network, DWNI will use commercially reasonable efforts to determine the source of such Excess Packet Loss or Latency and to correct such problem to the extent that the source of the problem is on the Network.

7.2. Remedy for Failure. Refer to DWNI's Service Level Agreement for specific remedies regarding Excess Packet Loss and/or Latency. In no instance shall the aggregate total of any credits resulting from such a remedy during any calendar month exceed an aggregate maximum credit of the monthly Service fees otherwise due from Customer for one (1) calendar month.

7.3. Inability to Access the Internet (Downtime). DWNI guarantees 99.999%, or "Five Nines", connectivity from the Network to the Internet without Downtime. If Customer experiences Downtime, then DWNI will credit a Customer's account the pro-rata Service Fees otherwise due for such Downtime, provided that the aggregate total all such credits for Downtime occurring during any calendar month will not exceed an aggregate maximum credit of the monthly Service Fees otherwise due from Customer for one (1) calendar month. DWNI will exercise commercially reasonable efforts to repair and remedy any such Network Downtime in a timely manner.

7.4. Power Availability. DWNI guarantees 100% power availability to the Customer's Virtual Hosted Servers. In the event of an unscheduled power outage, DWNI will credit Customer's account the pro-rata monthly Hosted Server Fee associated with the unscheduled power outage, provided that the aggregate total of all such credits during any calendar month will not exceed an aggregate maximum credit of the monthly Virtual Hosted Server Fee otherwise due from Customer for one (1) calendar month. DWNI will exercise commercially reasonable efforts to repair and remedy any such power outages in a timely manner.

7.5. Credits. DWNI will apply the credits applicable under this Section, if any, towards the monthly billing for the month following the calendar month during which the credits accrue. In the event that Customer believes that such a credit accrued or was otherwise applicable to a monthly invoice received by Customer, the Customer must notify DWNI within ten (10) business days from the date that Customer receives that monthly invoice. Failure to comply with this requirement will forfeit Customer's right to claim such credit at any time against future invoices.

7.6. Limitation on Remedies. If Customer is entitled to multiple credits under this Section 7, such cumulative credits for any calendar month shall never exceed the charges due DWNI hereunder for one (1) calendar month under any circumstances. DWNI will never apply a credit under Section 7.2 for any Excess Packet Loss or Latency for which Customer received a credit under Section 7.3. Sections 7.2, 7.3 and 7.4 above state Customer's sole and exclusive remedy for any and all failures by DWNI to provide Services or adequate Service levels under this Agreement or otherwise, including but not limited to any outages or Network congestion. DWNI's suspension or modification of Service in accordance with the terms of this Agreement shall never be deemed to be a failure of DWNI to provide adequate Service levels under this Agreement.



SECTION 8 | WARRANTY DISCLAIMER

EXCEPT AS SPECIFICALLY SET FORTH HEREIN, ALL SERVICES ARE PROVIDED BY DWNI ON AN "AS-IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES ARE AT CUSTOMER'S OWN RISK. DWNI DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. DWNI DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. DWNI WILL EXERCISE COMMERCIALY REASONABLE EFFORTS TO MAINTAIN ALL SERVICES AND SERVICE LEVELS. DWNI WILL REPAIR AND REMEDY ANY LISTED OUTAGES IN A TIMELY MANNER.

SECTION 9 | SOLE EXPRESS WARRANTY

DWNI represents and warrants that (a) it will perform the Services in a competent and good workmanlike manner in accordance with the level of professional care customarily observed by highly skilled professionals rendering similar services within DWNI's market area; (b) the Services and/or other materials provided by or on behalf of DWNI will not knowingly be a violation or infringement upon any third party's patent(s), trade secret(s), trade mark(s) or any other proprietary right(s); (c) DWNI and its employees will comply with all applicable ordinances, codes, standards, laws, rules, regulations and orders of any governmental authority having jurisdiction over DWNI's performance of the Services; and that (d) DWNI has the right to execute this Agreement and perform hereunder.

SECTION 10 | DISCLAIMER OF THIRD PARTY ACTIONS AND CONTROL

DWNI does not and cannot control the flow of data to or from the Network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inaction caused by these third parties can produce situations in which Customer connections to the Internet (or portions thereof) may be impaired or disrupted. DWNI cannot guarantee, and specifically does not hereby guarantee that such situations will not occur, and accordingly DWNI disclaims, and Customer acknowledges and agrees, that DWNI is not responsible for any and all liability, costs, or expenses resulting from or related to such events. In the event that 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 Network or its operations, DWNI shall have the right to suspend the Service (an "Internet Threat Suspension"). DWNI shall restore Service at such time as it reasonably deems that there is no further harm or threat of harm to the Network or its operations. No Internet Threat Suspension shall be deemed to abate, suspend or otherwise relieve Customer from the payment of any charges due for Services hereunder. In the event that the parties subsequently determine that an Internet Threat Suspension by DWNI resulted from DWNI's gross negligence, then DWNI shall provide a pro-rata credit to Customer, based upon Customer's monthly Service Fee, and in no event greater than one month's Service Fee as set forth in the Quote, against the Customer's next monthly billing.

SECTION 11 | LIMITATIONS OF LIABILITY

11.1. Personal Injury. DWNI shall not be liable for any harm or personal injury to Customer or Customer employees, representatives, customers or agents resulting from any cause, other than DWNI's gross negligence or willful misconduct.

11.2. Damage to Customer Equipment. DWNI shall not be liable for damage to, or loss of, any Customer Equipment resulting from any cause, other than DWNI's gross negligence or willful misconduct. In the event that DWNI is determined to be liable for such loss or damage to Customer's Equipment, Customer acknowledges and agrees that DWNI's liability shall be limited to an amount not to exceed the replacement



value of the damaged Customer Equipment, together with not more than one (1) month of the regular service charges due under this Agreement.

11.3. Damage to Customer Business. In no event will DWNI be liable for any incidental, punitive, indirect, or consequential damages (including, without limitation, any lost revenue or lost profits) or for any loss of technology, loss of data, or interruption or loss of use of Service (except as set forth in Section 6) or any other similar claims by Customer or related to Customer's business, even if DWNI is advised of the possibility of such damages.

11.4. Maximum Liability. Notwithstanding anything to the contrary in this Agreement, DWNI's maximum aggregate liability to Customer related to or in connection with this Agreement whether under theory of contract, tort (including negligence), strict liability or otherwise, shall be limited to the total amount due to DWNI from Customer hereunder for the first twelve (12) month period of the Agreement. Customer acknowledges and agrees that this limitation of liability is a significant part of the consideration received by DWNI in providing the Services to Customer at the rates set forth in the Quote, and that but for this limitation DWNI would otherwise charge significantly more for such Services.

SECTION 12 | INDEMNIFICATION

12.1. By Customer. Customer will indemnify, defend, and hold harmless DWNI, its directors, officers, employees, affiliates and customers (collectively, the "DWNI Related Entities") from and against any and all claims, actions or demands brought against any of the DWNI Related Entities alleging: (a) with respect to Customer's business: (i) infringement or misappropriation of any intellectual property rights; (ii) defamation, libel, slander, obscenity, pornography, or violation of the rights of privacy or publicity; or (iii) spamming or any other offensive, harassing or illegal conduct or violation of the Acceptable Use Guidelines or Anti-Spam Policy; (b) any loss suffered by, damage to or injury of any other DWNI customer, any other customer's equipment or any other customer's representatives, employees or agents, which loss, damage or injury is caused by or otherwise results from the acts or omissions of Customer, or its agents, representative(s), or employees ; (c) any personal injury suffered by any of Customer's agents, representatives, or employees arising out of such individual's activities related to the Services, unless such injury is caused by DWNI's gross negligence or willful misconduct; or (d) any other damage arising from the operation, installation or removal of the Customer Equipment, or the Customer's business activities, (collectively, the "Customer Covered Claims").

12.2. By DWNI. DWNI will indemnify, defend, and hold harmless Customer, its directors, officers, employees and Affiliates (collectively, the Customer Related Entities) from and against any and all claims, actions or demands brought against any of the Customer Related Entities alleging: (i) the infringement or misappropriation by DWNI of any intellectual property rights relating to the Network or the Services (except to the extent such infringement is caused in whole or part by Customer or the Customer Equipment); (ii) personal injury suffered by any DWNI representative, employee or agent, unless such injury is caused by Customer's negligence or willful misconduct; and (iii) DWNI's breach of the express warranties provided under Section 9 (collectively, the "DWNI Covered Claims").

12.3. Indemnity Procedure. In connection with Customer Covered Claim, or any DWNI Covered Claim, the indemnified party will provide the indemnifying party with prompt written notice of the applicable claim. The failure to timely provide such notice will not relieve the indemnifying party of its obligations hereunder, unless any delay in providing such notice impairs that party's ability or right to defend against such claim. The indemnifying party shall control the defense of any covered claim provided that the indemnified party, in their sole discretion, may elect to participate in the defense and settlement of any such claim, however such participation shall not, under any circumstances, relieve indemnifying party of any of its obligations under



this Section 11. Neither party shall have the right to consent to the entry of any judgment upon, or the settlement of, any covered claim, without the written consent of the other party, which consent shall not be unreasonably withheld. The duty to defend, as to each party, is independent of that party's duty to indemnify.

SECTION 13 | TERM

This Agreement will commence on the Effective Date and shall expire at the end of the term (the "Term") specified in any Quote, unless sooner terminated as provided in Section 13 below, provided however, that each Quote shall automatically renew for a three month ("Quarter") term, and thereafter on a Quarter to Quarter basis, upon the end of the Term unless the Customer Equipment is timely removed by the Customer at or before the end of the Term. Should this Agreement be continued on a Quarter to Quarter basis, as herein provided for following the expiration of the Term, this Agreement may thereafter be terminated by either party upon no less than ninety (90) days notice to the other. If for any reason Customer chooses to terminate service prior to the end of the Term then in effect and for reasons not covered in Section 13 or 14 of this Contract, the parties agree that the resultant damages to DWNI would be impracticable or extremely difficult to determine, therefore the parties agree that in the event of such a termination the Customer shall pay to DWNI a sum equal to fifty (50) percent of the total remaining balance which would otherwise be due under the Agreement for the remainder of the Term, as provided in the Quote.

SECTION 14 | TERMINATION

14.1 Nonpayment. DWNI may suspend Service to Customer at any time, if any amount due hereunder is not paid in full when due (a "Default") within five (5) days after Customer is in receipt of written notice from DWNI regarding such Default (a "Notice of Default"). Should Service be suspended hereunder, in order to reinstate Service, DWNI will require: (a) that the Default be cured by payment of all amounts then due in full (including additional amounts which have accrued following the Default); and (b) that Customer shall first additionally pay a default reconnection fee to DWNI of \$500.00. DWNI may additionally, at DWNI's option, terminate all of the Customer's rights under this Agreement (or at its option, only the relevant Quote) if any amount due hereunder is not paid in full when due, and within five (5) days after Customer is in receipt of Notice of Default. If for any reason Customer has failed to cure a Default within thirty (30) days after Customer is in receipt of a Notice of Default, DWNI shall have the right, but not the obligation, to remove all of Customer's Data from the Virtual Hosted Servers (a "Default Removal"). In the event of a Default Removal, Customer shall be liable, and shall pay DWNI, for DWNI's invoiced removal fees, together with all defaults otherwise then due. Alternatively, DWNI may leave the Virtual Hosted Servers in place, and continue to invoice Customer for the "Service", however such charges shall thereafter be billed, and payable at a rate equal to 150% of the charges set forth in the relevant Quote.

14.2 Bankruptcy. If customer becomes a debtor or debtor-in-possession under any proceeding commenced under Title 11 of the United States Code (a "Bankruptcy"), or becomes the subject of a petition, action, or proceeding relating to a receivership, or an assignment for the benefit of creditors, DWNI may terminate this Agreement upon written notice to Customer provided that such petition or proceeding is not dismissed within 60 days of filing.

14.3 Unacceptable Use. DWNI may immediately terminate this Agreement if Customer violates any provision of the DWNI Acceptable Use Guidelines (<http://www.digitalwest.net/AUP.html>) of the Anti-Spam Policy that results in a suspension by DWNI, and said violation remains uncured after thirty (30) days following the suspension.



14.4 Customer's Limited Termination Right. Customer shall have the limited right to terminate this Agreement, or any Quote, without further liability there under if: (a) with respect to the SLA, DWNI fails to perform any single SLA and such failure continues for more than ten (10) consecutive days, provided that such failure does not arise from causes outside of the control of DWNI; or (b) Customer becomes entitled to the maximum credits provided for under Section 6 for more than one (1) month during any calendar year.

14.5 For Other Cause. Except as otherwise specifically herein provided, either party may terminate this Agreement upon ten (10) days written notice to the other party, if the other party breaches any material term or condition of this Agreement and thereafter fails to cure such breach within ten (10) days after receipt of said written notice of the same.

14.6 Effect of Termination. Upon expiration or termination of this Agreement: (a) DWNI will cease providing the Services; (b) except as otherwise herein specifically provided, all of Customer payment obligations under this Agreement, including but not limited to monthly Service Fees through the end of the Term indicated on the Quote(s), shall then become due in full immediately.

SECTION 15 | SURVIVAL

The Parties respective representations, warranties, and covenants, together with obligations of indemnification, confidentiality and limitations on liability shall survive the expiration, termination or rescission of this Agreement and thereafter continue in full force and effect.

SECTION 16 | MICELLANEOUS PROVISIONS

16.1. Force Majeure. Other than with respect to failure to make payments due hereunder, neither party shall be liable under this Agreement for delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof, caused or occasioned by, or due to fire, earthquake, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, explosions, civil disturbances, governmental actions, shortages of equipment or supplies, unavailability of transportation, acts or omissions of third parties, or any other cause beyond its reasonable control ("Force Majeure Event(s)"). If at any time during the Term DWNI is unable to perform under this Agreement for more than sixty (60) consecutive days as a result of a Force Majeure Event, either party may terminate this agreement upon 48 hours notice to the other.

16.2. Confidentiality. Each party agrees that all information furnished to it (the "Receiving Party") by the other party (the "Disclosing Party"), or information of the Disclosing Party to which the other has access under this Agreement, shall be deemed confidential and proprietary information (collectively referred to as "Confidential Information") of the Disclosing Party and shall remain the sole and exclusive property of the Disclosing Party. Each party shall treat Confidential Information, which shall include the contents of this Agreement (and further including the Quote and Exhibit A), in a confidential manner, shall use such information only to the extent necessary to perform its obligations hereunder, and neither party may directly or indirectly disclose the same to anyone other than its employees on a need-to-know basis and who shall first agree to be bound by the terms of this Section, without the written consent of the Disclosing Party. Information will not be deemed Confidential Information hereunder if such information: (i) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (ii) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party; (iv) is independently developed by the Receiving Party; or (v) is required to be released by law or regulation,



provided that the Receiving Party provide prompt written notice to the Disclosing Party of such impending release, and the Receiving Party cooperate fully with the Disclosing Party to minimize such release.

16.3. No Lease. This Agreement is a services agreement and is not intended to, and will not constitute, a lease of tenancy or other interest in the Internet Data Center or other DWNI premises, the DWNI Equipment, or any other real or personal property.

16.4. Marketing. DWNI will not use any trade name, trademark, service mark, logo, commercial symbol, or any other proprietary rights of Customer or any Affiliate of Customer disclosed by Customer to DWNI in writing, without the prior written authorization for such use being provided by Customer.

16.5. Government Regulations. Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the United States of America ("U.S.") in connection with this Agreement without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

16.6. DWNI Assignment. DWNI shall not assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the Customer being first obtained, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, DWNI shall have the right to assign its rights to an Affiliate at any time without Customer's consent or approval.

16.7. Successors. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

16.8. Notices. Any required notice hereunder may be delivered personally or by courier; sent by confirmed facsimile, or delivered by registered or certified mail (return receipt requested, postage prepaid), (hereinafter "Mailed"), to either party at the name, address and facsimile number below, or at such other address as such party may provide to the other by written notice. Such notice will be deemed to have been received as of the date it is delivered personally or by courier, or five (5) days after it is sent by confirmed facsimile or Mailed.

DWNI: Digital West Networks, Inc.
3620 Sacramento Dr. Suite #102
San Luis Obispo, CA 93401
(805) 781-9379 FAX

CUSTOMER: Cuesta College
Highway 1
San Luis Obispo, CA

16.9. Relationship of Parties. This Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between DWNI and the Customer.

16.10. Choice of Law/Venue. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding its conflict of laws principles. For purposes of enforcing this agreement, the parties further agree that the exclusive venue shall be the County of San Luis Obispo, California.



SECTION 17 | GENERAL

This Agreement, together with the Quote(s) and DWNl policies referred to in this Agreement, is the complete agreement and understanding of the parties with respect to the subject matter hereof, and supersedes any other agreement or understanding, written or oral. This Agreement may be modified only through a written instrument signed by both parties. Should any provision of this Agreement be declared void or unenforceable, such provision will be deemed amended to achieve as nearly as possible the same economic effect as the original terms, and the remainder of this Agreement will remain in full force and effect. If a conflict arises between a party's pre-printed business publication and this Agreement, this Agreement shall be deemed as controlling.