

# **EXHIBIT 16**

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97100174 ZUCKERBERG, MARK ELLIOT  
Image Loc: 2002273L370MAIL

You can use this form to: - register to vote - report that your name or address has changed - register with a party				This space for office use only.			
Please print in blue or black ink							
1	Mr. Mrs. Miss Ms.	Last Name <u>Zuckerberg</u>	First Name <u>Mark</u>	Middle Name(s) <u>Elliot</u>	(Circle one) Jr Sr II III IV		
2	Address (see instructions) Street (or route and box number) <u>2 Ruck Place</u>		Apt. or Lot #	City/Town <u>Dobbs Ferry</u>	State <u>NY</u>	Zip Code <u>10522</u>	
3	Address Where You Get Your Mail If Different From Above (see instructions)			City/Town	State	Zip Code	
4	Date of Birth <u>05 / 14 / 84</u>		5	Telephone Number (optional)		6 ID Number (see item 6 in the instructions for your State)	
7		Choice of Party (see item 7 in the instructions for your State)			8 Race or Ethnic Group (see item 8 in the instructions for your State)		
9 I swear/affirm that: - I am a United States citizen - I meet the eligibility requirements of my state and subscribe to any oath required. (See item 9 in the instructions for your state before you sign.) - The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States.				Please sign full name (or put mark) <u>Mark Zuckerberg</u> Date: <u>06 / 09 / 02</u> Month Day Year			
10 If the applicant is unable to sign, who helped the applicant fill out this application? Give name, address and phone number (phone number optional).							

RECEIVED  
BOARD OF ELECTIONS  
WESTCHESTER COUNTY  
N.Y.  
JUN 30 12:00

FOUO

April 25, 2003

548

PLAY

COMMUNITY BANK, R.D. 3,000 dls 00 cts

3,000.00

PAY TO THE  
ORDER OF

**Mark Zuckerberg**

# CASHIER'S CHECK

010422025 020 0001 0009 07

DATE  
PAYABLE THROUGH  
BANK OF  
CHARLESTON, WV

**AUTHORIZED SIGNATURE**

440519003531004 10

70304 2A3 07

000000000000

# FLEET

**第一屆全國青年運動會籌備委員會**

14

1965-1966

U.S. DEPARTMENT OF AGRICULTURE

**SECRET**

COMMUNITY BANK, N.A.  
113 North Main St.  
Wellsville, NY 14895

Wellsville, NY 14895  
Bessie Jones  
CSRH  
8/13/10



Mark Zuckerberg  
2734 Harvard Yard Mail Center  
Cambridge, MA 02138  
914.646.8593

### StreetFax Back-End Technical Specification

#### *Non-technical Explanation:*

To make the specification more readable, I will give an overview of the functionality of the system described by the set of scripts and applications below.

The first section deals with logon and security. The first script makes sure that the interface through which users log into the system is completely secure, using the latest methods of commercial cryptography. It will verify if the user has the privileges to enter the system, and if they do, it admits them. The second script protects the system from being entered through a page other than the logon page. If the only security was at the logon screen, then a person could just go to a different page and bypass the logon completely. This script will ensure that the user is logged in before it grants access to any page on the site. The third script in this section will allow the site administrators to create and edit usernames and account information. This is critical for customers who do not create their accounts through the site.

The second section deals with e-commerce. Much of the discussion here is about the different options of registration with SSL and VeriSign. The scripts we develop will use these technologies to perform secure e-commerce transactions. It will allow users to register on a subscription and individual-use basis. All actions performed by users in this section of the site will be logged in a database and can be used to generate reports later on.

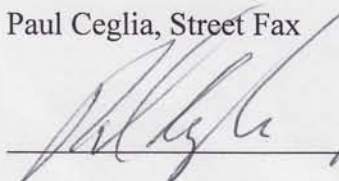
The third section deals with searching the database of images. The user will enter two streets to search for their intersection, and then a script we write will search the database. If multiple intersections are found, the user will be shown a list with the towns and states to choose from. If, after reviewing the choices, there is still no an accurate match, the user will be routed to another page which will ask them to specify a state and city for a more detailed search. From their selection, the user is taken to another page with the list of intersections matching their search in the specified area. The user can choose an intersection to search for images. If only a single intersection is returned from the original search, then the images from that intersection are automatically brought up. The images will be displayed in alphabetical order with any signs at the top of the page above the photographs of the intersections. The script that retrieves the images from the database will also construct the necessary sentence describing the image from information in the database. If at any point no intersection is found, the user will be taken to a site that asks them if they want to pay to have those images acquired for them within 24 hours, this screen will appear as a half page with the nearest possible matches above it. They can search these pictures by clicking on any one of the intersections to



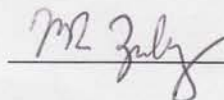
2. Highlighted Maps
  - a. This feature will be difficult to implement since it will require someone to go through the database and add information to all of the old entries. At this point, that does not seem like an economical use of resources. We can try to implement this enhancement later on, perhaps using a different algorithm.
3. Automated Database Applications
  - a. It was a little unclear to me what sort of automated database cleanup you wanted, but I definitely see room for redundant entry filtering, data linking, and priority sorting to help increase the efficiency of the system. This can come after the basic development.
  - b. Scripts that query the database to find results from a specific photographer and that email photographers when photographs have not been submitted on time. This functionality also seems less important in getting the system up and running.
4. Robust Photographer Interface
  - a. This feature will take the form of a powerful custom server application that photographers can log into to use dynamic functionality within the assignment and request systems. It will also provide the photographers with extra tools for batch uploading and perhaps editing of their images.
5. Anti-Hacker System
  - a. An additional system to ensure the security of the server and maintain the integrity of the information inside. Since some of the data, namely credit card numbers and passwords, is sensitive, this extra functionality is highly recommended in the long term.

This specification will be approved with appropriate signatures below.

Paul Ceglia, Street Fax

 4/28/03

Mark Zuckerberg

 04.28.03

Please type a plus sign (+) inside this box → ☐

PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032  
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

<b>DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)</b>	<b>Attorney Docket Number</b>	25123.00
	<b>First Named Inventor</b>	Zuckerberg
	<b>COMPLETE IF KNOWN</b>	
	<b>Application Number</b>	/
	<b>Filing Date</b>	May 14, 2003
	<b>Group Art Unit</b>	
<input checked="" type="checkbox"/> Declaration Submitted with Initial Filing	<b>OR</b>	<input type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)
<b>Examiner Name</b>		

**As a below named inventor, I hereby declare that:**

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Methods and Aparati for Recognizing a Pattern of Using Information Units and Generating a Stream of Information Units in Accordance with a Recognized Pattern**

the specification of which (Title of the Invention)

☒ is attached hereto

**OR**

☐ was filed on (MM/DD/YYYY) [ ] as United States Application Number or PCT International Application Number [ ] and was amended on (MM/DD/YYYY) [ ] (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)

☐ Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box → ☐

PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: ☐ Customer Number  OR

☒ Registered practitioner(s) name/registration number listed below

Place Customer Number Bar Code Label here

Name	Registration Number	Name	Registration Number
R. Lewis Gable	22,479	Mark Montague	36,612

☐ Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: ☐ Customer Number  OR ☒ Correspondence address below

Name	R. Lewis Gable				
Address	Cowan, Liebowitz & Latman, P.C.				
Address	1133 Avenue of the Americas				
City	New York	State	NY	ZIP	10036-6799
Country	USA	Telephone	(212) 790-9200	Fax	(212) 575-0671

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:		<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle if any)		Family Name or Surname			
Mark Elliot		Zuckerberg			
Inventor's Signature	<i>Mark Zuckerberg</i>			Date	
Residence: City	Dobbs Ferry	State	NY	Country	USA
				Citizenship	USA
Post Office Address					
Post Office Address					
City	Dobbs Ferry	State	New York	ZIP	
				Country	USA

☒ Additional inventors are being named on the 1 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto





## SAVVYSPACE INTERNET DATA CENTER COLOCATION SERVICE AGREEMENT

**THIS AGREEMENT** is made between Savvy Networks, Inc., (hereinafter "SavvySpace"), a New York corporation having its main offices at 777 Old Saw Mill Road, Tarrytown, NY 10591, and Thefacebook having its main offices at 249 Kirkland Mail Center Cambridge MA 02138, (hereinafter "Customer").

**WHEREAS**, Customer desires to obtain from SavvySpace certain connectivity and Colocation services from SavvySpace facilities, and to be integrated into the Network architecture of SavvySpace, the SavvySpace network being a portion of the Internet; and

**WHEREAS**, SavvySpace is willing and able to provide such services to Customer

**THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree and intend to be legally bound, as follows:

### 1. Definitions

The following terms shall have the following meanings for purposes of this agreement.

1. **Colocation Site** shall mean the location of the POP in which Space for Customer's Equipment, is made available by SavvySpace.
2. **End User** shall mean any person enabled, through a data connection over the Internet to access, use, purchase, download, or otherwise interact with the content, which is located on or distributed by means of the Equipment.
3. **Content** shall mean electronic data, software, programs, or information provided by Customer and made available to End Users by means of the Equipment, which may include, but is not limited to, advertisements, product information, database records, publications, articles, announcements, news, software services, electronic exhibitions, games and entertainment of various types.
4. **Equipment** shall mean computer, networking, and data communications hardware and software (typically including one or more World Wide Web servers) owned, located and maintained by customers in the available Space.
5. **Network** shall mean the TCP/IP-based data communications network (including all hardware, software, telecommunications facilities and equipment) owned, operated and utilized by SavvySpace, through which End Users may access Customer's Content via the Internet.
6. **POP** shall mean a Network point-of-presence where the Space for the equipment will be located.
7. **Space** shall mean the area within a SavvySpace controlled suite, cage, cabinet or rack, provided by SavvySpace and set aside for Customer Equipment in the Colocation Site.

### 2. Space Specifics

#### 1. Environment:

SavvySpace shall provide environmentally controlled Space within the Colocation Site in which to house the Customer Equipment. SavvySpace will adequately condition the air within the Space by maintaining cooling and dehumidification at accepted industry standard levels.

#### 2. Power Requirements:

SavvySpace shall provide redundant main feeds of fused and filtered AC power service 24 hours a day, 7 days a week. SavvySpace will be responsible for the payment of ongoing power usage fees to the local power utility. Power outages may be required from time to time as power systems are serviced or upgraded. SavvySpace will inform Customer in advance of any scheduled power outage and the expected duration of the outage. Each room, cabinet or rack shall be backed up by SavvySpace with our central UPS (uninterrupted power supply) and backup power system as part of the monthly service fees.

THE PARTIES BELOW REPRESENT AND WARRANT THAT THEY HAVE FULL CORPORATE POWER AND AUTHORITY TO EXECUTE AND DELIVER THIS AGREEMENT AND TO PERFORM THEIR OBLIGATIONS HEREUNDER, AND THAT THE PERSON WHOSE SIGNATURE APPEARS BELOW IS DULY AUTHORIZED TO ENTER INTO THIS AGREEMENT ON BEHALF OF THE PARTY WHOM THEY REPRESENT. IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AGREEMENT AS OF THE DATE SET FORTH:

Print Name Of Authorized Representative: \_\_\_\_\_

Signature: X. MR. Zuly

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

Title: \_\_\_\_\_

Authorized Savvy Representative: Arthur Cerrati

Signature: [Signature]

Date: March 24, 2004

Title: Sr. Vice President Sales



# SAVVYSPACE INTERNET DATA CENTER

## DEDICATED SERVER and COLOCATION ORDER FORM

**Customer Name:** Thefacebook  
 Mark Zuckerberg (914) 646 8593  
 249 Kirkland Mail Center  
 Cambridge, MA 02138

Date : March 24, 2004  
 Quotation No : AC2004240302A

Service Code	Description of Service	Qty	Non-Recurring Fees	Monthly Fees
MGD DED SVR	Managed P4 Supermicro 1U Server w/2.8Ghz, 1 GB RAM, 60 GB HDD, Redhat 9. MySQL 3.23, PHP 4.22 and PERL 5.8	5	\$1,400.00	\$1,750.00
COLO 1U	Physical 1U Colocation Space	5	\$300.00	Included
BDWTH	2 Mbps Internap Bandwidth	1	\$250.00	\$600.00
MGD SVC	Level II Hands Managed Service	5	Included	Included
POWER	110VAC Power	5	Included	Included
<b>SUBTOTAL</b>	Assessed Budget Partner Discount		<b>\$1,950.00</b>	<b>\$2,350.00</b>
<b>TOTAL</b>			<b>\$1,950.00</b>	<b>\$2,350.00</b>

### Notes:

<sup>1</sup> Variable cost rate is based on 95<sup>th</sup> percentile bandwidth usage as measured by our monitoring and traffic graphing system. This agreement includes a base of 2 Mbps of InterNAP bandwidth via our private NAP. The total monthly cost above does not include variable costs, which may apply due to additional demand bandwidth use. Bandwidth consumed above your base rate of 2 Mbps will be charged at a rate of \$ 0.80 per additional 1 K.

The customer is responsible for providing a router for the local private line(s). Savvy will provide a managed router for your use at an additional fee of \$ 150.00 per month or a one-time fee of \$ 1,499.95 on 1 year contract or \$ 1299.95 on two year or more contract.

Standard billing for support services will be offered at a discounted rate of \$150 per hour, with 15 minute minimum blocks at \$37.50 each. Support package displayed above. Additional time purchased in 10 hour packages at \$ 120.00 per hour rate which are sold in 10 hour increments with additional rate discounts with multiple 10 hour bundles.

SAVVY000105





**SAVVYSPACE INTERNET DATA CENTER  
SERVER COLOCATION ORDER FORM  
PAGE 2**

**Customer Name:**

Date : March 24, 2004

Quotation No : AC2004240302A

Customer commits to purchasing the Services for the minimum term of 24 months stated in the Agreement. The initial term shall commence as of the first billing cycle during which Services are provided to Customer. After the initial term and any successor term, this Agreement will renew automatically for an additional twelve (12) month period, unless either Party provides written notice of cancellation at least sixty (60) days prior written notice of the expiration date of the initial term. Circuits placed in service shall have a minimum term of twelve (12) months from the date they are first placed in service. If customer provides a notice of cancellation and continues to use a Service beyond the expiration date of the Term, the rates and charges applicable to Customer will be automatically converted to a month-to-month pricing plan.

A signed order if including all of the above will require an advance payment of **\$6,650.00**, which constitutes the first and last month of colocation service, plus the non-recurring setup fee. Invoices from the second month on will be billed at a rate of **\$2,350.00** per month in advance of service and must be paid by the 10<sup>th</sup> of the billing period month to avoid service interruption by our billing system.

**IMPORTANT INFORMATION:**

- (1) By submitting an Internet Data Center Colocation Order Form to Savvy Networks, Inc. (SavvyNet), Customer hereby places an order for the Internet Data Center Colocation Services described herein pursuant to the terms and conditions of the Internet Data Center Colocation Services Agreement between Customer and SavvyNet.
- (2) Billing will commence on the earlier of the Installation Date indicated below or the date Customer actually installs its equipment at SavvyNet or SavvyNet begins providing Internet Data Center Services. All Setup Fees and First and Last Payment of the Monthly Fees, will be billed and due upon Customer signing this IDC Colocation Order Form.
- (3) SavvyNet will provide the Internet Data Center Services pursuant to the terms and conditions of the IDC Colocation Services Agreement, which incorporates this Form. The terms of this Form supersede, and by accepting this Form SavvyNet hereby rejects, any conflicting or additional terms provided by Customer in connection with SavvyNet's provisioning of Internet Data Center Services. If there is a conflict between this Form and any other Form provided by Customer and accepted by SavvyNet, the Form with the latest date will control.
- (4) SavvyNet will not be bound by or required to provide Internet Data Center Services pursuant to this Form or the IDC Colocation Agreement until each is signed by an authorized representative of SavvyNet.
- (5) If this agreement is cancelled by the Customer before the end of term, for reasons not due to deficiencies of SavvyNet, Customer agrees to pay a service cancellation fee equal to 70% of the value of the outstanding balance of the agreement.

**SAVVY000106**



**SAVVYSPACE INTERNET DATA CENTER  
SERVER COLOCATION ORDER FORM  
PAGE 3**

**Customer Name:**

Date : March 24, 2004  
Quotation No : AC2004240302A

**Our Spam Policy:**

(1) Savvy Networks reserves the right to charge \$500 per complaint to investigate each incident. (2) Savvy Networks will not deal with your customers or their customers or anyone else. If you are our Customer, we expect you to deal with spam from or advertising for sections of your network. (3) If we get a first complaint, forward it on to you, and don't receive a response indicating the complete resolution of the complaint within 24 hours, we may black hole the IP address range involved in the spam complaint until we are convinced that the problem is resolved. In particular, we are concerned with spam that not only originates from your network, but also that advertises sites hosted on your network. (4) If we get repeat complaints and it is clear that the problem has not been resolved, we may black hole the section of IP space involved in the spam complaint until we are convinced that the problem is resolved. If so, we will contact you as soon as is feasible. (5) We reserve the right, per our contract with you, to black hole the section of IP space involved in spam or Denial-of-Service complaints if it is clear that the offending activity is causing great harm to parties on the Internet. In particular, if open relays are on your network or a customer's network, or if denial of service attacks are originating from your network. In certain rare cases, we may have to do this before attempting to contact you. If we do this, we will contact you as soon as is feasible.

**CUSTOMER to complete:**

**CUSTOMER HAS READ, UNDERSTANDS AND HEREBY SUBMITS THIS ORDER.**

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

Date: 3/30/04  
(Effective Service Order Date of Colocation Agreement)

Company: Theface Book

Submitted By: [Signature]  
(Authorized Signature)

Print Name: Mark Zuckerberg Title: President

**Accepted By Savvy Networks, Inc.**

[Signature] SAVP  
(Authorized Signature) (Title)

**Please provide complete payment information**

Check: \_\_\_\_\_ Check Number or Credit Card: \_\_\_\_\_ American Express: \_\_\_\_\_ VISA: \_\_\_\_\_ MasterCard: \_\_\_\_\_ Discover

Account Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**SAVVY000107**

Card Billing Address with Zip Code: \_\_\_\_\_

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

Authorized Signature: X MR Zely Date: \_\_\_\_\_

Date: \_\_\_\_\_ Auth Code#: \_\_\_\_\_

Fax Number: 1 (801) 697-5318

**Contact Person Information:**

Arthur Cerrati Phone #: (914) 345-0373  
e-mail: acerrati@savvy.net

\$10,000.00 TODAY  
\$5,000.00 W/IN 45 DAYS

Covers: 6 mos MRC

W/INSTALL  
ACIL  
MR Zely

SAVVY000108



**CERTIFICATE OF INCORPORATION**

**OF**

**THEFACEBOOK, INC.**

**ARTICLE I**

The name of the corporation is TheFacebook, Inc. (the "Corporation").

**ARTICLE II**

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, County of New Castle, 19808. The name of its registered agent at such address is Corporation Service Company.

**ARTICLE III**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

**ARTICLE IV**

The aggregate number of shares which the Corporation shall have authority to issue is 10,000,000 shares of capital stock all of which shall be designated "Common Stock" and have a par value of \$0.0001 per share.

**ARTICLE V**

In furtherance of and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors of the Corporation is expressly authorized to make, amend or repeal Bylaws of the Corporation.

**ARTICLE VI**

The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Corporation.

**ARTICLE VII**

(A) To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

(B) The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

(C) Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of the Corporation's Certificate of Incorporation inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article VII, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

#### ARTICLE VIII

The name and mailing address of the incorporator are as follows:

Mark Zuckerberg  


Executed this 26th day of July, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Incorporator



## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of July 29, 2004, by and between TheFacebook, Inc., a Delaware corporation (the "Company"), and Mark Zuckerberg (the "Indemnitee").

### RECITALS

The Company and Indemnitee recognize the increasing difficulty in obtaining liability insurance for directors, officers and key employees, the significant increases in the cost of such insurance and the general reductions in the coverage of such insurance. The Company and Indemnitee further recognize the substantial increase in corporate litigation in general, subjecting directors, officers and key employees to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited. Indemnitee does not regard the current protection available as adequate under the present circumstances, and Indemnitee and agents of the Company may not be willing to continue to serve as agents of the Company without additional protection. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, and to indemnify its directors, officers and key employees so as to provide them with the maximum protection permitted by law.

### AGREEMENT

In consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, receipt of which is hereby acknowledged, the Company and Indemnitee hereby agree as follows:

1. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall indemnify Indemnitee if Indemnitee is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred by Indemnitee in connection with such action, suit or proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee

The parties hereto have executed this Agreement as of the day and year set forth on the first page of this Agreement.

TheFacebook, Inc.

By: MR Zuck

Title: CEO

Address: 1743 Westbrook Ave  
Los Altos, CA 94024

Phone Number: 914.646.8593

AGREED TO AND ACCEPTED:

Mark Zuckerberg  
Print Indemnatee Name

MR Zuck  
(Signature)

Address: 1743 Westbrook Ave  
Los Altos, CA 94024

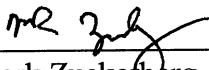
Fax Number: \_\_\_\_\_

**CERTIFICATE OF ADOPTION OF BYLAWS**  
**OF**  
**TheFacebook, Inc.**

**ADOPTION BY INCORPORATOR**

The undersigned person appointed in the certificate of incorporation to act as the Incorporator of TheFacebook, Inc. hereby adopts the foregoing bylaws as the Bylaws of the corporation.

Executed this 29th day of July, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Incorporator

**CERTIFICATE BY SECRETARY OF ADOPTION BY INCORPORATOR**

The undersigned hereby certifies that the undersigned is the duly elected, qualified, and acting Secretary of TheFacebook, Inc., and that the foregoing Bylaws were adopted as the Bylaws of the corporation on July 29th, 2004, by the person appointed in the certificate of incorporation to act as the Incorporator of the corporation.

Executed this 29th day of July, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Secretary

**ACTION OF INCORPORATOR  
OF  
THEFACEBOOK, INC.**

The undersigned, being the sole Incorporator of TheFacebook, Inc., a Delaware corporation (the "Company"), hereby adopts the following resolutions pursuant to Section 108(a) of the Delaware General Corporation Law with respect to the initial organization of the corporation:

**Adoption of Bylaws**

**RESOLVED:** That the Bylaws attached to this Action by Incorporator as Exhibit A are hereby adopted as the Bylaws of the Company.

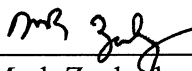
**RESOLVED FURTHER:** That the Secretary or Assistant Secretary of the Company is hereby authorized and directed to execute a certificate of the adoption of the Bylaws and insert it in the Company's Minute Book and that the officers of the Company are ordered to maintain a copy of such Bylaws in the principal office of the Company for the transaction of its business open for inspection by the stockholders at all reasonable times during office hours.

**Election of Directors**

**RESOLVED:** That the following individual is hereby appointed as the sole director of the Company, to serve as a director until his successor is duly elected and qualified:

Mark Zuckerberg

This Action of Incorporator shall be filed in the Minute Book of the Company and shall be effective as of July 29, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Incorporator

**BYLAWS**  
**OF**  
**TheFacebook, Inc.**

**CONFIDENTIAL**

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**FACE002103**

**CERTIFICATE OF ADOPTION OF BYLAWS  
OF**

**TheFacebook, Inc.**

**ADOPTION BY INCORPORATOR**

The undersigned person appointed in the certificate of incorporation to act as the Incorporator of TheFacebook, Inc. hereby adopts the foregoing bylaws as the Bylaws of the corporation.

Executed this 29<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Incorporator

**CERTIFICATE BY SECRETARY OF ADOPTION BY INCORPORATOR**

The undersigned hereby certifies that the undersigned is the duly elected, qualified, and acting Secretary of TheFacebook, Inc., and that the foregoing Bylaws were adopted as the Bylaws of the corporation on July 29<sup>th</sup>, 2004, by the person appointed in the certificate of incorporation to act as the Incorporator of the corporation.

Executed this 29<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
Mark Zuckerberg, Secretary

**CONFIDENTIAL**



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## MASTER SERVICE AGREEMENT

This Master Service Agreement ("Agreement") is entered into on 20/09 ("M&A Effective Date") (To be completed by Equinix after receipt) by and between Equinix Operating Co., Inc. ("Equinix") and the undersigned customer ("Customer") and includes the following exhibits:

- a. Exhibit A - Confidentiality Provisions; and
- b. Exhibit B - Sublicensing Provisions.

Capitalized terms used herein but not otherwise defined will have the meaning ascribed to them in Section 10.

### 1. Services.

Subject to the terms and conditions set forth in this Agreement, Equinix will provide the Services to Customer.

### 2. Ordering.

a. Customer may request Services during the Term by (i) executing a Sales Order (ii) placing an Online Order, or (iii) placing a Phone Order. Each Order, which will only be effective when accepted by Equinix, will be governed by the terms and conditions of this Agreement.

b. Equinix will provide Customer with an account and password to access the Customer Care Website. Customer is responsible for maintaining the confidentiality of his account and password and for restricting and granting access thereto. Notwithstanding anything in this Agreement to the contrary, Customer is responsible and liable for all activities that occur under Customer's account (including all payments owed for any Order that are placed under Customer's account), regardless of whether such activities are conducted by Customer, a Sublicensee or any other third party, and regardless of whether such Orders are authorized by Customer. Equinix has no obligation to verify that anyone using Customer's account and password has Customer's authorization.

### 3. Payment Terms and Taxes.

a. Unless otherwise agreed between the parties in writing, Service Fees for the Services will begin to accrue on the Billing Commencement Date. Equinix will invoice Customer for the Services on a monthly basis (partial months will be billed on a pro rata basis) and Customer will pay for the Services in accordance with this Section 3 and the Orders. Customer will pay in full all invoices from Equinix within thirty (30) days of the date of invoice. Any past due amounts owed by Customer will accrue interest at the lesser of one and a half percent (1.5%) per month or the highest rate permitted by applicable law. Unless otherwise stated in the Order, all invoices will be paid in U.S. Dollars.

b. The Service Fees for Services ordered through Sales Orders will be listed on the Sales Orders. For all other Orders, the Service Fees for Services will be Equinix's then-current list price for such Services, unless otherwise agreed to by the parties in writing. Customer agrees to pay for the Services for the duration of the Term. Notwithstanding anything in this Agreement to the contrary, for each Service, upon the expiration of the Initial Service Term, the rates and fees for Services will be subject to change, at Equinix's reasonable discretion, upon thirty (30) days' prior notice to Customer.

c. Notwithstanding anything to the contrary in this Agreement, the rates and fees for Power Services ordered by Customer will remain in effect for one (1) year from the beginning of the Service Term for such Power Services, and thereafter, the rates and fees for the Power Services will be subject to change, at Equinix's reasonable discretion, upon thirty (30) days' prior notice to Customer.

d. Customer will pay all Taxes and third-party charges related to the ownership and operation of Customer's Equipment and the activities

of Customer at each IBX Center, or attributable to, each IBX Center. Without limiting the foregoing, Customer will be responsible for paying any and all Taxes separately imposed, levied or assessed against Customer by, and preparing and filing any necessary return with, any governmental, quasi-governmental or tax authorities by the date such payments and returns are due. In no event will Customer's Equipment be construed to be insured.

e. Service Fees are exclusive of any Taxes imposed on Service Fees. Customer will be responsible for paying any Taxes imposed on Service Fees at the same time it pays the Service Fees. Customer will be responsible for timely paying in full all Taxes.

f. If Customer is required to make any deduction or withholding or to make any payment, on account of any Taxes in any jurisdiction, in respect of any amounts payable hereunder by Customer to Equinix, such amounts will be increased to the extent necessary to ensure that after the making of such deduction, withholding or payment, Equinix receives when due and retains (free from any liability in respect of any such deduction, withholding or payment) an amount equal to what would have been received and retained had no such deduction, withholding or payment been required or made.

### 4. Access and Use of the IBX Centers and Use of Customer's Equipment.

a. Subject to the terms and conditions of this Agreement, Customer will have access to the Licensed Space twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

b. Unless otherwise expressly provided in an Order, Customer will be responsible for configuring, providing, placing, installing, upgrading, adding, maintaining, repairing, and operating Customer's Equipment which actions Customer may engage in only to the extent permitted by, and subject to, the terms and conditions of this Agreement. Customer represents, warrants and covenants that Customer has the legal right and authority (including regulatory consents), and will continue to have the legal right and authority throughout the Term, to operate, configure, provide, place, install, upgrade, add, maintain and repair Customer's Equipment as contemplated by this Agreement. Without limiting the foregoing, Customer will obtain such consent of Customer's subcontractors, third party providers, vendors and any other parties as may be necessary for Equinix (including any contractors or others acting at Equinix's request) to have the right to use and access Customer's Equipment for the purpose of providing Services.

c. At all times during the Term, Equinix and Customer agree to comply with the Policies, which are at all times incorporated by reference into this Agreement. Customer acknowledges that it has received a copy of the current Policies prior to the execution of this Agreement. Any modification by Equinix to the Policies will be effective upon notice to Customer, except modifications to the Shipping Policies, which will be effective immediately upon being made.

d. Customer will be responsible and liable for all acts or omissions of Customer's Authorized Persons, Accompanying Persons, and Associated Entities, and all such acts or omissions will be attributed to Customer for all purposes under this Agreement, including for purposes of determining responsibility, liability and indemnification obligations.

e. Customer will not file a mechanic's lien or similar lien on the Licensed Space or IBX Centers, and Customer will be responsible for any mechanic's lien or similar lien filed by any Authorized Person, Accompanying Person or Associated Entity. Without limiting the foregoing, in the event any such lien is filed, Customer will be responsible for the immediate satisfaction, payment or bonding of any such lien.

### 5. Indemnification.

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(including wiring and Customer Cross-Connects between such equipment and Customer's POD Equipment) that is located in the Licensed Space, regardless of whether such equipment is owned, leased, licensed or otherwise obtained for use by Customer (but this does not include Cross-Connects or Equinix POD Equipment located in Customer's Licensed Space).

**Customer Parties:** Customer and the Affiliates, owners, officers, directors, employees, contractors and agents of Customer.

**Equinix Parties:** Equinix and the Affiliates, owners, officers, directors, employees, contractors and agents of Equinix.

**IBX Centers:** The Internet Business Exchange Centers leased or owned by Equinix in which Customer licenses Licensed Space or receives Services from Equinix pursuant to an Order.

**Licensed Space:** The areas licensed by Customer under this Agreement and as identified in the Orders as to the amount of space. For each Licensed Space, Equinix will determine at all times during the Term the exact location in the IBX Centers where the Licensed Space will be located, and Equinix will notify Customer accordingly.

**Online Order:** An Order for Services placed by Customer via the Customer Care Website and accepted by Equinix pursuant to this Agreement.

**Order:** Any Sales Order, Online Order or Phone Orders between Customer and Equinix.

**Phone Orders:** An Order for Services placed by customer via telephone and accepted by Equinix pursuant to this Agreement.

**POD Equipment:** The (i) patch panels, DSX panels for category 6 twisted pair, co-axial, single and multi-mode fiber, or (ii) other appropriate (as reasonably determined by Equinix) point of demarcation equipment.

**Policies:** The procedures, rules, regulations, security practices and policies adopted by Equinix that are then in effect for the IBX Centers, and as they may be amended from time to time by Equinix and so notified to Customer.

**Power Services:** Power circuits ordered by Customer. For the avoidance of doubt, Power Services do not include power provided by Equinix as part of a bundled service.

This Master Service Agreement has been entered into between the parties as of the MSA Effective Date.

#### Customer to complete:

The person signing below hereby warrants and represents that he or she has full authority to execute this Agreement for the party on whose behalf he or she is signing.

Customer Name: Mark Zuckerberg (Thefacebook, Inc)  
(Complete Legal Name)

Authorized Signature: ME 2.0

Printed Name: Mark Zuckerberg

Title: CEO

Street address for notices:

2 Ruckell Place

Debbi Ferry, NY 10522

Phone: 914.646.8543

Facsimile number: 914.693.6714

Electronic mail address: zuck@thefacebook.com

**Sales Orders:** All written sales orders executed by the parties which provide that such sales orders are governed by, and incorporated by reference into, this Agreement.

**Services:** All services, goods and other offerings of any kind set forth in an Order to be provided by Equinix to Customer pursuant to this Agreement.

**Service Fees:** Charges and fees for Services charged to Customer by Equinix pursuant to this Agreement.

**Service Term:** Each Service in an Order will have a Service Term, which for each Service will be the length of time from the agreed to effective date for the Service Term until the last day Equinix is required to provide such Service pursuant to the terms and conditions set forth in this Agreement or as otherwise agreed to by the parties in the applicable Order.

**Shipping Policies:** The portion of the Policies entitled Shipping Policies.

**Sublicensed Space:** The portion of the Licensed Space sublicensed to a Sublicensee by Customer pursuant to the terms of this Agreement.

**Sublicensee:** A customer of Customer or other third party who obtains Internet and/or telecommunications services from Customer and who sublicenses all or part of the Licensed Space from Customer.

**Taxes:** Sales, use, transfer, privilege, excise, VAT, GST, consumption tax, and other similar taxes and duties, whether foreign, national, state or local, however designated, now in force or enacted in the future, which are levied or imposed by reason of the performance by Equinix or Customer under this Agreement or by Customer with respect to its operations and use of the Services, but excluding taxes on Equinix's net income.

**Term:** The term of this Agreement as determined in accordance with Section 8(a) of this Agreement.

#### Equinix to complete:

The person signing below hereby warrants and represents that he or she has full authority to execute this Agreement for the party on whose behalf he or she is signing.

Authorized Signature: Monica Brown Andrews  
Director of Customer Contracts

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street addresses for notices:

301 Velocity Way, 5th Floor  
Foster City, California 94404, USA

Phone: +1 650-513-7000

Facsimile number: +1 650-513-1857

ELECTRONIC MAIL ADDRESS: contracts@equinix.com

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## EQUINIX DIRECT POLICIES

The following are the policies and procedures governing the use of Equinix's switching infrastructure (the "Switch") by Equinix Direct participants (each a "Participant") ("Equinix Direct Policies"). Participants shall be referred to cumulatively herein as "Participants". Additional policies and procedures governing Participants' use of the Switch may be included in the Agreement and this Sales Order (including any exhibits). Any terms not defined herein shall have the meaning attributed to them in the Sales Order or the Agreement.

1. General.

a. All use of the Switch by Participants shall be subject to these terms and conditions. In the event that any Participant fails to meet any of the requirements set forth in this document, Equinix may take reasonable action to correct any problem such failure may cause, including suspension or termination of Participant's use of the Switch until Participant complies with all such requirements, as set forth in these Equinix Direct Policies.

b. Equinix may make changes to these terms and conditions from time to time, provided that such changes shall not materially and adversely affect Participant's use of the Switch. Equinix shall provide Participants with at least thirty (30) days' advance written notice of such changes (except in the event of an emergency that threatens the operation of the Switch).

2. Equinix Responsibilities.

a. Equinix will provide Participants access to the Switch subject to the terms and conditions set forth in these Equinix Direct Policies, the Agreement and this Sales Order. Equinix will make commercially reasonable efforts to ensure that switches within the Switch have sufficient internal capacity to enable each Port (defined below) to operate at its full line rate. Equinix will make commercially reasonable efforts to manage inter-switch trunk capacity and to avoid congestion on inter-switch trunks.

b. Equinix representatives shall be available twenty-four (24) hours a day, seven (7) days a week, to receive trouble reports. The Equinix Response Center may be contacted by phone, 888-892-0807, or any other phone number designated by Equinix. In the event a Participant wishes to place a trouble report.

c. Equinix will notify Participants at least two (2) weeks prior to the occurrence of any scheduled maintenance window. Equinix will make commercially reasonable efforts to (i) keep maintenance windows to a maximum of two (2) hours, a maximum of once per calendar month and at a low traffic time for the Switch, and (ii) to minimize service disruptions during maintenance windows. Should an emergency arise, Equinix may take any actions necessary to diagnose and correct the problems and to restore proper network operations. In such emergencies, Equinix will endeavor to provide Participants with as much notice as is reasonably possible in the circumstances.

d. Equinix will use commercially reasonable efforts to label Ports and POE Equipment for the Switch with appropriate information, including information needed to identify each Port clearly. Only Equinix may affix and maintain such labels.

e. Equinix will make commercially reasonable efforts to begin contacting each Participant's primary contact as designated by Customer in Customer's Switch Information forms within thirty (30) minutes of identifying any problem that results in downtime on the Switch that affects Participant.

3. Participant Requirements.

a. Participant must provide and maintain twenty-four (24) hours each day, an operations contact, including a sole account e-mail address (e.g. for a network engineer or routing engineer) and an e-mail address and telephone number for the primary contact.

b. Participant must not conduct any illegal activities through the Switch or any activities that violate any Equinix policies.

c. Participants will not conduct any activity that could interfere with or impair the equipment or connectivity of any other Participant on the Switch.

d. Participants will not take any action with the purpose of circumventing payment to Equinix for use of the Switch.

e. Participants shall not obtain or attempt to obtain unauthorized access to the Switch, or circumvent or attempt to circumvent any applicable security features.

f. Participants must have a registered AS number which must be used on the Switch. Participants must register the "as-num" and the "route" objects with either RADB or ARIN.

g. Participants must register routes announced at the Switch with a standard routing registry, such as RADB, RIPE or APNIC.

h. Participants must only use the IP addresses and netmasks assigned by Equinix for its connections to the Switch.

i. Participants may only use one globally unique MAC address for each Port unless otherwise agreed to by Equinix in writing.

j. Participants must implement settings on its router port that is directly attached to the Switch to ensure that the router settings contain none of the following: (i) Proxy ARP, (ii) ICMP redirects, (iii) IP directed broadcasts, (iv) Spanning tree BPDUs, (v) IGP announcements, or (vi) Discovery protocols such as CDP or RDP.

k. Participants must explicitly set and at all times maintain duplex and speed settings on interconnects connected to the Switch and disable auto-negotiation.

l. Participants must not exchange multicast routes or traffic on the Switch. Exchange of multicast routes or traffic may only occur with the prior written approval of, and in coordination with, Equinix in order to ensure that resource allocation to multicast is appropriate.

m. Participants will not generate unnecessary route flap or unnecessarily specific routes to peers across the Switch.

n. Participants shall comply with all reasonable technical specifications for the use of the services and provided to Participants from time to time. The current technical specifications for the services shall be provided to Participant upon request.

o. Participants may only connect their Equipment to the Switch. Participants may not connect any equipment for the benefit of a third party and they may not sublicense or resell access to any Port. For the avoidance of doubt, no port shall support directly or indirectly any business other than that of the Participant such that each customer granted access to the Switch shall be required to purchase its own Port from Equinix. Each Participant shall be solely responsible for ensuring that all equipment connected by such Participant conforms to the standards and requirements set forth herein.

p. Participants shall maintain a permanent connection to the Switch via a direct connection to a router located in the IBX

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EQUINIX DIRECT POLICIES VERSION 7.12.04

Equinix Confidential

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**5. Limited Service Level Warranty.**

a. **Service Level Agreement.** In the event that a Participant's Port is a redundant Port, the Port will be up and available and passing traffic among at least one of the ports in the Port and other operational ports 99.99% of the time in each calendar month (the "Service Level Commitment"). Non-redundant ports are not subject to this Service Level Commitment.

**b. Service Level Credit**

i. For the purpose of these Equinix Direct Policies, an "Outage" is defined as the occurrence of a failure of any component of the Port or Switch (that prevents delivery of Participant's traffic to required ports) on both ports comprising the Port simultaneously, excluding regularly scheduled maintenance windows of which the Participant is given prior notice, that causes the Port to miss the Service Level Commitment in any given calendar month.

ii. In the event of an Outage, Equinix shall credit Participant's account for one-half of the Monthly Recurring Charges for the affected Port (excluding all non-recurring fees charged pursuant to the relevant Sales Order or based on Customer's usage) for the appropriate Billing Period.

iii. The maximum credit Equinix will issue per Billing Period is one month of Monthly Recurring Charges (or of prorated amount if applicable for the Billing Period during which a qualifying Outage was experienced) attributable to each Port that experiences the Outage.

**c. Service Level Procedures**

i. **Equinix Reporting.** Equinix will report key Switch traffic flow metrics, including total bits per second and total packets per second ("Flow Metrics") on the Switch website. Flow Metrics will be reported to each Participant online on a web page customized for such Participant on the Equinix Direct website.

ii. **Participant Reporting.** Participant will be required to report Outages within five (5) days of the date of their occurrence by contacting the Equinix Response Center. Equinix may investigate and isolate the cause of an Outage. If the investigation confirms that Equinix's act or omission caused the Outage, Equinix will credit Participant's account pursuant to Section 5(b) above. If the investigation confirms that the Outage is due to Participant's act or omission or Participant's equipment, Equinix shall not owe Participant a credit for the Outage.

d. **Exceptions.** Notwithstanding anything to the contrary, the Service Level Commitments shall not apply (and Equinix shall have no liability) in the following cases: (a) acts of God; (b) war or acts of terrorism, including any malicious attack of on-line systems control; (c) labor strikes or other labor action; (d) fire; (e) flood; (f) earthquake, landslide, earth movement, hurricane, typhoon, tsunami, volcanic eruption or other natural disaster; (g) circumstances beyond Equinix's reasonable control or (h) riot or civil unrest.

**Customer to complete:**

By signing below, Customer acknowledges receipt of this Exhibit.

Submitted By: Mark Zucker

(Authorized Signature)

Printed Name: Mark ZuckerbergCompany Name: Thefacebook, Inc.Date Signed: 08.06.04

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EQUINIX DIRECT POLICIES VERSION 7.12.04

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Customer Name: The Face Book	Account Manager: Tom Orendatch	Sales Order Number: A0J0A0000A
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**Billing:**

Notwithstanding anything to the contrary, Customer's obligation to pay the total monthly recurring charges and total non-recurring charges set forth in Section A shall begin twenty-one (21) days after the Sales Order Effective Date (the "Billing Commencement Date"), even if Customer begins using the Service prior to the Billing Commencement Date.

If Equinix is unable to deliver any Service on or before the Billing Commencement Date because Customer has failed to provide Equinix with the information necessary to deliver such Service (e.g., configuration information), Customer shall be billed for such Service beginning on the Billing Commencement Date even if such Service has not been delivered.

Unless otherwise stated herein, cabinets provided by Equinix in a private cage are open cabinets, and cabinets in a shared cage are locking cabinets. If Customer requests cabinet accessories (e.g., shelves, doors, side panels, mounting rails etc.) that are not included with a cabinet as described in Equinix's specifications for such cabinet, Customer shall be charged Equinix's list price for such accessories, unless otherwise stated herein. Customer may provide its own cabinets in a private cage in accordance with Equinix's policies and procedures; however, Customer must use Equinix-provided cabinets in a shared cage. Customer acknowledges that the prices set forth for items in Section A.1. apply even if Customer provides its own cabinets in a private cage.

**Customer to complete:**

Authorized Signature: Mark Zuckerberg  
 Printed name: Mark Zuckerberg  
 Title: CEO  
 Date signed: 08.06.04

**Billing Information:**

Billing Contact Name: Mark Zuckerberg  
 Billing Address: 2 Russell Place  
Debb's Ferry, NY 10522  
 Phone Number: 914.646.8583  
 E-mail Address: zuck@thefacebook.com

**Equinix to complete:**

Authorized Signature: [Signature]  
 Printed name: Heonica Brown-Andrews  
 Title: Director of Customer Contracts  
 Date signed: 8/11/04

Please fax a signed copy of this Sales Order to:

(800) 578-1857

and mail two sets of originals to:

Equinix  
 Attn: Contracts  
 301 Varsity Way, 5<sup>th</sup> Floor  
 Foster City, CA 94404

Please sign and return all referenced exhibits, addenda and/or policy documents with this order. Failure to do so may result in a delay in processing.

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## ED EXHIBIT (BUYER)

This is an addendum ("Addendum") to the Master Services Agreement (or document with a similar function) no document entitled "Master Services Agreement" had been signed by the parties currently in effect between the Buyer and Equinix (the "MSA") and the accompanying Sales Order, and sets forth the specific terms and conditions governing Buyer's use of the Equinix Direct product; such terms supplement the terms set forth in the MSA and do not supersede any terms set forth in the MSA, except as explicitly set forth herein. Terms not otherwise defined herein shall have the meaning given to them in the MSA. Upon execution and delivery of a corresponding Sales Order by Equinix and Buyer, this Addendum shall become effective between the parties.

1. **Description of Services.** Equinix provides buyers and providers with access to an Ethernet switching infrastructure within each BIX Center (individually and collectively "Switch") for the purpose of allowing buyers to purchase IP services ("IP Services") provided by a variety of carriers, Internet service providers and other providers ("Network Service Providers") through the Switch. Network Service Providers may sell IP services which include both transit and on-net services. Transit being IP traffic, which travels on ISP and is terminated on a different network. On-net is traffic which is destined for and terminates on that network, not traveling to another ISP's network.

2. **Licensee Only; Use Restrictions.** Upon payment of the applicable fees and subject to compliance with all of the terms and conditions herein, Equinix grants Buyer a license to use the number of ports on the Switch that are specifically designated in Sales Orders that have been executed and delivered by the parties (each a "Port") and to purchase the IP Services.

### 3. Network Services.

3.1 **IP Services.** Buyer has agreed to participate on the Switch as a Buyer in order to purchase IP Services from Network Service Providers. Buyer understands that it will be billed based on its usage of IP Services on the Switch pursuant to this Agreement and the Exchange Policies ("Policies") that are attached as Exhibit A.

3.2 **IP Allocation Solution.** If the Buyer has ordered Equinix IP Allocation Solution, Equinix shall provide Buyer with one (24) size of IP space ("Address") to be used solely in conjunction with Buyer's use of the Equinix Direct product. Such Address shall remain the sole property of Equinix at all times. Equinix may reassign such Address at any time upon reasonable notice to Buyer. Buyer shall discontinue using such Address immediately upon termination of Buyer's use of the IP Allocation Solution. Customer understands that due to the nature of the IP Allocation Solution, traffic from Providers that do not recognize (24) blocks may be rerouted through Equinix in which case Equinix may incur a Mbps charge for such rerouting. In such event, customer agrees to pay Equinix's reasonable charges for Mbps used in connection with such rerouting including a reasonable service percentage to cover Equinix's administrative costs in administering the IP Allocation Solution.

4. **Acceptable Use; Policies.** Buyer shall at all times conform its use of the Switch to the Policies. Equinix may update such Policies from time to time upon thirty (30) days prior notice to Buyer. Buyer shall not act as a Network Service Provider on the Switch. In addition, Buyer shall at all times conform its use of the Switch and the IP Services to the Acceptable Use Policy (or similar policy) of each Network Service Provider from whom Buyer purchases IP Services.

### 5. Services, Fees and Billing.

5.1 **Activation Charges.** Equinix will bill Buyer for all Service Activation Charges ("Activation Charges") as set forth on the Sales Order upon Equinix's acceptance of this Addendum and accompanying Sales Order. Equinix will not commence installation or initiation of its services provided hereunder unless and until it either has received payment in full of all Activation Charges or has agreed, at its sole option, to extend credit to Buyer.

5.2 **Connection Fees.** Equinix will begin billing for recurring connection fees ("Connection Fees" or "MRF") as stated on the Sales Order. Buyer may be required from time to time to add additional Ports to the Switch pursuant to the Policies.

(a) **IP Services Payments.** Equinix will bill Buyer for its IP Services usage on Buyer's first regular invoice issued after the close of each billing period. The payment terms set forth in the MSA shall govern this Addendum.

5.3 **Pricing Adjustment.** Equinix reserves the right to change any recurring amounts due hereunder (except for IP Services prices which will change subject to the policies) upon each anniversary of this Addendum provided it gives Buyer at least thirty (30) days prior notice of such change.

5.4 **Billing Cycle.** The billing period for recurring amounts hereunder, and for the billing of Buyer by Equinix, shall be from the first to the last day of the calendar month.

6. **IP Services Buyback.** Equinix is the provider of record with Buyer for all purposes under this Addendum. However, Buyer shall have sole control over the Network Service Providers it connects to on the Switch. Buyer's relationship with such Network Service Providers shall be governed by the Addendum and the Policies, but such relationship shall not be a contractual relationship.

### 7. Limited Service Level Warranty.

7.1 **Equinix SLA.** Equinix shall provide the SLA described in the Policies.

7.2 **Network Service Provider IP Services SLA's.** To the extent that a Service Level Agreement is provided by Provider for IP Services offered on the Switch (such SLA's will be noted on the Buyer portal with each Network Service Provider's pricing), Buyer may claim service level credits with respect to such Network Service Provider's service level commitments in the event that the Network Service Provider does not meet its service level ("SLA"). In order to obtain any service level credits, Buyer shall request any applicable credits in writing from Equinix within the (5) days of any breach of the relevant SLA. This provision shall supersede any contrary language in any Provider SLA posted on the Equinix Direct portal and such request shall include a trouble ticket number from the Equinix ERC that was given to Buyer when the trouble was first reported to Equinix. In the event that Provider confirms such request, Buyer shall be given a credit on its next monthly invoice.

7.3 **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET OUT IN THIS SECTION, EACH PARTY'S SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND EACH PARTY'S USE OF THE SWITCH OR THE IP SERVICES IS AT ITS OWN RISK. PROVIDER AND EQUINIX DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, RELIABILITY AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEITHER PARTY WARRANTS THAT ITS SERVICES, IP SERVICES OR THE SWITCH WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

7.4 **Disclaimer of Third Party Actions and Control.** Equinix does not and cannot control the flow of data to or from the networks of the Network Service Providers or other third parties 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 inactions caused by these third parties over situations in which Equinix customers' connections to the Internet (or portions thereof) may be impaired or disrupted. Although Equinix will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Equinix cannot guarantee that they will not occur. Accordingly, Equinix, on behalf of itself and any Network Service Provider or other Customer, disclaims any and all liability resulting from or related to such events.

### 8. Indemnification.

8.1 **Buyer Indemnification.** Buyer will defend, indemnify and hold harmless Equinix, its directors, officers, and employees from and

Rev 03/2004

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M2

equinix

EQ000020

08/09/04 12:23 FAX 6505137905

EQUINIX

024

Aug-06-04 01:55pm From-

T-372 I.024/024 F-407

against any and all claims, actions or demands brought against such parties, or any damages, costs, and fees arising therefrom, including: (a) with respect to the Buyer's business: (i) infringement or misappropriation of any third party intellectual property rights; (ii) defamation, libel, slander, obscenity, pornography, or violation of the rights of privacy or publicity of a third party; or (iii) spamming, or any other offensive, harassing or illegal conduct or violation of the Policies; (b) any damage or destruction to any network, Switch, Equinix Equipment or to any other Equinix customer (including, without limitation, any Network Service Provider or Buyer of services on the Switch) which damage is caused by or otherwise results from acts or omissions, including, without limitation, a breach of this Addendum or the Policies, by Buyer, Buyer Representative(s) or Buyer's designees; (c) any personal injury or property damage to any Equinix employee or Equinix property arising out of Buyer or its employee conduct while on Equinix premises, unless such injury or property damage is caused solely by Equinix's gross negligence or willful misconduct.

8.2 Procedure. The foregoing indemnities shall be subject to the indemnified party providing the indemnifying party with (a) prompt written notice of each covered claim of which it becomes aware, and (b) sole right of defense and settlement of any covered claim.

9. Release on Disclaimer, and Indemnification Obligations. Buyer acknowledges that Equinix has set its prices and entered into this Addendum in reliance upon the limitations and exclusions of liability, the disclaimer of warranties and damages and Buyer's indemnity obligations set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if this Agreement is found to have failed of its essential purpose.

10. Termination. In addition to the termination provisions of the MSA, the following shall apply to this Exhibit:

10.1 For Nonpayment. After five (5) days of written notice and continued nonpayment after the due date for Connection Fees, Activation Fees, IP Service fees or other fees, Equinix may disconnect Buyer from the Port To reasonable Service, Equinix may require a reconnection fee.

10.2 Unacceptable Use; Bankruptcy. Equinix may terminate this Addendum upon written notice to Buyer for a violation of the Policies that Equinix believes in its reasonable opinion to be harmful to the operation of the Switch or to other customers, or if Buyer becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors or becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

10.3 Effect of Termination. Upon the effective date of expiration or termination of this Addendum: (a) Equinix and Buyer will immediately cease providing the Services. In the event of a termination prior to the expiration of any fixed term minimum commitments (if Services ordered by Buyer on the Switch, Buyer shall immediately pay all amounts that will come due under such commitments through the entire term that was selected by Buyer with respect thereto.

10.4 Survival. The following provisions will survive any expiration or termination of the Agreement: Sections 1, 7-3, 7.4, 8, 10 and 11.

11. Miscellaneous. This Addendum, together with the Policies referred to herein, the MSA, any applicable Sales Order represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreements or understanding, written or oral. This Agreement may be modified only through a written instrument signed by both parties. Notwithstanding anything to the contrary in the MSA, Buyer agrees that Equinix may announce the use of the Equinix Direct product, issue a press release noting Buyer's use and Buyer agrees to reasonably assist Equinix by providing quotations or other information reasonably requested by Equinix in marketing the services described herein. Buyer also agrees that Equinix may inform providers of the identities of the various buyers on the Switch and Buyer understands that Providers may limit their availability to specific buyers.

Company Name: Thefacebook, Inc  
 Buyer Signature: Mark Zuckerberg  
 Printed Name: Mark Zuckerberg  
 Title: CEO

Equinix Signature: Monica Brown Andrews  
 Printed Name: Director of Customer Contracts  
 Title: \_\_\_\_\_

EQ000021

T-248 P.003/003 F-388



# Sales Order

Customer Name: The Face Book	Account Manager: Tom Offenbach	Sales Order Number: A100A0077
IBX Center SJO San Jose CA, USA		Sales Order Effective Date (To be completed by Supplier) 10/8/04

## Section A: Space and Colocation Services

**Service Term: 12 months**

Space Type	Prison-Cage
------------	-------------

<b>Space and Collection Services</b>	<b>Quantity</b>	<b>MRC per Unit</b>	<b>MRC per Unit</b>	<b>Non-Recurring Charge</b>	<b>Monthly Recurring Charge</b>
18' Closed Cabins - CASH0008	<b>2</b>	\$ 600	\$ 650	\$ 1,200	\$ 1,300
Power / - 20-amp, 120 V AC - PDW00003	<b>3</b>	\$ 200	\$ 300	\$ 600	\$ 900
		\$ -	\$ -	\$ -	-
		\$ -	\$ -	\$ -	-
		\$ -	\$ -	\$ -	-
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<b>SALES ORDER TOTAL</b>				\$ 1,800	\$ 2,200

This sales order (the "Sales Order") is between Equinix Operating Co., Inc. ("Equinix") and the customer identified above ("Customer"), who wishes to order the products and/or services set forth above (each a "Service").

Unless otherwise agreed to by the parties in writing, each Service shall be delivered at the Internet Business Exchange Center identified above ("IBX Center"). Notwithstanding anything in this Sales Order to the contrary, this Sales Order is governed by, and incorporated by reference in, the Master Service Agreement (or the document with a similar function if no document entitled Master Service Agreement has been signed by the parties) having an effective date of \_\_\_\_\_, 20\_\_\_\_ between Customer and Equinix Inc., and/or one or more of its wholly-owned subsidiaries ("Agreement"). All exhibits, addenda and policy documents referenced in this Sales Order are incorporated by reference in this Sales Order, and therefore in the Agreement. The meanings of all capitalized terms defined in this Sales Order shall apply whenever such terms are used in this Sales Order, unless otherwise stated in this Sales Order. For purposes of this Sales Order the terms "monthly recurring charges" and "MRC" may be used interchangeably, and the term "non-recurring charges" and "NRC" may be used interchangeably.

Notwithstanding anything to the contrary in the Agreement, the term of this Sales Order shall begin on the date this Sales Order is signed by both parties (the "Sales Order Effective Date"), and this Sales Order shall remain in effect until the last Service Term (as defined below) in effect expires or is terminated pursuant to the Agreement, including this Sales Order. Each Service in this Sales Order shall have a "Service Term", which for each Service shall begin on the Billing Commencement Date (defined below) and upon completion of the period of time designated above as the Service Term. In addition, for each Service, the initial Service Term for such Service shall automatically renew for additional terms of one (1) year each, unless either party notifies the other party at least ninety (90) days prior to the end of the then-current Service Term for such Service that it has elected to terminate the Service Term for such Service, in which event the Service Term for such Service will terminate at the end of such then-current Service Term. Notwithstanding anything to the contrary in this Sales Order, (a) Equinix's provision of any Service, and Customer's use of such Service, are at all times governed by the Agreement, even if Customer begins using such Service prior to the beginning of its Service Term and (b) under no circumstances will a Service Term for any Service survive the termination of this Sales Order.

Notwithstanding anything to the contrary in the Agreement, (a) if the Agreement expires prior to the expiration of this Sales Order's then-current term, all of the terms and conditions of the Agreement (including limitation of liability and indemnification) will continue to apply to this Sales Order and all Services, until this Sales Order expires or is terminated; and (b) if the Agreement is terminated by either party prior to its full term, then this Sales Order, in effect, shall terminate upon the termination of the Agreement. If the Equinix entity providing the products and/or services set forth above (the "Equinix Provider") is not currently a party to the Agreement, notwithstanding anything in the Agreement to the contrary, the parties agree that the execution of the Sales Order shall automatically (i.e., without further action by either party) result in the Equinix Provider becoming, as of the Sales Order Effective Date, a party to the Agreement (such that all references to Equinix under the Agreement, including, without limitation, references to limitation of liability and indemnification, shall be deemed to include the Equinix Provider, as well as any Equinix entities that were already parties to the Agreement). Any change by Equinix to the prices set forth above shall be made in accordance with the Agreement. Prices shown above do not include any applicable taxes, surcharges and shipping charges which are the responsibility of the Customer.

This Sales Order shall be of no force or effect unless (a) it is executed by both parties and (b) Customer and Equinix have entered into a currently effective Agreement under which this Sales Order is executed. Customer agrees to provide Equinix access to its cage, cabinets, racks and/or equipment as necessary for the performance of the Services as set forth in this Sales Order.

EQ000014

Oct-06-04 11:34am From-Kinko's of Cupertino

408 777 1000

T-248 P.002/003 F-366

Customer Name: The Face Book	Account Manager: Tom Offenbach	Sales Order Number: A100A00977
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**Billing:**

Notwithstanding anything to the contrary, Customer's obligation to pay the total monthly recurring charges and total non-recurring charges set forth in Section A shall begin twenty-one (21) days after the Sales Order Effective Date (the "Billing Commencement Date").

If Equinix is unable to deliver any Service on or before the Billing Commencement Date because Customer has failed to provide Equinix with the information necessary to deliver such Service (e.g., configuration information), Customer shall be billed for such Service beginning on the Billing Commencement Date even if such Service has not been delivered.

Unless otherwise stated herein, cabinets provided by Equinix in a private cage are open cabinets, and cabinets in a shared cage are locking cabinets. If Customer requests cabinet accessories (e.g., shelves, doors, side panels, mounting rails etc.) that are not included with a cabinet as described in Equinix's specifications for such cabinet, Customer shall be charged Equinix's list price for such accessories, unless otherwise stated herein. Customer may provide its own cabinets in a private cage in accordance with Equinix's policies and procedures; however, Customer must use Equinix-provided cabinets in a shared cage. Customer acknowledges that the prices set forth for items in Section A apply even if Customer provides its own cabinets in a private cage.

**Customer to complete:**

Authorized Signature: [Signature]  
 Printed name: Sean Parker  
 Title: President  
 Date signed: 10/5/04

**Billing Information:**

Billing Contact Name: Sean Parker  
 Billing Address: 1743 Westbrook  
Los Altos, CA 94024  
 Phone Number: 650-996-3000  
 E-mail Address: Sean@thefacebook.com

**Equinix to complete:**

Authorized Signature: [Signature]  
 Printed name: Monica Brown Andrews  
Director of Customer Contracts  
 Title: \_\_\_\_\_  
 Date signed: 10/6/04

Please fax a signed copy of this Sales Order to:

(850) 618-1857

and mail two sets of originals to:

Equinix  
 Attn: Contracts  
 301 Velocity Way, 5th Floor  
 Foster City, CA 94404

Please sign and return all referenced exhibits, addenda and/or policy documents with this order. Failure to do so may result in a delay in processing.

**ACTION BY WRITTEN CONSENT OF THE  
SOLE MEMBER AND SOLE MANAGER OF**

**thefacebook, LLC**

**Effective April 27, 2005**

The undersigned, being the sole Member and Manager of thefacebook LLC (the "Company"), does hereby undertake the actions set forth below by written consent without a meeting, effective for all purposes as of the date first written above.

**1. Ratification of the Chief Executive Officer.**

**RESOLVED:** That Mark Zuckerberg is hereby appointed and is ratified Chief Executive Officer of the Company to serve at the pleasure of the Manager.

**RESOLVED FURTHER:** That all prior acts by Mark Zuckerberg taken in connection with his duties as an officer of the Company are hereby ratified and approved.

**RESOLVED FURTHER:** That Mark Zuckerberg is authorized to sign and deliver any agreement in the name of the Company and to otherwise obligate the Company in any respect relating to matters of the business of the Company, and to delegate such authority in his discretion.

**2. Amendment and Restatement of the Articles of Organization.**

**WHEREAS:** TheFacebook, Inc. acquired all of the outstanding interests of the Company on October 31, 2004.

**WHEREAS:** The following actions are being taken to reflect such an acquisition of interest by TheFacebook, Inc.

**RESOLVED:** That the Amended and Restated Articles of Organization of the Company in the form attached hereto as Exhibit A (the "Restated Articles"), is hereby adopted and approved.

**RESOLVED FURTHER:** That Mark Zuckerberg is authorized and directed to take all steps necessary to file the Restated Articles with the Secretary of State of Florida.

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This action by Unanimous Written Consent of the sole Member and Manager of thefacebook LLC is effective as of the date first set forth above.

**SOLE MEMBER AND SOLE  
MANAGER**

**THEFACEBOOK, INC.**

  
\_\_\_\_\_  
Mark Zuckerberg  
Chief Executive Officer



**AMENDED AND RESTATED ARTICLES OF ORGANIZATION  
OF  
thefacebook LLC**

**FILED**  
05 MAY -2 PM 5:18  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned, Mark Zuckerberg, hereby certifies that:

1. He is the duly authorized representative of thefacebook LLC.
2. The Articles of Organization of this limited liability company were originally filed with the Secretary of State of Florida on April 13, 2004.
3. These Amended and Restated Articles of Organization were duly executed and are being filed in accordance with Section 608.411 of the Florida Limited Liability Company Act.
4. The Articles of Organization of this limited liability company shall be amended and restated to read in full as follows:

**ARTICLE I                      NAME**

The name of the limited liability company shall be: **thefacebook LLC**

**ARTICLE II                      PRINCIPAL OFFICE**

The principal place of business and mailing address of this Limited Liability Company shall be: 13621 Deering Bay Dr., Apt. 402, Coral Gables, Florida 33158.

**ARTICLE III                      REGISTERED AGENT & STREET ADDRESS**

The name and address of the registered agent is: Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301-2607.

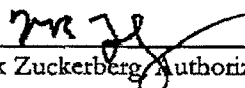
**ARTICLE IV                      DURATION**

The duration for the limited liability company shall be: 12/31/2044.

**ARTICLE V                      MANAGERS/MEMBERS**

The management of the limited liability company is reserved for the Members and the name and address of the sole member of the Limited Liability Company is:

TheFacebook, Inc, 471 Emerson St., Palo Alto, CA 94036

  
\_\_\_\_\_  
Mark Zuckerberg, Authorized Representative

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiff,

v.

MARK ZUCKERBERG, EDUARDO  
SAVERIN, DUSTIN MOSKOVITZ, ANDREW  
MCCOLLUM, CHRISTOPHER HUGHES  
AND THEFACEBOOK, INC.,

Defendants.

CIVIL ACTION No.: 1:04-cv-11923  
(DPW)

MARK ZUCKERBERG, and  
THEFACEBOOK, INC.,

Counterclaimants,

v.

CONNECTU LLC, CAMERON  
WINKLEVOSS, TYLER WINKLEVOSS, and  
DIVYA NARENDRA,

Counterdefendants.

**DEFENDANTS AND COUNTERCLAIMANTS' RESPONSES TO PLAINTIFF  
AND COUNTERDEFENDANTS' FIRST SET OF INTERROGATORIES**

Defendants and counterclaimants Mark Zuckerberg and TheFacebook, Inc., and Defendants Eduardo Saverin, Dustin Moskovitz, Andrew McCollum, and Christopher Hughes (collectively "Defendants") respond to the First Set of Interrogatories of Plaintiff and Counterclaimant Defendant ConnectU LLC and additional Counterclaim Defendants

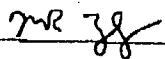
**Verification**

I, Mark Zuckerberg, declare and state:

I have read DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, served herewith, and to the best of my present knowledge and belief, based in whole or in part upon information provided to me by others, this response is true and correct.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on May 30, 2005 in Palo Alto, California.

A handwritten signature in black ink, appearing to read "MR 38", is written over a horizontal line.

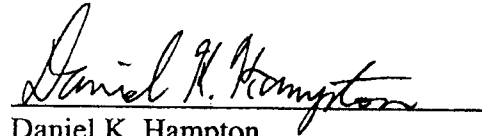
Mark Zuckerberg

CERTIFICATE OF SERVICE

I, Daniel K. Hampton, hereby certify that on this 31<sup>st</sup> day of May, 2005, I served a copy of the within document on the following counsel of record, via facsimile transmission and confirmation copy via first class mail:

John F. Hornick, Esq.  
Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
901 New York Avenue, N.W.  
Washington, D.C. 20001; and

Jonathan M. Gelchinsky, Esq.  
Finnegan, Henderson, Farabow, Garrett &  
Dunner, L.L.P.  
55 Cambridge Parkway  
Cambridge, MA 02142

  
Daniel K. Hampton

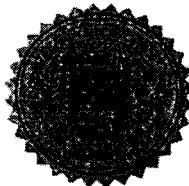
# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "THEFACEBOOK, INC.", CHANGING ITS NAME FROM "THEFACEBOOK, INC." TO "FACEBOOK, INC.", FILED IN THIS OFFICE ON THE THIRTIETH DAY OF SEPTEMBER, A.D. 2005, AT 1:30 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



3835815 8100  
050803334

*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State  
AUTHENTICATION: 4197585

DATE: 09-30-05

TFB000056

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 01:30 PM 09/30/2005  
FILED 01:30 PM 09/30/2005  
SRV 050803334 - 3835815 FILE

CERTIFICATE OF AMENDMENT OF  
THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
THEFACEBOOK, INC.

The undersigned, Mark Zuckerberg, hereby certifies that:

1. He is the duly elected Chief Executive Officer of TheFacebook, Inc., a Delaware corporation.

2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on July 29, 2004.

3. Pursuant to Section 242 of the General Corporation Law of the State of Delaware, this Certificate of Amendment of Third Amended and Restated Certificate of Incorporation amends Article I of this corporation's Certificate of Incorporation to read in its entirety as follows:

"The name of the corporation shall be "Facebook, Inc."

4. The foregoing Certificate of Amendment has been duly adopted by this corporation's Board of Directors and stockholders in accordance with the applicable provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

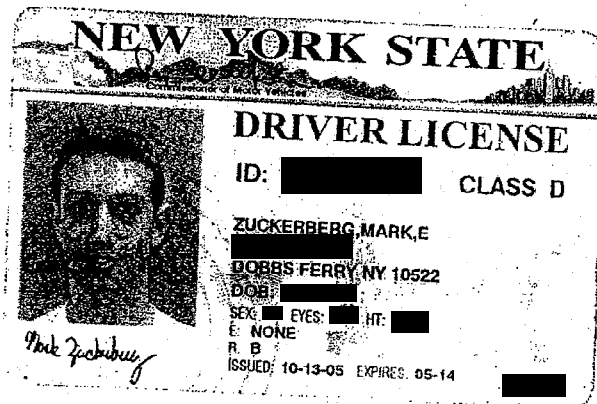
Executed at Palo Alto, California, on September 30, 2005.

  
\_\_\_\_\_  
Mark Zuckerberg, Chief Executive Officer

DOC88V1:427216 1

TFB000057





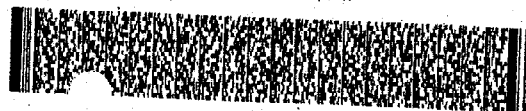
E: (NONE)

R: CORRECTIVE LENSES


ENTER ADDRESS CHANGE:  
You must notify DMV within 10 days.

I hereby make an anatomical gift.  
Signature: \_\_\_\_\_

[www.nyedmv.com](http://www.nyedmv.com)



**2006 LIMITED LIABILITY COMPANY  
REINSTATEMENT**

<b>DOCUMENT # L04000028443</b>			
1. Entity Name THEFACEBOOK LLC		05	
Principal Place of Business 13621 DEERING BAY., APT 402 CORAL GABLES, FL 33158		Mailing Address 13621 DEERING BAY., APT 402 CORAL GABLES, FL 33158	
2. Principal Place of Business		3. Mailing Address	
Suite, Apt. #, etc.		Suite, Apt. #, etc.	
City & State		City & State	
Zip	Country	Zip	Country
4. FEI Number 20-1113872		Applied For Not Applicable	
5. Certificate of Status Desired <input type="checkbox"/> \$5.00 Additional Fee Required		01312006 REIN-LLC CR2E101 (11/05)	
6. Name and Address of Current Registered Agent CORPORATION SERVICE COMPANY 1201 HAYS ST. TALLAHASSEE, FL 32301-2607		7. Name and Address of New Registered Agent Name Street Address (P.O. Box Number is Not Acceptable) City FL Zip Code	
8. The above named entity submits this statement for the purpose of changing its registered office or registered agent or both, in the State of Florida. I am familiar with, and accept the obligations of registered agent. SIGNATURE: <u>Laura R. Dunlap</u> as its agent 2/1/06 <small>(Signature, typed or printed name of registered agent and fee if applicable) (NOTE: Registered Agent signature required when not mailing) DATE</small>			
FILE NOW!!! FEE IS \$200.00		Make check payable to: Florida Department of State	
9. MANAGING MEMBERS/MANAGERS		10. ADDITIONS/CHANGES	
TITLE NAME STREET ADDRESS CITY-ST-ZIP	MGRM THEFACEBOOK, INC. 471 EMERSON STREET PALO ALTO, CA 94036 <input type="checkbox"/> Delete	TITLE NAME STREET ADDRESS CITY-ST-ZIP	Manager Mark Zuckerberg 156 University Avenue PALO ALTO, CA 94301 <input type="checkbox"/> Change <input checked="" type="checkbox"/> Addition
TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Delete	TITLE NAME STREET ADDRESS CITY-ST-ZIP	400065019164 <input type="checkbox"/> Change <input type="checkbox"/> Addition
TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Delete	TITLE NAME STREET ADDRESS CITY-ST-ZIP	2005-2006 <input type="checkbox"/> Change <input type="checkbox"/> Addition
TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Delete	TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Change <input type="checkbox"/> Addition
TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Delete	TITLE NAME STREET ADDRESS CITY-ST-ZIP	<input type="checkbox"/> Change <input type="checkbox"/> Addition
11. I hereby certify that the information supplied with this filing does not qualify for the exemptions contained in Chapter 119, Florida Statutes. I further certify that the information indicated on this report is true and accurate and that my signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 808, Florida Statutes. SIGNATURE: <u>Mark Zuckerberg</u> 1-31-06 650-953-1300 <small>SIGNATURE AND TYPED OR PRINTED NAME OF SIGNING MANAGING MEMBER, MANAGER, OR AUTHORIZED REPRESENTATIVE Date Daytime Phone #</small>			

2006 FEB - 1 AM 8:47  
TALLAHASSEE, FLORIDA  
SECRETARY OF STATE  
FILED

**DMV CALIFORNIA DMV**

**DRIVER LICENSE**

EXPIRES 05-14-10

CLASS: C

MARK ELLIOT ZUCKERBERG

PALO ALTO CA 94301

SEX: [REDACTED] HAIR: [REDACTED] EYES: [REDACTED]

HT: [REDACTED] WT: [REDACTED] DOB: [REDACTED]

RSTR: CORR LENS

*Mr ZF*

05/11/2006 212 DL FD/10

1 G. HOPKINS GUY, III (State Bar No. 124811)  
hopguy@orrick.com  
2 I. NEEL CHATTERJEE (State Bar No. 173985)  
nchatterjee@orrick.com  
3 MONTE COOPER (State Bar No. 196746)  
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4 THERESA A. SUTTON (State Bar No. 211857)  
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5 YVONNE P. GREER (State Bar No. 214072)  
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6 ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 Marsh Road  
7 Menlo Park, CA 94025  
Telephone: 650-614-7400  
8 Facsimile: 650-614-7401

9 Attorneys for Plaintiffs  
10 THE FACEBOOK, INC. and MARK ZUCKERBERG

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION  
14

15 THE FACEBOOK, INC. and MARK  
16 ZUCKERBERG,

17 Plaintiffs,

18 v.

19 CONNECTU, INC. (formerly known as  
20 CONNECTU, LLC), PACIFIC  
NORTHWEST SOFTWARE, INC.,  
21 WINSTON WILLIAMS, WAYNE CHANG,  
and DAVID GUCWA,

22 Defendants.

Case No. 5:07-CV-01389-RS

**DECLARATION OF MARK E.  
ZUCKERBERG IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
RE DEFENDANTS' LIABILITY  
PURSUANT TO CALIFORNIA  
PENAL CODE SECTION 502(C) AND  
15 U.S.C. § 7704(A)(1) AND 15 U.S.C. §  
7704(B)(1)**

Date: February 13, 2008  
Time: 9:30 A.M.  
Judge: Honorable Richard Seeborg

1 website to extract, copy, or use any information on the Facebook website for ConnectU-related  
2 purposes.

3 I declare under penalty of perjury that the foregoing is true and correct to the best  
4 of my knowledge.

5 Executed this 3rd day of January 2008, at Palo Alto, California.

7 

8 Mark E. Zuckerberg

**RESIDENTIAL LEASE-RENTAL AGREEMENT AND DEPOSIT RECEIPT**

**AGENCY RELATIONSHIP CONFIRMATION.** The following agency relationship is hereby confirmed for this transaction and supersedes any prior agency election (If no agency relationship insert "NONE"):

LISTING AGENT: \_\_\_\_\_ is the agent of (check one):

(Print Firm Name)

☐ the Owner exclusively; or ☐ both the Tenant and the Owner.

LEASING AGENT: \_\_\_\_\_ (if not the same as the Listing Agent) is the agent of (check one):

(Print Firm Name)

☐ the Tenant exclusively; or ☐ the Owner exclusively; or ☐ both the Tenant and the Owner.

**Note:** This confirmation DOES NOT take the place of the AGENCY DISCLOSURE form (such as P.P. Form 110.42 CAL) required by law if the term exceeds one year.

RECEIVED FROM Mark Zuckerberg hereinafter referred to as Tenant, the sum of \$ \_\_\_\_\_ (dollars), evidenced by Cashier's Check or Wire Transfer, as a deposit. Upon acceptance of this Agreement, the Owner of the premises, will apply the deposit as follows:

	TOTAL	RECEIVED	BALANCE DUE PRIOR TO OCCUPANCY
Rent for the period from <u>3/1/2009</u> to <u>2/28/2010</u>	\$ _____	\$ _____	\$ _____
Security deposit (not applicable toward last month's rent) ....	\$ _____	\$ _____	\$ _____
Other _____	\$ _____	\$ _____	\$ _____
<b>TOTAL</b> .....	\$ _____	\$ _____	\$ _____

In the event this Agreement is not accepted by the Owner, within 3 days, the total deposit received will be refunded.

Tenant offers to rent from the Owner the premises situated in the City of Palo Alto  
County of Santa Clara, State of California, commonly known as Palo Alto, CA 94306

upon the following terms and conditions:

1. **TERM.** The term will commence on \_\_\_\_\_ and continue (check one of the two following alternatives):  
☒ LEASE until Feb 28, 2010 for a total rent of \$ \_\_\_\_\_

☐ RENTAL on a month-to-month basis, until either party terminates this Agreement by giving the other party written notice as required by law.

2. **RENT.** Rent will be \$ \_\_\_\_\_ per month, payable in advance by personal check, cashier's check, cash or money order, on the 5th day of each calendar month to Owner or his or her authorized agent, by mail or personal delivery to the following address:

or at such other place as may be designated by Owner in writing from time to time. Payment by personal delivery may be made (check one): ☐ Monday through Friday, 9:00 a.m. to 5:00 p.m., or ☐ at the following times: \_\_\_\_\_

In the event rent is not received by Owner in full within 5 days after due date, Tenant agrees that it would be impracticable or extremely difficult to fix the actual damages to Owner caused by that failure, and Tenant agrees to pay a late charge of \$ \_\_\_\_\_. Tenant further agrees to pay \$ 25.00 for each dishonored bank check. All late fees and returned check fees will be considered additional rent. The late charge period is not a grace period, and Owner is entitled to make written demand for any rent if not paid when due and to collect interest thereon. Any unpaid balance including late charges, will bear interest at 10% per annum, or the maximum rate allowed by law, whichever is less.

3. **MULTIPLE OCCUPANCY.** It is expressly understood that this Agreement is between the Owner and each signatory jointly and severally. Each signatory will be responsible for timely payment of rent and performance of all other provisions of this Agreement.

4. **UTILITIES.** Tenant will be responsible for the payment of all utilities and services, except: none - gardener, which will be paid by Owner.

5. **USE.** The premises will be used exclusively as a residence for no more than 5 persons. Guests staying more than a total of 20 days in a calendar year without written consent of Owner will constitute a violation of this Agreement. Tenant shall park operable automobiles in assigned spaces only. Trailers, boats, campers, and inoperable vehicles are not allowed without the written consent of Owner. Tenant may not repair motor vehicles on the leased premises.

6. **ANIMALS.** No animals will be brought on the premises without the prior consent of the Owner; except none.

7. **RULES AND REGULATIONS.** In the event that the premises is a portion of a building containing more than one unit, or is located in a common interest development, Tenant agrees to abide by all applicable rules, whether adopted before or after the date of this Agreement, including rules with respect to noise, odors, disposal of refuse, animals, parking, and use of common areas. Tenant will

Tenant [Signature] has read this page.

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Property Address [REDACTED] Palo Alto, CA 94306

pay any penalties, including attorney fees, imposed by homeowners' association for violations by tenant or tenant's guests.

- 8. ORDINANCES AND STATUTES.** Tenant will comply with all statutes, ordinances, and requirements of all municipal, state and federal authorities now in force, or which may later be in force, regarding the use of the premises. Tenant will not use the premises for any unlawful purpose including, but not limited to, using, storing or selling prohibited drugs. If the premises are located in a rent control area, the Tenant should contact the Rent and Arbitration Board for his or her legal rights.
- 9. ASSIGNMENT AND SUBLETTING.** Tenant will not assign this Agreement or sublet any portion of the premises without prior written consent of the Owner.
- 10. MAINTENANCE, REPAIRS, OR ALTERATIONS.** Tenant acknowledges that, unless the Owner is notified immediately upon occupancy, the premises, including the furniture, furnishings and appliances, including all electrical, gas and plumbing fixtures, are in good working order and repair. Tenant will keep the premises in a clean and sanitary condition, and will immediately notify Owner of any damage to the premises or its contents, or any inoperable equipment or appliances. Tenant will surrender the premises, at termination, in as good condition as received, normal wear and tear excepted. Tenant will be responsible for any damage, repairs or replacements, caused by Tenant's negligence and that of the tenant's family, invitees, and guests, except ordinary wear and tear. Verification of the working order and the maintenance of the smoke detector is the responsibility of the Tenant. Tenant will not commit any waste upon the premises, or any nuisance or act which may disturb the quiet enjoyment of any neighbors. Tenant will not paint, paper or otherwise redecorate or make alterations to the premises without the prior written consent of the Owner. Tenant will irrigate and maintain any surrounding grounds, including lawns and shrubbery, if they are for the Tenant's exclusive use. It is understood that Owner's insurance does not cover Tenant's personal property.
- 11. INVENTORY.** Any furnishings and/or equipment to be furnished by Owner will be listed in a special inventory. The inventory will be signed by both Tenant and Owner concurrently with this Lease. Tenant will keep the furnishings and equipment in good condition and repair, and will be responsible for any damage to them other than normal wear and tear. Tenant acknowledges receipt of 2 sets of keys, 2 garage door openers, other: n/a
- 12. DAMAGES TO PREMISES.** If the premises are damaged by fire or from any other cause which renders the premises untenantable, either party will have the right to terminate this Agreement as of the date on which the damage occurs. Written notice of termination will be given to the other party within fifteen (15) days after occurrence of such damage. Should such damage or destruction occur as the result of the negligence of Tenant, or his or her invitees, then only the Owner will have the right to terminate. Should this right be exercised by either Owner or Tenant, rent for the current month will be prorated between the parties as of the date the damage occurred. Any prepaid rent and unused security deposit will be refunded to Tenant. If this Agreement is not terminated, Owner will promptly repair the premises and there will be a proportionate reduction of rent until the premises are repaired and ready for Tenant's occupancy. The proportionate reduction will be based on the extent which repairs interfere with Tenant's reasonable use of the premises.
- 13. ENTRY AND INSPECTION.** Owner and owners agents will have the right to enter the premises: (a) in case of emergency; (b) to make necessary or agreed repairs, decorations, alterations, improvements, supply necessary or agreed services, show the premises to prospective or actual purchasers, lenders, tenants, workers, or contractors; (c) when tenant has abandoned or surrendered the premises. Except under (a) and (c), entry may be made only during normal business hours, and with at least 24 hours prior written notice to Tenant including the date, approximate time, and purpose of entry.
- If the purpose of the entry is to exhibit the dwelling unit to prospective or actual purchasers, the notice may be given orally, in person or by telephone, if the owner or his or her agent has notified the tenant in writing within 120 days of the oral notice that the property is for sale. At the time of entry, the Owner or agent shall leave written evidence of the entry inside the unit.
- 14. INDEMNIFICATION.** Owner will not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the premises, or in common areas, unless such damage is the legal result of the negligence or willful misconduct of Owner, his or her agents, or employees. Tenant agrees to hold Owner harmless from any claims for damages, no matter how caused, except for injury or damages caused by negligence or willful misconduct of Owner, his or her agents or employees.
- 15. PHYSICAL POSSESSION.** If Owner is unable to deliver possession of the premises at the commencement date set forth above, Owner will not be liable for any damage caused, nor will this Agreement be void or voidable, but Tenant will not be liable for any rent until possession is delivered. Tenant may terminate this Agreement if possession is not delivered within 7 days of the commencement of the term in Item 1.
- 16. DEFAULT.** If Tenant fails to pay rent when due, or perform any provision of this Agreement, after not less than three (3) days written notice of such default given in the manner required by law, the Owner, at his or her option, may terminate all rights of Tenant, unless Tenant, within said time, cures such default. If Tenant abandons or vacates the property while in default of the payment of rent, Owner may consider any property left on the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event the Owner reasonably believes that such abandoned property has no value, it may be discarded. All property on the premises will be subject to a lien for the benefit of Owner securing the payment of all sums due, to the maximum extent allowed by law.
- In the event of a default by Tenant, Owner may elect to: (a) continue the lease in effect and enforce all his rights and remedies, including the right to recover the rent as it becomes due, provided that Owner's consent to assignment or subletting by the Tenant will not be unreasonably withheld; or (b) at any time, terminate all of Tenant's rights and recover from Tenant all damages he or she may incur by reason of the breach of the lease, including the cost of recovering the premises, and including the worth at the time of such termination, or at the time of an award if suit be instituted to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of such rental loss which the Tenant proves could be reasonably avoided.

Tenant me 38 [ ] [ ] [ ] has read this page.

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Property Address [REDACTED] Palo Alto, CA 94306

- 17. SECURITY.** The security deposit will secure the performance of Tenant's obligations. Owner may, but will not be obligated to, apply all portions of said deposit on account of Tenant's obligations. Any balance remaining will be returned to Tenant, together with an accounting of any disbursements, 21 calendar days after the Tenant has vacated the premises, or earlier if required by law. Tenant will not have the right to apply the security deposit in payment of the last month's rent. No interest will be paid to Tenant on account of the security deposit, unless required by local ordinance.
- 18. WAIVER.** Failure of Owner to enforce any provision of this Agreement will not be deemed a waiver. The acceptance of rent by Owner will not waive his or her right to enforce any provision of this Agreement.
- 19. NOTICES.** Unless otherwise provided, any notice which either party may give or is required to give, must be in writing, may be given personally or by mailing the same, postage prepaid, to Tenant at the premises or to Owner or Owner's authorized agent at the address shown in the signature block or at such other places as may be designated by the parties from time to time. Notice will be deemed effective three (3) days after mailing, or on personal delivery, or when receipt is acknowledged in writing.
- 20. HOLDING OVER.** Any holding over after expiration of this Agreement, with the consent of Owner, will be a month-to-month tenancy at a monthly rent of \$\_\_\_\_\_ payable in advance and otherwise subject to the terms of this Agreement and local ordinance, as applicable, until either party terminates the tenancy by giving the other party thirty (30) days (or longer if required by law) written notice.
- 21. TIME.** Time is of the essence of this Agreement.
- 22. ATTORNEY'S FEES.** In any action or proceeding involving a dispute between Tenant and Owner arising out of the execution of this Agreement, whether for tort or for breach of contract, and whether or not brought to trial or final judgment, the prevailing party will be entitled to receive from the other party a reasonable attorney fee, expert witness fees, and costs to be determined by the court or arbitrator(s).
- 23. SUBROGATION.** Lessor and Lessee waive any and all rights of subrogation against each other which might otherwise exist.
- 24. FAIR HOUSING.** Owner and Tenant understand that the state and federal housing laws prohibit discrimination in the sale, rental, appraisal, financing or advertising of housing on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, age, mental or physical disability, immigration or citizenship status. In addition, California Civil Code §1940.3 prohibits a landlord from making any inquiry regarding the immigration or citizenship status of any tenant or prospective tenant.

**25. ADDITIONAL TERMS AND CONDITIONS.**

1. This is a non-smoking home.

2. Pursuant to section 10, owners insurance does not cover tenant personal belongings and it is recommended that tenant acquire renters insurance.

3. Owner will include and maintain: Stove, oven, microwave, disposal, refrigerator, wine refrigerator, and brand new washer and dryer.

26. ☐ This unit is subject to rent control and the agency responsible to adjudicate claims is: \_\_\_\_\_

**27. ENTIRE AGREEMENT.** The foregoing constitutes the entire agreement between the parties and may be modified only in writing signed by all parties. This Agreement and any modifications, including any photocopy or facsimile, may be signed in one or more counterparts, each of which will be deemed an original and all of which taken together will constitute one and the same instrument. The following addenda, if checked, have been made a part of this Agreement before the parties' execution:

☐ Addendum \_\_\_\_\_ : Lead-Based Paint Disclosure (Required by Law for Rental Property Built Prior to 1978)☐ Addendum \_\_\_\_\_ : Regarding Mold Contamination and Agreement to Maintain Premises☐ Addendum \_\_\_\_\_ : Regarding Asbestos☐ Addendum \_\_\_\_\_ :

**NOTICE:** Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at <http://www.meganslaw.ca.gov>. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

Tenant   M. J. [Signature]   [ ] [ ] [ ] has read this page.

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Property Address [REDACTED] Palo Alto, CA 94306

**CONFIDENTIALITY**

If Owner obtains or learns of Tenant's Confidential Information, whether by way of this Agreement, Tenant's use of the premises or otherwise, including but not limited to technology, financial and engineering documents of Tenant or Tenant's company, Owner agrees that the Confidential Information is to be considered confidential and proprietary to Tenant, and Owner shall hold the same in confidence, shall not use the Confidential Information, and shall not disclose, publish or otherwise reveal it to any other party whatsoever. Owner will not make any public statement regarding the relationship contemplated by this Agreement. For the avoidance of doubt, Owner will not disclose the identity of the Tenant(s) to others unless required by law.

Owner acknowledges receipt of a copy of the accepted lease on (date) \_\_\_\_\_

MSG [ ] [ ] [ ]  
initialed

Property Address [REDACTED] Palo Alto, CA 94306

Tenant Mr 38  
(Signature)

Mark Zuckerberg  
(Please Print Name)

Date 2-9-09 Telephone 650 [REDACTED]

Address [REDACTED]

Palo Alto, CA 94302

Email [REDACTED]

Tenant \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Please Print Name)

Date \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Tenant \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Please Print Name)

Date \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Tenant \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Please Print Name)

Date \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

The undersigned Owner accepts the foregoing offer and agrees to lease the premises on the terms and conditions set forth above.

Owner \_\_\_\_\_  
(Signature of Owner or Authorized Agent)

\_\_\_\_\_  
(Please Print Name)

Date \_\_\_\_\_

Telephone 650 [REDACTED] Fax \_\_\_\_\_

Address [REDACTED] Palo Alto, CA 94306

Email [REDACTED]

Owner \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Please Print Name)

Date \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Receipt for deposit acknowledged by \_\_\_\_\_ Date \_\_\_\_\_

Tenant acknowledges receipt of a copy of the accepted lease on (date) \_\_\_\_\_

Mr 38 [ ] [ ] [ ]  
initials

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

----- X  
PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG, Individually, and  
FACEBOOK, INC.,

Defendants.  
----- X

Civil Action No. 1:10-cv-00569-RJA

**DECLARATION OF MARK  
ELLIOT ZUCKERBERG IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION TO REMAND**

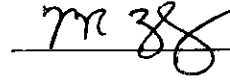
I, MARK ELLIOT ZUCKERBERG, declare and state as follows:

1. I am the Founder, Chairman, and Chief Executive Officer of Facebook, Inc. ("Facebook"). Facebook is headquartered in Palo Alto, California.
2. I reside in Palo Alto, California, and intend to make my home and work in Palo Alto for the indefinite future.
3. I respectfully submit this affidavit to provide the Court with facts and evidence establishing that at the time this lawsuit was filed on June 30, 2010, and at the time this lawsuit was removed to federal court on July 8, 2010, my domicile was – and continues to be – California.

**Residence, Employment, and Property in California**

4. I have lived year-round in California since the summer of 2004. I have resided in my current Palo Alto, California home since March 1, 2009. I do not have any other residences. My residence is within ten minutes' walking distance from Facebook's headquarters, located at

I declare under penalty of perjury that the foregoing is true and correct. Executed in Palo Alto, California on August 25, 2010.

A handwritten signature in black ink, appearing to read "m 38", is written over a horizontal line.

Mark Elliot Zuckerberg

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

----- x  
PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG and  
FACEBOOK, INC.,

Defendants.  
----- x

Civil Action No. 1:10-cv-00569-RJA

**DECLARATION OF MARK  
ELLIOT ZUCKERBERG IN  
SUPPORT OF DEFENDANTS'  
MOTION FOR EXPEDITED  
DISCOVERY**

I, MARK ELLIOT ZUCKERBERG, declare and state as follows:

1. I am the Founder, Chairman, and Chief Executive Officer of Facebook, Inc. ("Facebook").
2. I respectfully submit this declaration in support of Defendants' Motion for Expedited Discovery.
3. I have reviewed the Amended Complaint filed in this lawsuit, as well as the document attached as Exhibit A to the Amended Complaint.
4. I understand that Plaintiff Paul Ceglia alleges that Exhibit A is an agreement that entitles him to partial ownership of Facebook, and that he and I signed this document on April 28, 2003.
5. I did not sign the document attached as Exhibit A to the Amended Complaint.
6. In early 2003, while I was a freshman at Harvard University, I saw an online job listing regarding development of a web site. I responded to the listing and learned that the project was for a company called StreetFax, which used the web site StreetFax.com.

7. In or about April 2003, I entered into a written contract with StreetFax, pursuant to which I agreed to provide limited web site services solely in connection with the development of StreetFax's web site. The contract was provided to me by Ceglia.

8. The document attached as Exhibit A to the Amended Complaint is not the written contract that I signed.

9. The written contract I signed concerned only the development of StreetFax's web site. It did not mention or concern Thefacebook.com or any related social networking service or web site.

10. I did not enter into any agreement, written or otherwise, with StreetFax, Ceglia, or anyone affiliated with Ceglia concerning Facebook or any related social networking web site.

11. I conceived of the idea for Facebook in or about December 2003.

12. I never referred to Facebook, publicly or privately, as "The Page Book."

13. I also understand that Ceglia alleges that the text quoted in Paragraphs 32 through 55 of the Amended Complaint comes from e-mails that he and I allegedly sent each other.

14. I did not write or receive any of the alleged e-mails quoted in the Amended Complaint.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Palo Alto, California on June 1, 2011.

  
\_\_\_\_\_  
Mark Elliot Zuckerberg

**EXHIBIT 17**

**EXHIBIT 17**

**EXHIBIT 17**

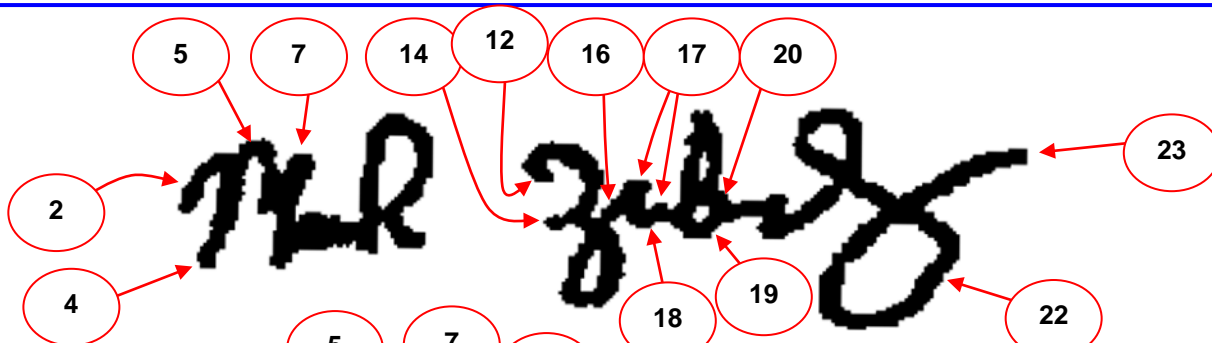
# Questioned "Mark Zuckerberg" signature on Facebook Contract

Note the writing similarities by comparing the corresponding numbers and arrows



## Known specimen signatures of Mark Zuckerberg

K1.1  
09/09/2002



K1.2  
04/28/2003



K1.3  
03/24/2003

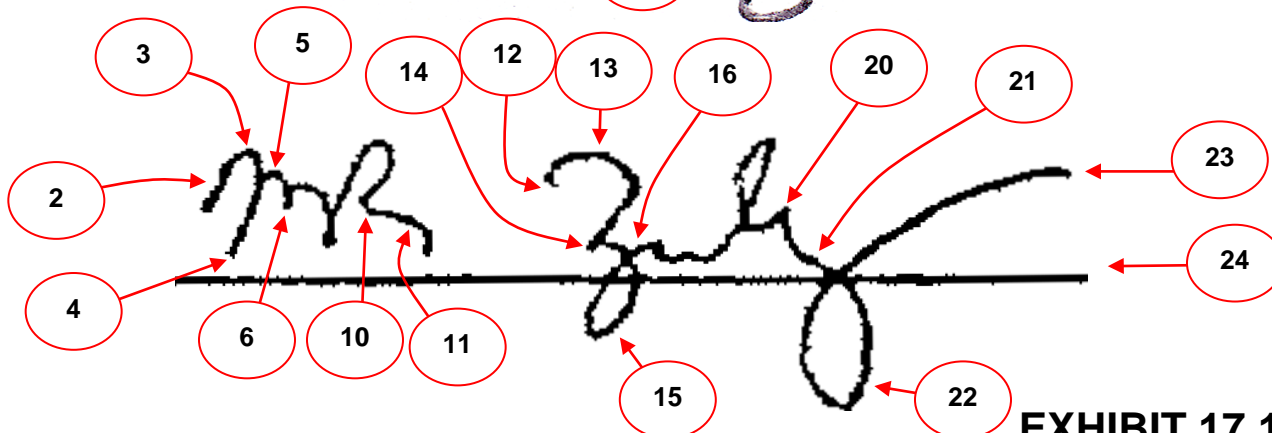


EXHIBIT 17.1



BLANCO & Associates Inc.



# Known specimen signatures of Mark Zuckerberg

K1.4  
03/30/2003

Handwritten signature "MR Zuck" with annotations 2, 3, 14, 18, 22, 23, 24.

K1.5  
03/30/2003

Handwritten signature "MR Zuck" with annotations 2, 3, 4, 5, 6, 8, 11, 12, 15, 16, 20, 21, 22, 23.

K1.6  
03/30/2003

Handwritten signature "MR Zuck" with annotations 2, 3, 4, 5, 6, 7, 10, 11, 15, 23.

K1.7  
07/29/2004

Handwritten signature "MR Zuck" with annotations 2, 3, 6, 11, 12, 13, 23, 24. The name "Zuckerberg" is printed below the signature.

K1.8  
07/29/2004

Handwritten signature "MR Zuck" with annotations 2, 3, 4, 6, 11, 14, 15, 21, 22, 23, 24.

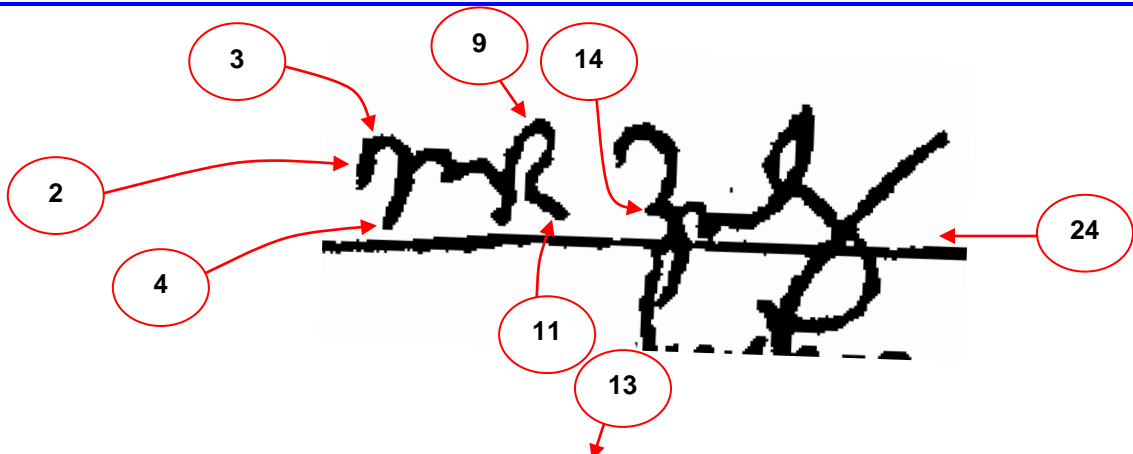
EXHIBIT 17.2



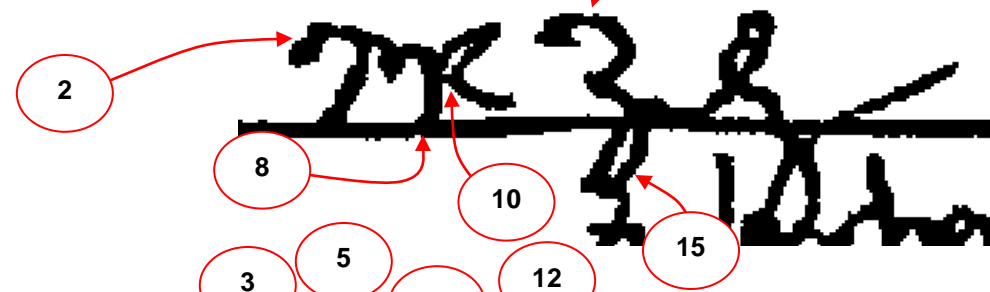
BLANCO & Associates Inc.

# Known specimen signatures of Mark Zuckerberg

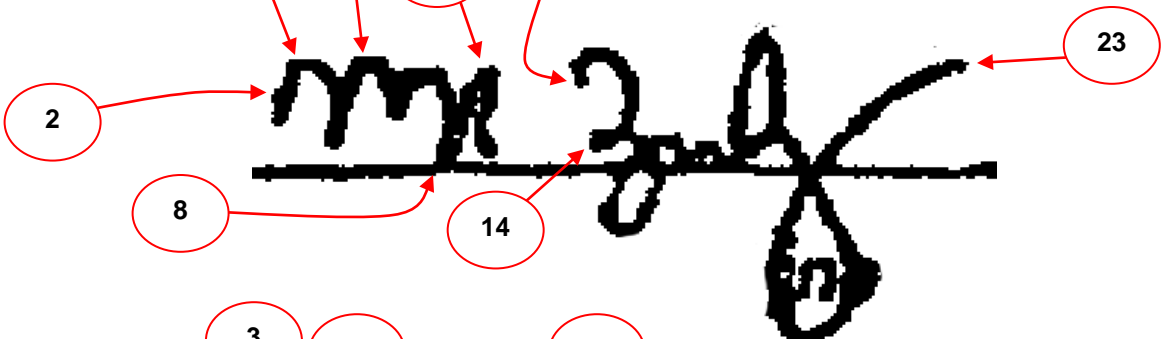
K1.9  
08/06/2004



K1.10  
08/06/2004



K1.11  
08/06/2004



K1.12  
08/06/2004



K1.13  
04/27/2005

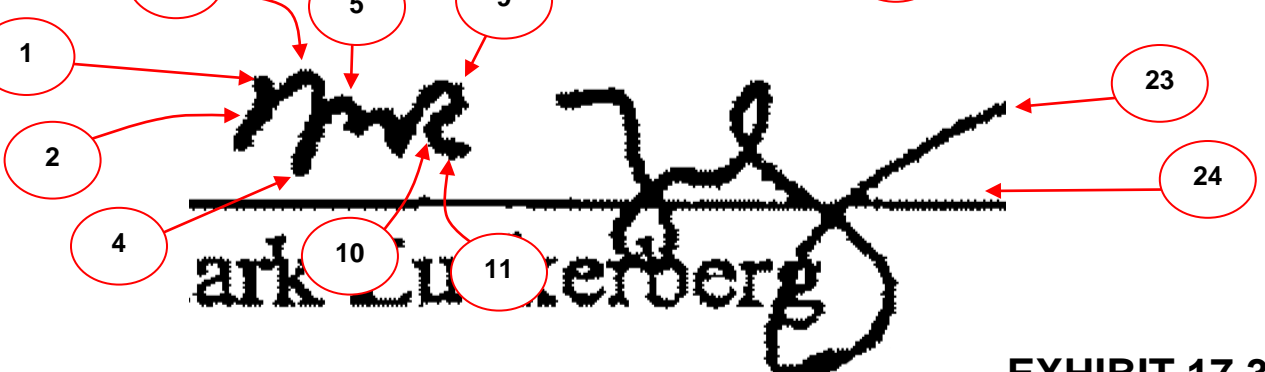


EXHIBIT 17.3



BLANCO & Associates Inc.

# Known specimen signatures of Mark Zuckerberg

K1.14  
05/02/2005

1 3 9 23  
4 8  
Zuckerberg Authorize

K1.15  
05/30/2005

3 5 23  
2 4 8 11 24

K1.16  
09/30/2005

5 14 15 23  
8

K1.17  
10/13/2005

2 17 19

K1.18  
01/31/2006

3 14 4  
I TYPED OR PRINTED NAME OF

EXHIBIT 17.4

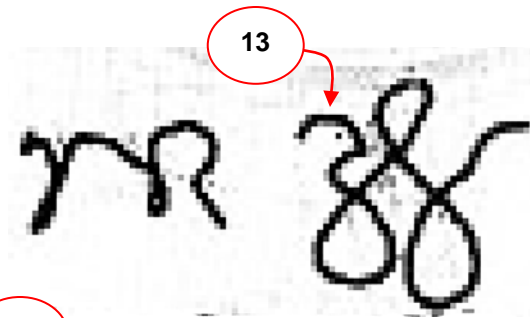


BLANCO & Associates Inc.

# Known specimen signatures of Mark Zuckerberg

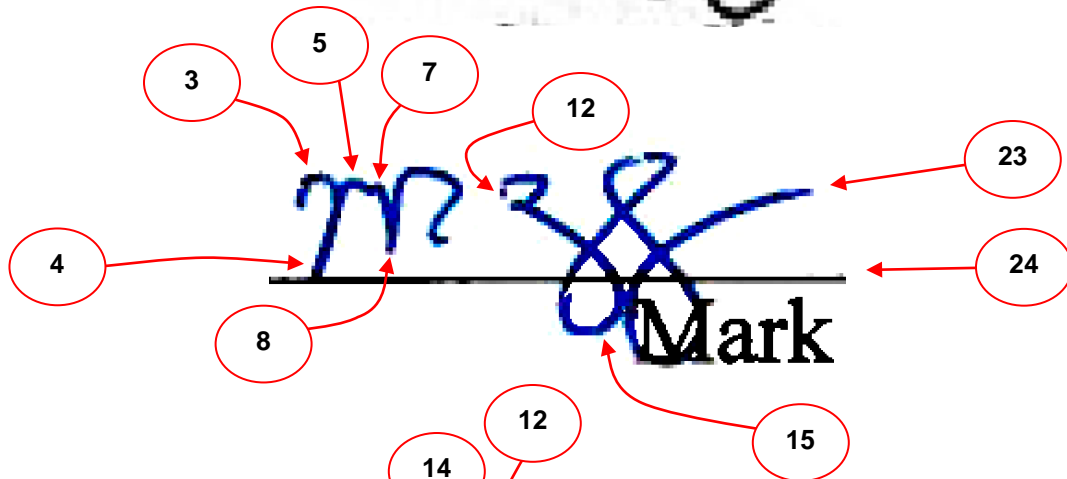
K1.19  
05/11/2006

13

A handwritten signature in black ink, consisting of a stylized 'm' followed by a large, loopy 'z'.

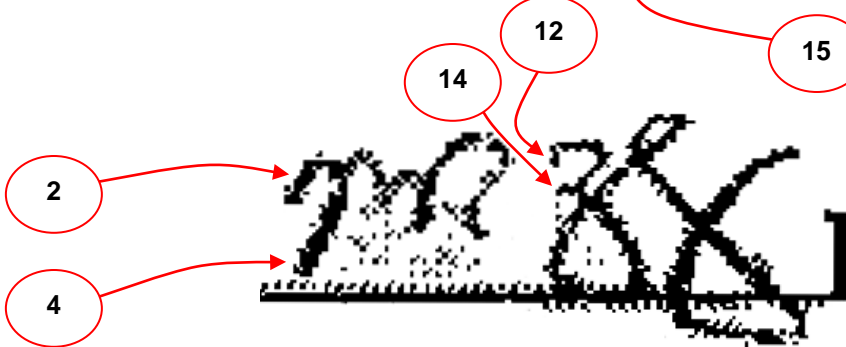
K1.20  
01/03/2008

3 5 7 12 23 24 4 8 12 15

A handwritten signature in blue ink, consisting of a stylized 'm' followed by a large, loopy 'z'. The signature is written over a horizontal line. The word 'Mark' is printed in black ink below the signature. Red circles with numbers 3, 4, 5, 7, 8, 12, 15, 23, and 24 point to various strokes and features of the signature.

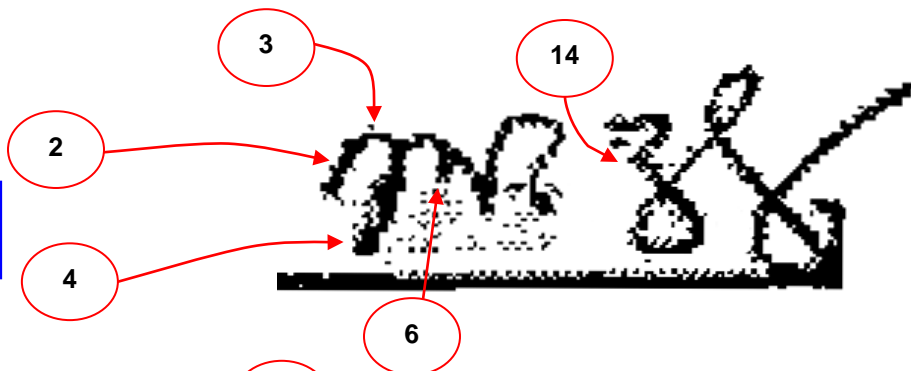
K1.21  
02/09/2009

2 4

A handwritten signature in black ink, consisting of a stylized 'm' followed by a large, loopy 'z'. The signature is written over a horizontal line. Red circles with numbers 2 and 4 point to various strokes and features of the signature.

K1.22  
02/09/2009

3 14 2 4 6

A handwritten signature in black ink, consisting of a stylized 'm' followed by a large, loopy 'z'. The signature is written over a horizontal line. Red circles with numbers 2, 3, 4, 6, and 14 point to various strokes and features of the signature.

K1.23  
02/09/2009

5 23 4

A handwritten signature in black ink, consisting of a stylized 'm' followed by a large, loopy 'z'. The signature is written over a horizontal line. Red circles with numbers 4, 5, and 23 point to various strokes and features of the signature.

EXHIBIT 17.5



BLANCO & Associates Inc.

# Known specimen signatures of Mark Zuckerberg

K1.24  
02/09/2009

5

A black and white image of a handwritten signature 'm zkg' on a horizontal line. A red circle with the number '5' has an arrow pointing to the top of the 'm'.

K1.25  
02/09/2009

5 14 23 15

A black and white image of a handwritten signature 'm zkg' on a horizontal line. Red circles with numbers '5', '14', '15', and '23' have arrows pointing to the top of the 'm', the middle of the 'z', the bottom of the 'g', and the end of the signature respectively.

K1.26  
08/25/2010

1 3 5 14 23 24 4 6 8

A black and white image of a handwritten signature 'm zkg' on a horizontal line. Red circles with numbers '1', '3', '4', '5', '6', '8', '14', '23', and '24' have arrows pointing to various parts of the signature: '1' to the top of 'm', '3' to the top of 'm', '4' to the bottom of 'm', '5' to the top of 'm', '6' to the bottom of 'm', '8' to the bottom of 'z', '14' to the middle of 'z', '23' to the top of 'g', and '24' to the bottom of 'g'.

K1.27  
06/01/2011

2 3 5 7 23 24 4 6 8

A blue ink image of a handwritten signature 'm zkg' on a horizontal line. Red circles with numbers '2', '3', '4', '5', '6', '7', '8', '23', and '24' have arrows pointing to various parts of the signature: '2' to the top of 'm', '3' to the top of 'm', '4' to the bottom of 'm', '5' to the top of 'm', '6' to the bottom of 'm', '7' to the top of 'z', '8' to the bottom of 'z', '23' to the top of 'g', and '24' to the bottom of 'g'.

EXHIBIT 17.6



BLANCO & Associates Inc.

**EXHIBIT 18**

**EXHIBIT 18**

**EXHIBIT 18**

# The Scientific Examination of Documents

Methods and Techniques

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Second Edition

DAVID ELLEN



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**Taylor & Francis**  
*Publishers since 1798*

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really no more than the name written in his or her normal writing, and others where a distinctive mark is made, often barely readable or completely illegible.

Whatever the normal forms of the letters in the cursive writing of the subject may be, the signature must be considered separately. What is written is consciously chosen, whether it is the whole name, the first name and other initials or just initials and the surname. The initials can be joined to each other or to the surname or separated, and the whole may have an underlining of varying complexity.

When people are not used to writing much it is quite possible that their signature is the piece of writing they most commonly perform, and so it may be of a higher standard of fluency than their other writings. This may sometimes give the impression that a piece of writing and the signature following it are by different hands. Sometimes, of course, this is the case; one person will write out a receipt or agreement or any other document and a second will sign it. If it is necessary to compare a signature with writing above it, care is needed because the writer may have adopted a special method of writing his signature, or may be more skilful at writing it.

Like other writings a signature is subject to variation. No one can reproduce a signature exactly, like a printing process, and there are commonly wide variations found in the output of one person. As with other writings, some people are quite consistent and others extremely variable. Signatures can be made in a variety of different places; some are comfortable and therefore conducive of the most natural results. In others where there is difficulty in writing, the results may be somewhat different. The significance of these differences is discussed in the next chapter.

## **Layout**

Apart from the writing itself there are other factors on a written page which vary from person to person but tend to remain constant in the output of one person. The way the writing is arranged on the page, the size of gaps between words and lines, the use of punctuation marks, the employment of margins either side of the text, the separation of paragraphs and where they begin, all give scope for variation between writers. Special documents, for instance envelopes and cheques, provide further areas of diversity between writers. The address written on an envelope can begin near the top or further down; the lines of writing can be well spaced or not and can be staggered. Commas or full stops may be present at the ends of lines or after a house number. Parts of cheques can be written in many different combinations of methods. The ways chosen to write the date and the money amount in writing and figures, the position of the payee's name and other features, can vary greatly.

Such layout factors tend to remain consistent even when deliberate changes are made in writing style, and can add evidence to that gained from the study of the writing itself.

## **Variations within the writings of one person**

Reference has been briefly made to the variations found within the writing of one person, especially differences in overall appearance due to speed of writing and other factors. In these conditions, much of the detail described above will remain unchanged, and characteristic or unusual features will still be found. However, no writer is so consistent that each example of a particular letter of the alphabet is so



# **Scientific Examination of Questioned Documents**

Revised Edition

**ORDWAY HILTON**

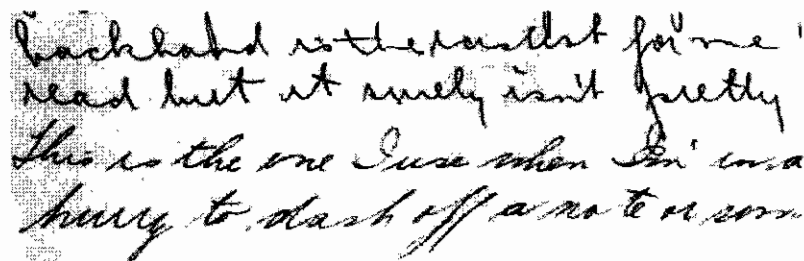
Examiner of Questioned Documents  
Landrum, South Carolina

ing this conclusion, consideration must be given to the writing variation. No two samples of writing prepared by anyone are identical in every detail, since variation is an integral part of natural writing. The amount and kind of variation differs among writers and in its way forms an important element in the identification. With some it is slight and occurs only in details; with others it covers a rather wide range (Figure 8.5). Variation is due principally to the lack of machinelike precision in the human body, but it is also accentuated by external factors, such as writing position, writing instrument, and care of execution.

Writing variation is also influenced by physical and mental conditions, such as fatigue, intoxication, drug use, illness, and nervousness. These several factors produce a varying degree of deterioration in the quality of writing, commensurable in its degree with the intensity of the cause. The advanced age of the writer and the quality of writing he prepares in the course of time may introduce greater variation between specimens written at widely separated dates.

Variation does not preclude identification of the writing. In fact, variation around the basic qualities of the handwriting forms an additional factor that serves to personalize and identify writing. Thus, handwriting can be most accurately identified when the standard and questioned specimens were written under comparable conditions. Establishing the source of writing, therefore, becomes a process of determining its fundamental qualities and habits together with an accurate range of variation through which the writing fluctuates. It is necessary to demonstrate that not only the unknown writing has the qualities and habits of the known writing, but also that the deviations from the basic patterns that occur in the unknown writing are such as can be predicted from the variations in the standards. All this presumes that the standards are truly representative of writing prepared

Figure 8.5. The sharp variation in slant is unusual, but is an example of the extreme variation that can be encountered occasionally.



backhand is the nicest for me  
read but it sure isn't pretty  
this is the one I use when I'm in a  
hurry to dash off a note or comm.

**EXHIBIT 19**

**EXHIBIT 19**

**EXHIBIT 19**

Mark Zuckerberg  
2734 Harvard Yard Mail Center  
Cambridge, MA 02138  
914.646.8593

### StreetFax Back-End Technical Specification

#### *Non-technical Explanation:*

To make the specification more readable, I will give an overview of the functionality of the system described by the set of scripts and applications below.

The first section deals with logon and security. The first script makes sure that the interface through which users log into the system is completely secure, using the latest methods of commercial cryptography. It will verify if the user has the privileges to enter the system, and if they do, it admits them. The second script protects the system from being entered through a page other than the logon page. If the only security was at the logon screen, then a person could just go to a different page and bypass the logon completely. This script will ensure that the user is logged in before it grants access to any page on the site. The third script in this section will allow the site administrators to create and edit usernames and account information. This is critical for customers who do not create their accounts through the site.

The second section deals with e-commerce. Much of the discussion here is about the different options of registration with SSL and VeriSign. The scripts we develop will use these technologies to perform secure e-commerce transactions. It will allow users to register on a subscription and individual-use basis. All actions performed by users in this section of the site will be logged in a database and can be used to generate reports later on.

The third section deals with searching the database of images. The user will enter two streets to search for their intersection, and then a script we write will search the database. If multiple intersections are found, the user will be shown a list with the towns and states to choose from. If, after reviewing the choices, there is still no an accurate match, the user will be routed to another page which will ask them to specify a state and city for a more detailed search. From their selection, the user is taken to another page with the list of intersections matching their search in the specified area. The user can choose an intersection to search for images. If only a single intersection is returned from the original search, then the images from that intersection are automatically brought up. The images will be displayed in alphabetical order with any signs at the top of the page above the photographs of the intersections. The script that retrieves the images from the database will also construct the necessary sentence describing the image from information in the database. If at any point no intersection is found, the user will be taken to a site that asks them if they want to pay to have those images acquired for them within 24 hours, this screen will appear as a half page with the nearest possible matches above it. They can search these pictures by clicking on any one of the intersections to



- d. A subscript to include speed limits in the capacity of the search engine. This script will return images of the speed limits in the queried regions using the keywords described. A full explanation of all keywords will be needed to write this script. EDT: 2 days.
4. Adjuster Preference Scripts
    - a. A script to store adjusters' comments about images from their queries in the database. This script will take the comments that adjusters enter about the images and it will save the comments in the database for later retrieval when the same images are viewed. EDT: ½ day.
    - b. A script to query adjusters' comments about images from the database. This script will return and display the current adjuster's saved comments about the currently viewed images in the allotted area for marking notes. EDT: ½ day.
    - c. A script to store adjusters' viewing preferences about the layout of the screen. Several different layout options will be available (they are not specified here but they will be in the final specification), and this script will save each adjuster's settings in the database. EDT: ½ day.
    - d. A script to query adjusters' viewing preferences from the database and incorporate these settings into the display. The script will apply the given display settings into the screen format. As mentioned in 4.c, the different settings available to the adjusters will be specified in the final version of the spec. EDT: 1½ days.
    - e. A script that allows Back End Administrators to view & edit all intersections within a given city through a drop down menu bar.
  5. Database Architecture
    - a. An application to build the appropriate table structure from the image files in the system. This program will make an entry in the main table in the database for each image file in the database. This is the conversion necessary to get from the raw image collection to the organized database we will use in the site. The program will be robust enough to handle images within different directory structures as long as the same naming convention is used throughout the file system. This will allow images of a given intersection to be stored in a separate folder, or in a conglomerate folder with images from other intersections, as long as each image follows the same naming convention. For this version of the specification, the file naming convention in use unilaterally will be "directional+street1+street2". EDT: 3½ days.
    - b. Configuration of an efficient table structure in the database. This construction will provide the framework for the database so that it can be populated with all of the necessary data fields. EDT: 2 days.

#### *Server Specification and Applications:*

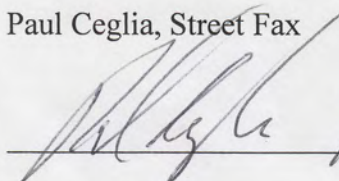
1. Package Research
  - a. As we have not yet decided how to host the final application, some research must be done to figure out the best option in this area. It seems doubtful that we will be able to find a non-specific contract agreement with some well-known hosting company that will meet our specifications for access requirements and applications that need to be run. Therefore, it might seem



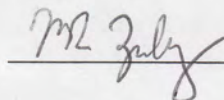
2. Highlighted Maps
  - a. This feature will be difficult to implement since it will require someone to go through the database and add information to all of the old entries. At this point, that does not seem like an economical use of resources. We can try to implement this enhancement later on, perhaps using a different algorithm.
3. Automated Database Applications
  - a. It was a little unclear to me what sort of automated database cleanup you wanted, but I definitely see room for redundant entry filtering, data linking, and priority sorting to help increase the efficiency of the system. This can come after the basic development.
  - b. Scripts that query the database to find results from a specific photographer and that email photographers when photographs have not been submitted on time. This functionality also seems less important in getting the system up and running.
4. Robust Photographer Interface
  - a. This feature will take the form of a powerful custom server application that photographers can log into to use dynamic functionality within the assignment and request systems. It will also provide the photographers with extra tools for batch uploading and perhaps editing of their images.
5. Anti-Hacker System
  - a. An additional system to ensure the security of the server and maintain the integrity of the information inside. Since some of the data, namely credit card numbers and passwords, is sensitive, this extra functionality is highly recommended in the long term.

This specification will be approved with appropriate signatures below.

Paul Ceglia, Street Fax

 4/28/03

Mark Zuckerberg

 04.28.03

08/09/04 12:12 FAX 6505137905

EQUINIX

016

Aug-08-04 01:52pm From-

T-372 P.018/024 F-407



## MASTER SERVICE AGREEMENT

This Master Service Agreement ("Agreement") is entered into on 20/09 ("M&A Effective Date") (To be completed by Equinix after receipt) by and between Equinix Operating Co., Inc. ("Equinix") and the undersigned customer ("Customer") and includes the following exhibits:

- a. Exhibit A - Confidentiality Provisions; and
- b. Exhibit B - Sublicensing Provisions.

Capitalized terms used herein but not otherwise defined will have the meaning ascribed to them in Section 10.

### 1. Services.

Subject to the terms and conditions set forth in this Agreement, Equinix will provide the Services to Customer.

### 2. Ordering.

a. Customer may request Services during the Term by (i) executing a Sales Order (ii) placing an Online Order, or (iii) placing a Phone Order. Each Order, which will only be effective when accepted by Equinix, will be governed by the terms and conditions of this Agreement.

b. Equinix will provide Customer with an account and password to access the Customer Care Website. Customer is responsible for maintaining the confidentiality of his account and password and for restricting and granting access thereto. Notwithstanding anything in this Agreement to the contrary, Customer is responsible and liable for all activities that occur under Customer's account (including all payments owed for any Order that are placed under Customer's account), regardless of whether such activities are conducted by Customer, a Sublicensee or any other third party, and regardless of whether such Orders are authorized by Customer. Equinix has no obligation to verify that anyone using Customer's account and password has Customer's authorization.

### 3. Payment Terms and Taxes.

a. Unless otherwise agreed between the parties in writing, Service Fees for the Services will begin to accrue on the Billing Commencement Date. Equinix will invoice Customer for the Services on a monthly basis (partial months will be billed on a pro rata basis) and Customer will pay for the Services in accordance with this Section 3 and the Orders. Customer will pay in full all invoices from Equinix within thirty (30) days of the date of invoice. Any past due amounts owed by Customer will accrue interest at the lesser of one and a half percent (1.5%) per month or the highest rate permitted by applicable law. Unless otherwise stated in the Order, all invoices will be paid in U.S. Dollars.

b. The Service Fees for Services ordered through Sales Orders will be listed on the Sales Orders. For all other Orders, the Service Fees for Services will be Equinix's then-current list price for such Services, unless otherwise agreed to by the parties in writing. Customer agrees to pay for the Services for the duration of the Term. Notwithstanding anything in this Agreement to the contrary, for each Service, upon the expiration of the Initial Service Term, the rates and fees for Services will be subject to change, at Equinix's reasonable discretion, upon thirty (30) days' prior notice to Customer.

c. Notwithstanding anything to the contrary in this Agreement, the rates and fees for Power Services ordered by Customer will remain in effect for one (1) year from the beginning of the Service Term for such Power Services, and thereafter, the rates and fees for the Power Services will be subject to change, at Equinix's reasonable discretion, upon thirty (30) days' prior notice to Customer.

d. Customer will pay all Taxes and third-party charges related to the ownership and operation of Customer's Equipment and the activities

of Customer at each IBX Center, or attributable to, each IBX Center. Without limiting the foregoing, Customer will be responsible for paying any and all Taxes separately imposed, levied or assessed against Customer by, and preparing and filing any necessary return with, any governmental, quasi-governmental or tax authorities by the date such payments and returns are due. In no event will Customer's Equipment be construed to be tangible.

e. Service Fees are exclusive of any Taxes imposed on Service Fees. Customer will be responsible for paying any Taxes imposed on Service Fees at the same time it pays the Service Fees. Customer will be responsible for timely paying in full all Taxes.

f. If Customer is required to make any deduction or withholding or to make any payment, on account of any Taxes in any jurisdiction, in respect of any amounts payable hereunder by Customer to Equinix, such amounts will be increased to the extent necessary to ensure that after the making of such deduction, withholding or payment, Equinix receives when due and retains (free from any liability in respect of any such deduction, withholding or payment) an amount equal to what would have been received and retained had no such deduction, withholding or payment been required or made.

### 4. Access and Use of the IBX Centers and Use of Customer's Equipment.

a. Subject to the terms and conditions of this Agreement, Customer will have access to the Licensed Space twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

b. Unless otherwise expressly provided in an Order, Customer will be responsible for configuring, providing, placing, installing, upgrading, adding, maintaining, repairing, and operating Customer's Equipment which actions Customer may engage in only to the extent permitted by, and subject to, the terms and conditions of this Agreement. Customer represents, warrants and covenants that Customer has the legal right and authority (including regulatory consents), and will continue to have the legal right and authority throughout the Term, to operate, configure, provide, place, install, upgrade, add, maintain and repair Customer's Equipment as contemplated by this Agreement. Without limiting the foregoing, Customer will obtain such consent of Customer's subcontractors, third party providers, vendors and any other parties as may be necessary for Equinix (including any contractors or others acting at Equinix's request) to have the right to use and access Customer's Equipment for the purpose of providing Services.

c. At all times during the Term, Equinix and Customer agree to comply with the Policies, which are at all times incorporated by reference into this Agreement. Customer acknowledges that it has received a copy of the current Policies prior to the execution of this Agreement. Any modification by Equinix to the Policies will be effective upon notice to Customer, except modifications to the Shipping Policies, which will be effective immediately upon being made.

d. Customer will be responsible and liable for all acts or omissions of Customer's Authorized Persons, Accompanying Persons, and Associated Entities, and all such acts or omissions will be attributed to Customer for all purposes under this Agreement, including for purposes of determining responsibility, liability and indemnification obligations.

e. Customer will not file a mechanic's lien or similar lien on the Licensed Space or IBX Centers, and Customer will be responsible for any mechanic's lien or similar lien filed by any Authorized Person, Accompanying Person or Associated Entity. Without limiting the foregoing, in the event any such lien is filed, Customer will be responsible for the immediate satisfaction, payment or bonding of any such lien.

### 5. Indemnification.

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EQUINIX

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a. Equinix will indemnify and hold harmless the Customer Parties from any and all liability, damages, costs and expenses (including reasonable attorneys' fees and expenses) for personal injury or damage to tangible property resulting from the gross negligence or willful misconduct of Equinix.

b. Customer will indemnify and hold harmless the Equinix Parties from any and all liability, damages, costs and expenses (including reasonable attorneys' fees and expenses) for (i) personal injury or damage to tangible property resulting from the gross negligence or willful misconduct of Customer, (ii) any claim by any of Customer's Authorized Persons, Accompanying Persons or Associated Entities or any employee of Customer other than a claim based on the gross negligence or willful misconduct of Equinix, (iii) any claim by a customer or end-user of Customer relating to, or arising out of, Customer's or any of its customers' services or the Services provided under this Agreement (including claims relating to interruptions, suspensions, failures, defects, delays, impairments or inadequacies in any of the aforementioned services, including the Services from Equinix, (iv) any claim that Customer has failed to fulfill a contractual obligation with a third party, and (v) any claim resulting from Customer's failure to obtain the required consents pursuant to Section 4(b).

d. Warranty Disclaimer, Limitation of Liability, Credits.

a. EQUINIX DOES NOT WARRANT THAT THE SERVICES PROVIDED HEREUNDER WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. EQUINIX DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, EQUINIX DOES NOT MAKE AND HEREBY DISCLAIMS ALL EXPRESS WARRANTIES. ALL SERVICES PROVIDED PURSUANT TO THIS AGREEMENT ARE PROVIDED OR PERFORMED ON AN "AS IS," "AS AVAILABLE" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS SOLELY AT ITS OWN RISK.

b. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, LOSS OF BUSINESS, LOSS OF REVENUES, LOSS OF DATA, INTERRUPTION OR CORRUPTION OF DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ANY OTHER TYPE OF DAMAGES OTHER THAN DIRECT DAMAGES.

c. EQUINIX'S TOTAL LIABILITY TO CUSTOMER IN THE AGGREGATE FOR THE ENTIRE TERM WITH RESPECT TO ALL CLAIMS ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING ATTORNEY'S FEES) WILL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE SIX (6)-MONTH PERIOD IMMEDIATELY PRECEDING THE MONTH IN WHICH THE FIRST CLAIM AROSE. AS A FURTHER LIMITATION, EQUINIX'S MAXIMUM LIABILITY FOR ANY CLAIMS RELATING TO SERVICES OFFERED OR PROVIDED BY EQUINIX (I) FOR A NON-RECURRING CHARGE ONLY OR (II) AS SMART HANDS SERVICES SHALL NOT EXCEED THE AMOUNT OF THE SERVICE FEE FOR SUCH SERVICE PROVIDED ON THE OCCASION GIVING RISE TO THE CLAIM.

d. THE LIMITATIONS SET FORTH IN SECTIONS 6(b)-(c) WILL APPLY TO ANY AND ALL CLAIMS AND CAUSES OF ACTION WHATSOEVER, REGARDLESS OF WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHER THEORY.

e. Each party waives its right to bring any claim against the other party arising or in any way relating to this Agreement more than six (6) months after the date this Agreement expires or is earlier terminated.

f. Nothing in this Agreement will be construed as limiting the liability of either party for personal injury or death resulting from the negligence of a party.

g. If some or all of the Licensed Space is not usable for a period exceeding one hour (the "Temporarily Unusable Licensed Space"), Customer will be entitled to a credit of one seven hundred twentieth (1/20) of the monthly recurring portion of the Service Fee for such

Temporarily Unusable Licensed Space for each hour that such space is unusable. This credit is Customer's sole and exclusive remedy for interruptions, suspensions, failures, defects, delays, impairments or inadequacies in any of the Services. Notwithstanding the foregoing, Customer will only have the right to receive a credit if (i) Customer notifies Equinix within five (5) days of its inability to use the Temporarily Unusable Licensed Space and (ii) the Temporarily Unusable Licensed Space is not usable for reasons other than (a) the actions or omissions of Customer or any Sublicensee or other third-party acting on Customer's behalf, (b) Customer's Equipment or the equipment of any Sublicensee or other third-party acting on Customer's behalf, or (c) circumstances or events beyond Equinix's control.

7. Insurance.

a. Customer agrees to maintain, at its expense, for each IBX Center during the entire time this Agreement is in effect, (i) Commercial General Liability Insurance in an amount not less than One Million U.S. Dollars (\$1,000,000) or the local currency equivalent per occurrence for bodily injury, death and property damage, which policy will include contractual liability coverage related to this Agreement, (ii) Workers' Compensation and employer's liability insurance in an amount not less than that prescribed by law, and (iii) umbrella or excess liability insurance with a combined single limit of no less than Two Million U.S. Dollars (\$2,000,000) or the local currency equivalent. Prior to any use of the Licensed Space at an IBX Center (including, but not limited to, delivery of any of Customer's Equipment to an IBX Center), Customer will furnish Equinix with certificates of insurance that evidence the minimum levels of insurance set forth herein and which name as additional insureds Equinix and other parties with an interest in the Licensed Space or the IBX Center, as designated by Equinix. In addition, Customer will notify Equinix of any non-renewal, cancellation, reductions in policy limit or other material change in Customer's coverage at least forty-five (45) days prior to such change in coverage. Equinix will not have any obligation to insure any property belonging to or in the possession of Customer.

b. Customer will cause and ensure that each insurance policy referred to in Section 7(a), will provide that the insurers waive all claims and rights of recovery by subrogation against the Equinix Parties in connection with any liability or damage covered by Customer's insurance policies. As to any property insurance carried by Equinix on the IBX Centers where any of the Licensed Space is located, Equinix will obtain a waiver of subrogation in favor of Customer. Except as set forth in Section 5, Customer will not have any responsibility for any loss or damage to equipment owned by Equinix, and Equinix will not have any responsibility for any loss or damage to Customer's Equipment.

8. Term of Agreement, Suspension of Service, Termination, and Removal of Customer's Equipment.

a. This Agreement will commence on the MSA Effective Date. Unless earlier terminated in accordance with its terms this Agreement will terminate on the date the last Order then in effect expires or is terminated pursuant to the terms and conditions set forth in this Agreement (which will be the date on which the last Service Term if such last Order expires or is terminated pursuant to the terms and conditions of this Agreement). Unless otherwise agreed to by the parties in writing, for each Service ordered on a Sales Order, the Initial Service Term for such Service will commence on the date referred to as the "Sales Order Effective Date" and end two (2) years after the Billing Commencement Date. Unless otherwise agreed to by the parties in writing, the Initial Service Term for each Service ordered via a Phone Order or Online Order will commence on the Billing Commencement Date and end (i) when the License for the Licensed Space into which such Service is installed expires or terminates pursuant to this Agreement or (ii) two (2) years after the Billing Commencement Date if such Service is not installed in Licensed Space. Unless otherwise agreed to by the parties in writing, for each Service, upon expiration of the Initial Service Term and each renewal, the Service Term for such Service will renew automatically for additional terms of one (1) year each, unless either party notifies the other party at least forty-five (45) days prior to the end of the then-current Service Term for such Service that it has elected to terminate the Service Term for such Service, in which event the Service Term for such Service will terminate at the end of such then-current Service Term.

b. Either party may terminate this Agreement by giving notice of



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termination to the other party if the other party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after receipt of notice of the same. Notwithstanding the foregoing, except where Customer has failed to timely cure a monetary breach, if a party fails to timely cure a material breach as to only one IBX Center, and Customer has Licensed Space in more than one IBX Center, then the non-breaching party may only terminate this Agreement (and the corresponding Orders) as to the IBX Center where the material breach has not been timely cured, and this Agreement will remain in full force and effect as to all other IBX Centers.

c. Notwithstanding Section 8(b), Equinix may terminate this Agreement (or, at Equinix's sole discretion, suspend the provision of Services, including discontinuing the supply of power) if (i) Customer fails to cure any monetary breach of this Agreement (e.g. fails to pay any amounts owed) within ten (10) days of notice of the same (five (5) days in the event Customer's account is past due on three (3) or more occasions during a six (6)-month period); (ii) Customer liquidates, ceases to do business, or becomes insolvent or (iii) Customer breaches any provision of this Agreement that in Equinix's reasonable judgment interferes with, or has the potential to interfere with Equinix's operation or maintenance of the IBX Center or with its other customers' use thereof, and Customer fails to cure such breach within twenty-four (24) hours of being notified of the same. If Equinix suspends a Service pursuant to this Section 8(c), Equinix will resume the discontinued Service within twenty-four (24) hours after it is reasonably satisfied Customer has cured the breach(es) which gave rise to Equinix's right to suspend the Service. Equinix may charge a reinstatement fee equal to the direct out-of-pocket expenses incurred by Equinix to resume the discontinued Service.

d. Equinix may terminate this Agreement as to any affected Licensed Space or IBX Center if any portion of the IBX Center in which the affected Licensed Space is located becomes subject to a condemnation proceeding or is condemned, Equinix's possession is otherwise terminated or abated, or Equinix cannot provide Customer with access to the affected Licensed Space as contemplated herein for a period exceeding thirty (30) days.

e. Upon expiration or termination of an Order (or any portion thereof), all other rights of Customer with respect to the Licensed Space on such Order (or the affected portion thereof) ("Terminated Space") will terminate, and Customer will remove all of Customer's Equipment and other property belonging to Customer or Customer's Authorized Persons, Accompanying Persons and/or Associated Entities, but excluding any wiring, cable or other equipment or property owned, leased or licensed by Equinix, from the Terminated Space no later than the effective date of such termination. If Customer fails to remove any such property in accordance with this Section 8(e), Equinix will be entitled to pursue all available legal remedies against Customer, including one or more of the following remedies: (i) immediately removing any or all such property and storing it at Customer's expense at an on-site or off-site location; (ii) shipping such property to the address set forth at the end of this Agreement at Customer's risk and expense, or (iii) upon providing thirty (30) days' prior notice to Customer, and if Customer fails to remove such property within such thirty (30)-day period, liquidating such property in any commercially reasonable manner and charging Customer for all costs associated with the liquidation. Notwithstanding anything in this Agreement to the contrary, Customer will not be entitled to remove any Customer's Equipment from an IBX Center upon termination of this Agreement if Customer's account is past due.

f. While Customer has no right to use the Services after the end of the Term, if Customer does so, Customer will be obligated to pay for the Services pursuant to the terms and conditions of this Agreement and any applicable Orders, and this Agreement, and any such applicable Orders, will continue in effect for as long as the Services are used by Customer. In such event, this Agreement, and any applicable Orders, will be terminable at will by Equinix effective immediately upon notice to Customer.

g. Customer grants Equinix a security interest in all of Customer's Equipment now or hereafter located at each IBX Center, to secure payment of all amounts and satisfaction of all obligations due under this Agreement. In connection therewith, if required by applicable law, Equinix will be entitled to file one or more financing statements with respect to its security interest and Customer will sign all necessary documents, and take such other actions as Equinix reasonably requests, to perfect or continue such security interest. Equinix will not take any

action to enforce its security interest in the Equipment until such time as any invoice is sixty (60) days or more past due.

h. Neither party will be liable to the other party for properly terminating this Agreement or any portion thereof in accordance with its terms, but Customer will be liable to Equinix for any amounts owed prior to the effective date of termination. Notwithstanding anything to the contrary in this Agreement, Equinix has the right to recover from Customer all damages recoverable under law for the period past the end of the Term, if Equinix terminates this Agreement prior to the end of the full Term due to Customer's material breach.

i. Under no circumstances will any Order survive the expiration or earlier termination of this Agreement, and under no circumstances will any Order pertaining to an IBX Center survive the termination of this Agreement as to that IBX Center. Equinix will not have any obligation to provide any of its Services after the expiration or earlier termination of this Agreement and Equinix will not have any obligation to provide any of its Services at an IBX Center after the expiration or earlier termination of this Agreement as to such IBX Center.

#### 9. Miscellaneous.

a. Except where otherwise expressly stated in the Agreement, all notices, consents, or approvals required by this Agreement will only be effective if in writing and sent by (i) certified or registered air mail, postage prepaid, (ii) overnight delivery requiring a signature upon receipt, (iii) delivery by hand or (iv) facsimile or electronic mail (promptly confirmed by certified or registered mail or overnight delivery), to the parties at the respective street addresses, facsimile numbers, or electronic mail addresses set forth at the end of this Agreement or such other addresses or facsimile numbers as may be designated in writing by the respective parties. Notices, consents and approvals will be deemed effective on the date of receipt.

b. This Agreement will be governed in all respects by the internal laws of the State of California without regard to its conflict of laws provisions. The parties irrevocably agree to the exclusive jurisdiction of the courts of San Francisco, California. If any legal action is brought by either party under, or relating to, this Agreement the prevailing party will be entitled to an award of its reasonable attorneys' fees and costs.

c. Neither party's directors, officers or employees will have any liability to the other party with respect to this Agreement. Except as may be specifically otherwise consented to by an Affiliate of a party, neither party's Affiliates will have any liability to the other party with respect to this Agreement.

d. This Agreement, the exhibits, the Policies and all Orders, all of which are incorporated herein by reference into this Agreement, constitute the complete and entire agreement between the parties with respect to the subject matter hereof, and supersede and replace any and all prior or contemporaneous discussions, negotiations, proposals, understandings and agreements, written and oral, regarding such subject matter, as well as any industry custom. This Agreement will be effective only when signed by both parties. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement may be amended only in writing by an instrument signed by all parties.

e. No waiver of any breach of any provision of this Agreement will constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

f. If Customer and Equinix execute multiple Orders, each additional Order will supplement rather than replace the prior Orders, unless otherwise stated by the parties in writing. Notwithstanding anything in this Agreement to the contrary, (i) Equinix has no obligation to execute any Order with Customer, (ii) no Sales Order will be effective unless executed by both parties, and (iii) no Online Order or Phone Order will be effective unless made by Customer and agreed to by Equinix, which agreement by Equinix will be reflected either by Equinix's written confirmation of such Online Order or Phone Order or by Equinix's commencement of the provision of the Services ordered under the Online Order or Phone Order.

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o. Each party acknowledges and agrees that it has reviewed, and has had an opportunity to have reviewed, this Agreement (including the exhibits and the Policies), and it is the parties' intent that this Agreement will not be construed against either party. The section headings and captions throughout this Agreement are for convenience and reference only, and will not be used to construe this Agreement.

p. If any provision of this Agreement, as applied to either party or to any circumstance, is adjudged by a court to be invalid, illegal or unenforceable, the same will not affect the validity, legality, or enforceability of the portion of the provision, if any, that is not invalid, illegal or unenforceable, the application of such provision in any other circumstances, or the validity, legality, or enforceability of any other provision of this Agreement. All terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court in any action between the parties is requested to reform any and all terms or conditions to give them as much effect as possible.

q. Sections 5, 6, 7, 8 and Exhibit A will survive the termination of this Agreement. In addition, all provisions of this Agreement that can only be given proper effect if they survive the termination of this Agreement will survive the termination of this Agreement. This Agreement will be void as to any obligation incurred prior to termination of this Agreement. Without limiting the foregoing, Customer will pay all amounts owed to Equinix under this Agreement, including any amounts that are not due until after the expiration or earlier termination of this Agreement. Each party recognizes and agrees that the warranty disclaimer and liability and remedy limitations in this Agreement are material bargained for bases of this Agreement and that they have been taken into account and reflected in determining the consideration to be given by each party under this Agreement and in the decision by each party to enter into this Agreement. The parties agree that the warranty disclaimer and liability and remedy limitations in this Agreement will survive and apply even if found to have failed of their essential purpose.

r. Except where otherwise expressly stated herein, and subject to the limitations set forth in Section 7, the rights and remedies provided for herein are cumulative and not exclusive of any rights or remedies that a party would otherwise have.

s. Equinix and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Equinix and Customer. Neither Equinix nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. Neither Customer nor Equinix grants the other the right to use its trademarks, service marks, trade names, logos, copyrights, or other intellectual property rights or other designations in any promotion, publication, or press release without the prior written consent of the other party in each case.

t. This Agreement, and the rights of Customer hereunder, are, without any further action by any party, subject and subordinate to the leases for the IBX Centers and all superior instruments to such leases (including, without limitation, mortgages or ground leases for the IBX Centers). This Agreement is a services agreement and is not intended to and will not constitute a lease of any real or personal property. Customer acknowledges and agrees that (i) it has been granted only a license ("License") to use the Licensed Space in accordance with this Agreement; (ii) Customer has not been granted any real property interest under this Agreement; and (iii) Customer has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances. Equinix hereby reserves, with respect to the IBX Centers, all rights not specifically granted to Customer in this Agreement, including, without limitation, the right (i) of access to and use of the IBX Centers for its own use or the use of others; (ii) to grant additional licenses to other persons or co-location customers for the use of portions of the IBX Centers; and (iii) to exercise or grant other rights not inconsistent with the rights granted in this Agreement.

u. Equinix may assign, delegate or transfer its rights and obligations under this Agreement to an Equinix Affiliate, or to a party acquiring all or substantially all of Equinix's business or assets, including through merger, and in the event of any such assignment, transfer or delegation, and the assumption by the transferee of the obligations of Equinix hereunder, Equinix will be released from any further liability or obligation under this Agreement. Customer may assign this Agreement without Equinix's consent only where the party to whom this Agreement

is assigned by Customer is either an Affiliate of Customer, or is acquiring all or substantially all of Customer's business or assets, including through merger. This Agreement will be binding upon and inure to the benefit of all successors and permitted assigns of Equinix and Customer, who will be bound by all of the obligations of their predecessors or assignors. Except as set forth in Exhibit B of this Agreement with respect to sublicensing, and this Section 9(m), Customer will not assign, delegate, transfer or sublicense all or any part of the Licensed Space.

v. Equinix will not be responsible or in any way liable, and Customer will not have any termination or other rights, arising out of or relating to any failure by Equinix to perform or any hindrance in the performance of its obligations under this Agreement if such failure or hindrance is caused by events or circumstances beyond Equinix's control, including acts of God, war, labor strikes, terrorist act, fire, flood, earthquake, any law, order, regulation or other action of any governing authority or agency thereof, or failure of the Internet.

w. All Orders are subject to all of the terms and conditions of this Agreement. In the event of a conflict between the body of this Agreement and an Order, the body of this Agreement will control, unless the body of this Agreement or the Order states that the conflicting term in the Order controls.

x. Unless otherwise expressly agreed to by the parties in writing, Equinix will retain title to all parts and materials used or provided by Equinix or third parties acting on its behalf in the performance and/or furnishing of the Services.

y. Equinix and Customer agree that, with the exception of Equinix's landlords, there will be no third party beneficiaries to this Agreement, including, but not limited to, any sublicensee, and user or Customer or the insurance providers for either party.

z. The parties specifically exclude application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.

## 10. Definitions

**Accompanying Person:** Each person (other than an Equinix employee) who is accompanied by an Authorized Person while at an IBX Center.

**Affiliate:** As to a party, means any entity controlling, controlled by, or under common control with such party, where the term "control" and its correlative meanings, "controlling," "controlled by," and "under common control with," means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the aggregate of all voting equity interests in an entity.

**Associated Entity:** Each company, partnership or other entity of any type which employs, contracts with, or is otherwise associated or affiliated with any of Customer's Authorized Persons or Accompanying Persons. Without limiting the foregoing definition, each Sublicensee that has sublicensed Sublicensed Space at an IBX Center will be an Associated Entity at such IBX Center.

**Authorized Person:** Each person who is included on a list of Authorized Persons given to Equinix by Customer in accordance with the Policies.

**Billing Commencement Date:** For each Service, unless otherwise agreed to by the parties in writing, a) for a Service ordered in a Sales Order, the date designated in Sales Order as the date charges will begin to accrue, and b) for a Service ordered in an Online Order or Phone Order, the date Equinix begins providing the Service to Customer.

**Cross-Connect:** A physical or wireless interconnection within an IBX Center that (i) exits Customer's cage or (ii) connects Customer to another Equinix customer.

**Customer Care Website:** Equinix's customer care website accessible via the Internet at a location designated by Equinix, which it has the right to change from time to time.

**Customer Cross-Connect:** A physical interconnection, including cable, connections, and other wiring, that (i) does not exit Customer's cage, (ii) does not connect Customer to another Equinix customer and (iii) interconnects (a) Equipment belonging to the Customer or (b) Equinix-provided POD Equipment in Customer's cage with Customer's Equipment.

**Customer's Equipment:** All network and/or computer equipment

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(including wiring and Customer Cross-Connects between such equipment and Customer's POD Equipment) that is located in the Licensed Space, regardless of whether such equipment is owned, leased, licensed or otherwise obtained for use by Customer (but this does not include Cross-Connects or Equinix POD Equipment located in Customer's Licensed Space).

**Customer Parties:** Customer and the Affiliates, owners, officers, directors, employees, contractors and agents of Customer.

**Equinix Parties:** Equinix and the Affiliates, owners, officers, directors, employees, contractors and agents of Equinix.

**IBX Centers:** The Internet Business Exchange Centers leased or owned by Equinix in which Customer licenses Licensed Space or receives Services from Equinix pursuant to an Order.

**Licensed Space:** The areas licensed by Customer under this Agreement and as identified in the Orders as to the amount of space. For each Licensed Space, Equinix will determine at all times during the Term the exact location in the IBX Centers where the Licensed Space will be located, and Equinix will notify Customer accordingly.

**Online Order:** An Order for Services placed by Customer via the Customer Care Website and accepted by Equinix pursuant to this Agreement.

**Order:** Any Sales Order, Online Order or Phone Orders between Customer and Equinix.

**Phone Orders:** An Order for Services placed by customer via telephone and accepted by Equinix pursuant to this Agreement.

**POD Equipment:** The (i) patch panels, DSX panels for category 6 twisted pair, co-axial, single and multi-mode fiber, or (ii) other appropriate (as reasonably determined by Equinix) point of demarcation equipment.

**Policies:** The procedures, rules, regulations, security practices and policies adopted by Equinix that are then in effect for the IBX Centers, and as they may be amended from time to time by Equinix and so notified to Customer.

**Power Services:** Power circuits ordered by Customer. For the avoidance of doubt, Power Services do not include power provided by Equinix as part of a bundled service.

This Master Service Agreement has been entered into between the parties as of the MSA Effective Date.

#### Customer to complete:

The person signing below hereby warrants and represents that he or she has full authority to execute this Agreement for the party on whose behalf he or she is signing.

Customer Name: Mark Zuckerberg (Thefacebook, Inc.)  
(Complete Legal Name)

Authorized Signature: ME 2.0

Printed Name: Mark Zuckerberg

Title: CEO

Street address for notices:

2 Ruckel Place

Debbi Ferry, NY 10522

Phone: 914.646.8543

Facsimile number: 914.643.6714

Electronic mail address: zuck@thefacebook.com

**Sales Orders:** All written sales orders executed by the parties which provide that such sales orders are governed by, and incorporated by reference into, this Agreement.

**Services:** All services, goods and other offerings of any kind set forth in an Order to be provided by Equinix to Customer pursuant to this Agreement.

**Service Fees:** Charges and fees for Services charged to Customer by Equinix pursuant to this Agreement.

**Service Term:** Each Service in an Order will have a Service Term, which for each Service will be the length of time from the agreed to effective date for the Service Term until the last day Equinix is required to provide such Service pursuant to the terms and conditions set forth in this Agreement or as otherwise agreed to by the parties in the applicable Order.

**Shipping Policies:** The portion of the Policies entitled Shipping Policies.

**Sublicensed Space:** The portion of the Licensed Space sublicensed to a Sublicensee by Customer pursuant to the terms of this Agreement.

**Sublicensee:** A customer of Customer or other third party who obtains Internet and/or telecommunications services from Customer and who sublicenses all or part of the Licensed Space from Customer.

**Taxes:** Sales, use, transfer, privilege, excise, VAT, GST, consumption tax, and other similar taxes and duties, whether foreign, national, state or local, however designated, now in force or enacted in the future, which are levied or imposed by reason of the performance by Equinix or Customer under this Agreement or by Customer with respect to its operations and use of the Services, but excluding taxes on Equinix's net income.

**Term:** The term of this Agreement as determined in accordance with Section 8(a) of this Agreement.

#### Equinix to complete:

The person signing below hereby warrants and represents that he or she has full authority to execute this Agreement for the party on whose behalf he or she is signing.

Authorized Signature: Monica Brown Andrews  
Director of Customer Contracts

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street addresses for notices:

301 Velocity Way, 5th Floor  
Foster City, California 94404, USA

Phone: +1 650-513-7000

Facsimile number: +1 650-513-1857

ELECTRONIC MAIL ADDRESS: contracts@equinix.com

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### Exhibit A Confidentiality Provisions

The following provisions apply with respect to the treatment of confidential information disclosed by the parties hereto. All capitalized terms not defined in this exhibit will have the respective meanings specified in the Master Service Agreement to which this Exhibit A is attached.

a. Except as expressly permitted in this Exhibit A, neither party will, without the prior written consent of the other party, disclose any Confidential Information of the other party to any third party. Information will be considered Confidential Information of a party if either (i) it is disclosed by the party to the other party in tangible form and is conspicuously marked "Confidential", "Proprietary" or the like; or (ii) (a) it is disclosed by one party to the other party in non-tangible form and is identified as confidential at the time of disclosure; and (b) it contains the disclosing party's customer lists, customer information, technical information, pricing information, pricing methodologies, or information regarding the disclosing party's business planning or business operations. In addition, notwithstanding anything in this Agreement to the contrary, (i) the terms of the Agreement will be deemed Confidential Information of each party; and (ii) the design of the IBX Centers, the Services provided and equipment used at the IBX Centers and the configuration, interconnection, switching and routing of telecommunication cables, networks and services at the IBX Centers will be considered Confidential Information of Equinix.

b. Other than the terms and conditions of this Agreement, 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; or (iv) is independently

developed by the receiving party. The terms and conditions of this Agreement will cease being confidential if, and only to the extent that, they become publicly known, except through a breach of this Agreement by the receiving party.

c. Each party will secure and protect the Confidential Information of the other party (including, without limitation, the terms of this Agreement) in a manner consistent with the steps taken to protect its own trade secrets and confidential information, but not less than a reasonable degree of care. Each party may disclose the other party's Confidential Information where (i) the disclosure is required by applicable law or regulation or by an order of a court or other governmental body having jurisdiction after giving reasonable notice to the other party with adequate time for such other party to seek a protective order; (ii) if in the opinion of counsel for such party, disclosure is advisable under any applicable securities laws regarding public disclosure of business information; or (iii) the disclosure is reasonably necessary and is to that party's or its Affiliates' employees, officers, directors, attorneys, accountants and other advisors, or the disclosure is otherwise necessary for a party to exercise its rights and perform its obligations under this Agreement, so long as in all cases the disclosure is no broader than necessary and the party who receives the disclosure agrees prior to receiving the disclosure to keep the information confidential. Each party is responsible for ensuring that any Confidential Information of the other party that the first party discloses pursuant to this Exhibit A is kept confidential by the person receiving the disclosure.

d. Notwithstanding the restrictions set forth in this Exhibit A or Section 9(b), during the Term, (i) Equinix may issue a press release announcing Customer's entry into the IBX Centers without obtaining Customer's consent; and (ii) either party may publicly refer to the other party, orally and in writing, as a customer or vendor of services of or to the other party, as the case may be, without obtaining consent from such party.

Exhibit A (M&amp;A) (2/10/04)

Equinix Procedures and Confidential

Page 6 of 7

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### Exhibit B Sublicensing Provisions

The following provisions apply with respect to any sublicense of Licensed Space (all capitalized terms herein having the respective meanings specified in the Master Service Agreement to which this Exhibit B is attached).

a. Customer may sublicense the Sublicensed Space to Sublicensees provided that (i) the terms and conditions of such Sublicense will be no less restrictive than this Agreement, (ii) Customer will not in its dealing with such Sublicensee act or purport to act on behalf of Equinix or Equinix's landlords, (iii) Customer will require the Sublicensee to abide by the rules set forth in the Policies, and (iv) Customer will cause any Sublicensee to agree in writing that in consideration for the sublicense, Sublicensee waives, to the maximum extent permitted under law, any and all claims of any and all types against Equinix and Equinix's landlords, at all times, and that in no event will Equinix or Equinix's landlords have any liability to such Sublicensee, including liability to such Sublicensee for any damages whatsoever, including direct damages.

b. Notwithstanding anything in this Agreement to the contrary, Customer will remain responsible to Equinix for the performance of all of Customer's obligations under this Agreement (including the payment of all amounts owed under this Agreement) and all other agreements between Equinix and Customer ("Related Agreements"). No sublicense agreement or arrangement between Customer and any Sublicensee will relieve Customer from any liability under this Agreement or any Related Agreements. Without limiting the foregoing, Customer is responsible for paying the Service Fees for all of the Licensed Space (including Sublicensed Space) and the charges for Services for, or relating to, any or all of the Licensed Space (including Sublicensed Space). In no event will Equinix be deemed to be providing any Services to Sublicensee for, or relating to, the Sublicensed Space, as the provision of any such Services will be deemed to be to Customer for all purposes under this Agreement.

c. Customer must ensure that each and every sublicense agreement or other sublicense arrangement that Customer has with a Sublicensee does not have any terms and conditions that (i) are inconsistent with this Agreement, or (ii) seek to provide Sublicensee with

rights that Customer does not have under this Agreement. Without limiting the foregoing or any other restrictions on Sublicensee, no Sublicensee will have any right to use its Sublicensed Space in any manner that Customer is not permitted to use the Licensed Space.

d. Sublicensees do not have any rights, separate and apart from Customer's rights, to access their Sublicensed Space. Accordingly, only Customer's Authorized Persons at an IBX Center may access the Sublicensed Space of Sublicensees at such IBX Center. Furthermore, Equinix is not responsible for restricting a Sublicensee's access to Customer's Licensed Space located in a cage or suite to which that Sublicensee has access.

e. Notwithstanding anything in this Agreement to the contrary, a Sublicensee has no right to sublicense, delegate, assign or otherwise transfer its rights to use the Sublicensed Space to any other person or entity without Equinix's consent, which consent may be withheld for any reason whatsoever or no reason. Any such sublicense, delegation, assignment or transfer will be null and void.

f. If the parties agree, Equinix and Customer will participate in a joint press announcement to announce when a Sublicensee sublicenses Sublicensed Space at an IBX Center.

g. Without limiting Customer's indemnification obligations under Section 5, Customer will indemnify and hold harmless the Equinix Parties from any and all liability, damages, costs and expenses (including reasonable attorneys' fees and expenses) arising from or relating to (i) any claim by a customer or end-user of any Sublicensee relating to, or arising out of, a Sublicensee's or any of its customers' services, Customer's or any of its customers' services, or the Services provided under this Agreement (including claims relating to interruptions, suspensions, failures, defects, delays, impairments or inadequacies in any of the aforementioned services, including the Services from Equinix); and (ii) any claim by a Sublicensee to the extent that such claim, if sustained, would result in any greater obligation or liability of Equinix to such Sublicensee than Equinix has undertaken to Customer under this Agreement or any of the Related Agreements.



T-248 P.003/003 F-388



# Sales Order

Customer Name: The Face Book	Account Manager: Tom Offenbach	Sales Order Number: A100A0077
IBX Center SJO San Jose CA, USA		Sales Order Effective Date (To be completed by Supplier) 10/8/04

## Section A: Space and Colocation Services

**Service Term: 12 months**

Space Type	<del>Private</del> Cage
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Space and Collection Services	Quantity	MRC per Unit	MRC per Unit	Non-Recurring Charge	Monthly Recurring Charge
18" Closed Cabinet - CASH0008	2	\$ 600	\$ 650	\$ 1,200	\$ 1,300
Power / - 20-amp, 120 V AC - PDW00003	3	\$ 200	\$ 300	\$ 600	\$ 900
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
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<b>SALES ORDER TOTAL</b>				\$ 1,800	\$ 2,200

This sales order (the "Sales Order") is between Equinix Operating Co., Inc. ("Equinix") and the customer identified above ("Customer"), who wishes to order the products and/or services set forth above (each a "Service").

Unless otherwise agreed to by the parties in writing, each Service shall be delivered at the Internet Business Exchange Center identified above ("IBX Center"). Notwithstanding anything in this Sales Order to the contrary, this Sales Order is governed by, and incorporated by reference in, the Master Service Agreement (or the document with a similar function if no document entitled Master Service Agreement has been signed by the parties) having an effective date of \_\_\_\_\_, 20\_\_\_\_ between Customer and Equinix Inc., and/or one or more of its wholly-owned subsidiaries ("Agreement"). All exhibits, addenda and policy documents referenced in this Sales Order are incorporated by reference in this Sales Order, and therefore in the Agreement. The meanings of all capitalized terms defined in this Sales Order shall apply whenever such terms are used in this Sales Order, unless otherwise stated in this Sales Order. For purposes of this Sales Order the terms "monthly recurring charges" and "MRC" may be used interchangeably, and the term "non-recurring charges" and "NRC" may be used interchangeably.

Notwithstanding anything to the contrary in the Agreement, the term of this Sales Order shall begin on the date this Sales Order is signed by both parties (the "Sales Order Effective Date"), and this Sales Order shall remain in effect until the last Service Term (as defined below) in effect expires or is terminated pursuant to the Agreement, including this Sales Order. Each Service in this Sales Order shall have a "Service Term", which for each Service shall begin on the Billing Commencement Date (defined below) and upon completion of the period of time designated above as the Service Term. In addition, for each Service, the initial Service Term for such Service shall automatically renew for additional terms of one (1) year each, unless either party notifies the other party at least ninety (90) days prior to the end of the then-current Service Term for such Service that it has elected to terminate the Service Term for such Service, in which event the Service Term for such Service will terminate at the end of such then-current Service Term. Notwithstanding anything to the contrary in this Sales Order, (a) Equinix's provision of any Service, and Customer's use of such Service, are at all times governed by the Agreement, even if Customer begins using such Service prior to the beginning of its Service Term and (b) under no circumstances will a Service Term for any Service survive the termination of this Sales Order.

Notwithstanding anything to the contrary in the Agreement, (a) if the Agreement expires prior to the expiration of this Sales Order's then-current term, all of the terms and conditions of the Agreement (including limitation of liability and indemnification) will continue to apply to this Sales Order and all Services, until this Sales Order expires or is terminated; and (b) if the Agreement is terminated by either party prior to its full term, then this Sales Order, in effect, shall terminate upon the termination of the Agreement. If the Equinix entity providing the products and/or services set forth above (the "Equinix Provider") is not currently a party to the Agreement, notwithstanding anything in the Agreement to the contrary, the parties agree that the execution of the Sales Order shall automatically (i.e., without further action by either party) result in the Equinix Provider becoming, as of the Sales Order Effective Date, a party to the Agreement (such that all references to Equinix under the Agreement, including, without limitation, references to limitation of liability and indemnification, shall be deemed to include the Equinix Provider, as well as any Equinix entities that were already parties to the Agreement). Any change by Equinix to the prices set forth above shall be made in accordance with the Agreement. Prices shown above do not include any applicable taxes, surcharges and shipping charges which are the responsibility of the Customer.

This Sales Order shall be of no force or effect unless (a) it is executed by both parties and (b) Customer and Equinix have entered into a currently effective Agreement under which this Sales Order is executed. Customer agrees to provide Equinix access to its cage, cabinets, racks and/or equipment as necessary for the performance of the Services as set forth in this Sales Order.

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T-248 P.002/003 F-366

Customer Name: The Face Book	Account Manager: Tom Offenbach	Sales Order Number: A100A00977
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**Billing:**

Notwithstanding anything to the contrary, Customer's obligation to pay the total monthly recurring charges and total non-recurring charges set forth in Section A shall begin twenty-one (21) days after the Sales Order Effective Date (the "Billing Commencement Date").

If Equinix is unable to deliver any Service on or before the Billing Commencement Date because Customer has failed to provide Equinix with the information necessary to deliver such Service (e.g., configuration information), Customer shall be billed for such Service beginning on the Billing Commencement Date even if such Service has not been delivered.

Unless otherwise stated herein, cabinets provided by Equinix in a private cage are open cabinets, and cabinets in a shared cage are locking cabinets. If Customer requests cabinet accessories (e.g., shelves, doors, side panels, mounting rails etc.) that are not included with a cabinet as described in Equinix's specifications for such cabinet, Customer shall be charged Equinix's list price for such accessories, unless otherwise stated herein. Customer may provide its own cabinets in a private cage in accordance with Equinix's policies and procedures; however, Customer must use Equinix-provided cabinets in a shared cage. Customer acknowledges that the prices set forth for items in Section A apply even if Customer provides its own cabinets in a private cage.

**Customer to complete:**

Authorized Signature: [Signature]  
 Printed name: Sean Parker  
 Title: President  
 Date signed: 10/5/04

**Billing Information:**

Billing Contact Name: Sean Parker  
 Billing Address: 1743 Westbrook  
Los Altos, CA 94024  
 Phone Number: 650-996-3000  
 E-mail Address: Sean@thefacebook.com

**Equinix to complete:**

Authorized Signature: [Signature]  
 Printed name: Monica Brown Andrews  
Director of Customer Contracts  
 Title: \_\_\_\_\_  
 Date signed: 10/6/04

Please fax a signed copy of this Sales Order to:

(850) 618-1857

and mail two sets of originals to:

Equinix  
 Attn: Contracts  
 301 Velocity Way, 5th Floor  
 Foster City, CA 94404

Please sign and return all referenced exhibits, addenda and/or policy documents with this order. Failure to do so may result in a delay in processing.

Section A: Space and Colocation Services

Space Type	Shared Cage
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**Service Term: 12 months**



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Customer Name: TheFaceBook	Account Manager: Tom Offenbach	Sales Order Number: A0U0A0009M
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**Billing:**

Notwithstanding anything to the contrary, Customer's obligation to pay the total monthly recurring charges and total non-recurring charges set forth in Section A shall begin twenty-one (21) days after the Sales Order Effective Date (the "Billing Commencement Date").

If Equinix is unable to deliver any Service on or before the Billing Commencement Date because Customer has failed to provide Equinix with the information necessary to deliver such Service (e.g., configuration information), Customer shall be billed for such Service beginning on the Billing Commencement Date even if such Service has not been delivered.

Unless otherwise stated herein, cabinets provided by Equinix in a private cage are open cabinets, and cabinets in a shared cage are locking cabinets. If Customer requests cabinet accessories (e.g., shelves, doors, side panels, mounting rails etc.) that are not included with a cabinet as described in Equinix's specifications for such cabinet, Customer shall be charged Equinix's list price for such accessories, unless otherwise stated herein. Customer may provide its own cabinets in a private cage in accordance with Equinix's policies and procedures; however, Customer must use Equinix-provided cabinets in a shared cage. Customer acknowledges that the prices set forth for items in Section A apply even if Customer provides its own cabinets in a private cage.

**Customer to complete:**

Authorized Signature: D Moskowitz  
 Printed name: Dustin Moskowitz  
 Title: CTO  
 Date signed: 10/22/04

**Billing Information:**

Billing Contact Name: Dustin Moskowitz  
 Billing Address: 1743 Westbrook Ave  
Los Altos, CA  
 Phone Number: 352-207-4178  
 E-mail Address: moskowitz@fas.harvard.edu

**Equinix to complete:**

Authorized Signature: [Signature]  
 Printed name: Monica Brown Andrews  
 Title: Director of Customer Contracts  
 Date signed: 10/28/04

Please fax a signed copy of this Sales Order to:

(650) 618-1857

and mail two sets of originals to:

Equinix  
 Attn: Contracts  
 301 Velocity Way, 5<sup>th</sup> Floor  
 Foster City, CA 94404

Please sign and return all referenced exhibits, addenda and/or policy documents with this order. Failure to do so may result in a delay in processing.

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Customer Name: The Face Book	Account Manager: Tom Orendatch	Sales Order Number: A0J0A0008V
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**Billing:**

Notwithstanding anything to the contrary, Customer's obligation to pay the total monthly recurring charges and total non-recurring charges set forth in Section A shall begin twenty-one (21) days after the Sales Order Effective Date (the "Billing Commencement Date"), even if Customer begins using the Service prior to the Billing Commencement Date.

If Equinix is unable to deliver any Service on or before the Billing Commencement Date because Customer has failed to provide Equinix with the information necessary to deliver such Service (e.g., configuration information), Customer shall be billed for such Service beginning on the Billing Commencement Date even if such Service has not been delivered.

Unless otherwise stated herein, cabinets provided by Equinix in a private cage are open cabinets, and cabinets in a shared cage are locking cabinets. If Customer requests cabinet accessories (e.g., shelves, doors, side panels, mounting rails etc.) that are not included with a cabinet as described in Equinix's specifications for such cabinet, Customer shall be charged Equinix's list price for such accessories, unless otherwise stated herein. Customer may provide its own cabinets in a private cage in accordance with Equinix's policies and procedures; however, Customer must use Equinix-provided cabinets in a shared cage. Customer acknowledges that the prices set forth for items in Section A.1. apply even if Customer provides its own cabinets in a private cage.

**Customer to complete:**

Authorized Signature: Mr. Zuck  
 Printed name: Mark Zuckerberg  
 Title: CEO  
 Date signed: 08.06.04

**Billing Information:**

Billing Contact Name: Mark Zuckerberg  
 Billing Address: 2 Russell Place  
Debb's Ferry, NY 10522  
 Phone Number: 914.646.8583  
 E-mail Address: zuck@thefacebook.com

**Equinix to complete:**

Authorized Signature: [Signature]  
 Printed name: Heonica Brown-Andrews  
 Title: Director of Customer Contracts  
 Date signed: 8/11/04

Please fax a signed copy of this Sales Order to:

(880) 518-1857

and mail two sets of originals to:

Equinix  
 Attn: Contracts  
 301 Valletty Way, 5<sup>th</sup> Floor  
 Foster City, CA 94404

Please sign and return all referenced exhibits, addenda and/or policy documents with this order. Failure to do so may result in a delay in processing.

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## ED EXHIBIT (BUYER)

This is an addendum ("Addendum") to the Master Services Agreement (or document with a similar function) no document entitled "Master Services Agreement" had been signed by the parties currently in effect between the Buyer and Equinix (the "MSA") and the accompanying Sales Order, and sets forth the specific terms and conditions governing Buyer's use of the Equinix Direct product; such terms supplement the terms set forth in the MSA and do not supersede any terms set forth in the MSA, except as explicitly set forth herein. Terms not otherwise defined herein shall have the meaning given to them in the MSA. Upon execution and delivery of a corresponding Sales Order by Equinix and Buyer, this Addendum shall become effective between the parties.

1. **Description of Services.** Equinix provides buyers and providers with access to an Ethernet switching infrastructure within each BIX Center (individually and collectively "Switch") for the purpose of allowing buyers to purchase IP services ("IP Services") provided by a variety of carriers, Internet service providers and other providers ("Network Service Providers") through the Switch. Network Service Providers may sell IP services which include both transit and on-net services. Transit being IP traffic, which travels on ISP and is terminated on a different network. On-net is traffic which is destined for and terminates on that network, not traveling to another ISP's network.

2. **Licensee Only; Use Restrictions.** Upon payment of the applicable fees and subject to compliance with all of the terms and conditions herein, Equinix grants Buyer a license to use the number of ports on the Switch that are specifically designated in Sales Orders that have been executed and delivered by the parties (each a "Port") and to purchase the IP Services.

### 3. Network Services.

3.1 **IP Services.** Buyer has agreed to participate on the Switch as a Buyer in order to purchase IP Services from Network Service Providers. Buyer understands that it will be billed based on its usage of IP Services on the Switch pursuant to this Agreement and the Exchange Policies ("Policies") that are attached as Exhibit A.

3.2 **IP Allocation Solution.** If the Buyer has ordered Equinix IP Allocation Solution, Equinix shall provide Buyer with one (24) size of IP space ("Address") to be used solely in conjunction with Buyer's use of the Equinix Direct product. Such Address shall remain the sole property of Equinix at all times. Equinix may reassign such Address at any time upon reasonable notice to Buyer. Buyer shall discontinue using such Address immediately upon termination of Buyer's use of the IP Allocation Solution. Customer understands that due to the nature of the IP Allocation Solution, traffic from Providers that do not recognize (24) blocks may be rerouted through Equinix in which case Equinix may incur a Mbps charge for such rerouting. In such event, customer agrees to pay Equinix's reasonable charges for Mbps used in connection with such rerouting including a reasonable service percentage to cover Equinix's administrative costs in administering the IP Allocation Solution.

4. **Acceptable Use; Policies.** Buyer shall at all times conform its use of the Switch to the Policies. Equinix may update such Policies from time to time upon thirty (30) days prior notice to Buyer. Buyer shall not act as a Network Service Provider on the Switch. In addition, Buyer shall at all times conform its use of the Switch and the IP Services to the Acceptable Use Policy (or similar policy) of each Network Service Provider from whom Buyer purchases IP Services.

### 5. Services, Fees and Billing.

5.1 **Activation Charges.** Equinix will bill Buyer for all Service Activation Charges ("Activation Charges") as set forth on the Sales Order upon Equinix's acceptance of this Addendum and accompanying Sales Order. Equinix will not commence installation or initiation of its services provided hereunder unless and until it either has received payment in full of all Activation Charges or has agreed, at its sole option, to extend credit to Buyer.

5.2 **Connection Fees.** Equinix will begin billing for recurring connection fees ("Connection Fees" or "MRF") as stated on the Sales Order. Buyer may be required from time to time to add additional Ports to the Switch pursuant to the Policies.

(a) **IP Services Payments.** Equinix will bill Buyer for its IP Services usage on Buyer's first regular invoice issued after the close of each billing period. The payment terms set forth in the MSA shall govern this Addendum.

5.3 **Pricing Adjustment.** Equinix reserves the right to change any recurring amounts due hereunder (except for IP Services prices which will change subject to the policies) upon each anniversary of this Addendum provided it gives Buyer at least thirty (30) days prior notice of such change.

5.4 **Billing Cycle.** The billing period for recurring amounts hereunder, and for the billing of Buyer by Equinix, shall be from the first to the last day of the calendar month.

6. **IP Services Buyback.** Equinix is the provider of record with Buyer for all purposes under this Addendum. However, Buyer shall have sole control over the Network Service Providers it connects to on the Switch. Buyer's relationship with such Network Service Providers shall be governed by the Addendum and the Policies, but such relationship shall not be a contractual relationship.

### 7. Limited Service Level Warranty.

7.1 **Equinix SLA.** Equinix shall provide the SLA described in the Policies.

7.2 **Network Service Provider IP Services SLA's.** To the extent that a Service Level Agreement is provided by Provider for IP Services offered on the Switch (such SLA's will be noted on the Buyer portal with each Network Service Provider's pricing), Buyer may claim service level credits with respect to such Network Service Provider's service level commitments in the event that the Network Service Provider does not meet its service level ("SLA"). In order to obtain any service level credits, Buyer shall request any applicable credits in writing from Equinix within the (5) days of any breach of the relevant SLA. This provision shall supersede any contrary language in any Provider SLA posted on the Equinix Direct portal and such request shall include a trouble ticket number from the Equinix ERC that was given to Buyer when the trouble was first reported to Equinix. In the event that Provider confirms such request, Buyer shall be given a credit on its next monthly invoice.

7.3 **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET OUT IN THIS SECTION, EACH PARTY'S SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND EACH PARTY'S USE OF THE SWITCH OR THE IP SERVICES IS AT ITS OWN RISK. PROVIDER AND EQUINIX DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, RELIABILITY AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEITHER PARTY WARRANTS THAT ITS SERVICES, IP SERVICES OR THE SWITCH WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

7.4 **Disclaimer of Third Party Actions and Control.** Equinix does not and cannot control the flow of data to or from the networks of the Network Service Providers or other third parties 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 inactions caused by these third parties over situations in which Equinix customers' connections to the Internet (or portions thereof) may be impaired or disrupted. Although Equinix will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Equinix cannot guarantee that they will not occur. Accordingly, Equinix, on behalf of itself and any Network Service Provider or other Customer, disclaims any and all liability resulting from or related to such events.

### 8. Indemnification.

8.1 **Buyer Indemnification.** Buyer will defend, indemnify and hold harmless Equinix, its directors, officers, and employees from and

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against any and all claims, actions or demands brought against such parties, or any damages, costs, and fees arising therefrom, including:

(a) with respect to the Buyer's business: (i) infringement or misappropriation of any third party intellectual property rights; (ii) defamation, libel, slander, obscenity, pornography, or violation of the rights of privacy or publicity of a third party; or (iii) spamming, or any other offensive, harassing or illegal conduct or violation of the Policies; (b) any damage or destruction to any network, Switch, Equinix Equipment or to any other Equinix customer (including, without limitation, any Network Service Provider or Buyer of services on the Switch) which damage is caused by or otherwise results from acts or omissions, including, without limitation, a breach of this Addendum or the Policies, by Buyer, Buyer Representative(s) or Buyer's designees; (c) any personal injury or property damage to any Equinix employee or Equinix property arising out of Buyer or its employees conduct while on Equinix premises, unless such injury or property damage is caused solely by Equinix's gross negligence or willful misconduct.

8.2 Procedure. The foregoing indemnities shall be subject to the indemnified party providing the indemnifying party with (a) prompt written notice of each covered claim of which it becomes aware, and (b) sole right of defense and settlement of any covered claim.

9. Release on Disclaimer, and Indemnification Obligations. Buyer acknowledges that Equinix has set its prices and entered into this Addendum in reliance upon the limitations and exclusions of liability, the disclaimer of warranties and damages and Buyer's indemnity obligations set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if this Agreement is found to have failed of its essential purpose.

10. Termination. In addition to the termination provisions of the MSA, the following shall apply to this Exhibit:

10.1 For Nonpayment. After five (5) days of written notice and continued nonpayment after the due date for Connection Fees, Activation Fees, IP Service fees or other fees, Equinix may disconnect Buyer from the Port To reasonable Service, Equinix may require a reconnection fee.

10.2 Unacceptable Use; Bankruptcy. Equinix may terminate this Addendum upon written notice to Buyer for a violation of the Policies that Equinix believes in its reasonable opinion to be harmful to the operation of the Switch or to other customers, or if Buyer becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors or becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

10.3 Effect of Termination. Upon the effective date of expiration or termination of this Addendum: (a) Equinix and Buyer will immediately cease providing the Services. In the event of a termination prior to the expiration of any fixed term minimum commitments (if Services ordered by Buyer on the Switch, Buyer shall immediately pay all amounts that will come due under such commitments through the entire term that was selected by Buyer with respect thereto.

10.4 Survival. The following provisions will survive any expiration or termination of the Agreement: Sections 1, 7-3, 7.4, 8, 10 and 11.

11. Miscellaneous. This Addendum, together with the Policies referred to herein, the MSA, any applicable Sales Order represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreements or understanding, written or oral. This Agreement may be modified only through a written instrument signed by both parties. Notwithstanding anything to the contrary in this MSA, Buyer agrees that Equinix may announce the use of the Equinix Direct product, issue a press release noting Buyer's use and Buyer agrees to reasonably assist Equinix by providing quotations or other information reasonably requested by Equinix in marketing the services described herein. Buyer also agrees that Equinix may inform providers of the identities of the various buyers on the Switch and Buyer understands that Providers may limit their availability to specific buyers.

Company Name: Thefacebook, Inc  
 Buyer Signature: Mark Zuckerberg  
 Printed Name: Mark Zuckerberg  
 Title: CEO

Equinix Signature: Monica Brown Andrews  
 Printed Name: Director of Customer Contracts  
 Title: \_\_\_\_\_

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## EQUINIX DIRECT POLICIES

The following are the policies and procedures governing the use of Equinix's switching infrastructure (the "Switch") by Equinix Direct participants (each a "Participant") ("Equinix Direct Policies"). Participants shall be referred to cumulatively herein as "Participants". Additional policies and procedures governing Participants' use of the Switch may be included in the Agreement and this Sales Order (including any exhibits). Any terms not defined herein shall have the meaning attributed to them in the Sales Order or the Agreement.

1. General.

a. All use of the Switch by Participants shall be subject to these terms and conditions. In the event that any Participant fails to meet any of the requirements set forth in this document, Equinix may take reasonable action to correct any problem such failure may cause, including suspension or termination of Participant's use of the Switch until Participant complies with all such requirements, as set forth in these Equinix Direct Policies.

b. Equinix may make changes to these terms and conditions from time to time, provided that such changes shall not materially and adversely affect Participant's use of the Switch. Equinix shall provide Participants with at least thirty (30) days' advance written notice of such changes (except in the event of an emergency that threatens the operation of the Switch).

2. Equinix Responsibilities.

a. Equinix will provide Participants access to the Switch subject to the terms and conditions set forth in these Equinix Direct Policies, the Agreement and this Sales Order. Equinix will make commercially reasonable efforts to ensure that switches within the Switch have sufficient internal capacity to enable each Port (defined below) to operate at its full line rate. Equinix will make commercially reasonable efforts to manage inter-switch trunk capacity and to avoid congestion on inter-switch trunks.

b. Equinix representatives shall be available twenty-four (24) hours a day, seven (7) days a week, to receive trouble reports. The Equinix Response Center may be contacted by phone, 888-892-0807, or any other phone number designated by Equinix. In the event a Participant wishes to place a trouble report.

c. Equinix will notify Participants at least two (2) weeks prior to the occurrence of any scheduled maintenance window. Equinix will make commercially reasonable efforts to (i) keep maintenance windows to a maximum of two (2) hours, a maximum of once per calendar month and at a low traffic time for the Switch, and (ii) to minimize service disruptions during maintenance windows. Should an emergency arise, Equinix may take any actions necessary to diagnose and correct the problems and to restore proper network operations. In such emergencies, Equinix will endeavor to provide Participants with as much notice as is reasonably possible in the circumstances.

d. Equinix will use commercially reasonable efforts to label Ports and POE Equipment for the Switch with appropriate information, including information needed to identify each Port clearly. Only Equinix may affix and maintain such labels.

e. Equinix will make commercially reasonable efforts to begin contacting each Participant's primary contact as designated by Customer in Customer's Switch Information forms within thirty (30) minutes of identifying any problem that results in downtime on the Switch that affects Participant.

3. Participant Requirements.

a. Participant must provide and maintain twenty-four (24) hours each day, an operations contact, including a sole account e-mail address (e.g. for a network engineer or routing engineer) and an e-mail address and telephone number for the primary contact.

b. Participant must not conduct any illegal activities through the Switch or any activities that violate any Equinix policies.

c. Participants will not conduct any activity that could interfere with or impair the equipment or connectivity of any other Participant on the Switch.

d. Participants will not take any action with the purpose of circumventing payment to Equinix for use of the Switch.

e. Participants shall not obtain or attempt to obtain unauthorized access to the Switch, or circumvent or attempt to circumvent any applicable security features.

f. Participants must have a registered AS number which must be used on the Switch. Participants must register the "as-num" and the "route" objects with either RADB or ARIN.

g. Participants must register routes announced at the Switch with a standard routing registry, such as RADB, RIPE or APNIC.

h. Participants must only use the IP addresses and netmasks assigned by Equinix for its connections to the Switch.

i. Participants may only use one globally unique MAC address for each Port unless otherwise agreed to by Equinix in writing.

j. Participants must implement settings on its router port that is directly attached to the Switch to ensure that the router settings contain none of the following: (i) Proxy ARP, (ii) ICMP redirects, (iii) IP directed broadcasts, (iv) Spanning tree BPDU's, (v) IGP announcements, or (vi) Discovery protocols such as CDP or RDP.

k. Participants must explicitly set and at all times maintain duplex and speed settings on interconnects connected to the Switch and disable auto-negotiation.

l. Participants must not exchange multicast routes or traffic on the Switch. Exchange of multicast routes or traffic may only occur with the prior written approval of, and in coordination with, Equinix in order to ensure that resource allocation to multicast is appropriate.

m. Participants will not generate unnecessary route flap or unnecessarily specific routes to peers across the Switch.

n. Participants shall comply with all reasonable technical specifications for the use of the services and provided to Participants from time to time. The current technical specifications for the services shall be provided to Participant upon request.

o. Participants may only connect their Equipment to the Switch. Participants may not connect any equipment for the benefit of a third party and they may not sublicense or resell access to any Port. For the avoidance of doubt, no port shall support directly or indirectly any business other than that of the Participant such that each customer granted access to the Switch shall be required to purchase its own Port from Equinix. Each Participant shall be solely responsible for ensuring that all equipment connected by such Participant conforms to the standards and requirements set forth herein.

p. Participants shall maintain a permanent connection to the Switch via a direct connection to a router located in the IBX

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EQUINIX DIRECT POLICIES VERSION 7.12.04

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(each a "Port". As to Providers and any Buyers that buy a redundant port, the word "Port" shall mean a pair of redundant ports). For Providers, each individual physical port shall be connected to a separate router. If a Participant acts as both a Buyer and a Provider (only with the approval of Equinix) it shall maintain individual physical ports (with associated routers) for its use as a Buyer and a Provider. There are 2 possible scenarios to meet this requirement: (1) Physical Provider ports must be on separate routers from Buyer physical port(s) equalling 3 ports, 3 routers or (2) Physical Provider ports must be on separate routers and Buyer side must have 2 separate physical ports on those same routers equalling 4 ports, 2 routers. A Participant must connect to the Equinix Direct Switch with a separate physical port for Equinix Direct and Equinix Gige Exchange, if applicable.

q. Participants are required to peer with the Equinix route servers, and to announce to the Equinix route servers, the routes that are to be advertised to other customers connected to the Switch.

r. Buyers and Providers will conduct all peering and transit across the Switch using the BGP4 protocol via the route servers. Traffic may only be forwarded to and from routes that are exchanged using the BGP4 protocol. A Buyer using additional full routing table BGP sessions to transit providers will be limited to 3 additional sessions, outside of primary aggregated 2 sessions with EDRS.

s. Providers shall comply with the following IP address announcement policies: (i) for on-net services, Providers shall announce only their on-net prefixes to the Equinix Route Server and Provider shall accept prefixes from the Equinix Route Server but shall not re-announce to its transit peers and (ii) for transit services, Providers shall announce the entire routing table to the Equinix Route Server, and Providers shall accept prefixes from Equinix Route Server and shall re-announce to its transit peers.

t. A Provider shall be required to upgrade its Port if such Provider's ninety-fifth (95%) percentile monthly capacity equals or exceeds seventy percent (70%) of such Port's capacity usage for two (2) consecutive months or eighty (80%) for any one month. A Port upgrade shall mean an upgrade from a 10/100 Port to a Gige Port rather than an additional 10/100 Port. In the event a Provider is already connected through a Gige Port an upgrade shall mean the purchase of an additional Port. In the event of a failure by a Provider to upgrade, Equinix may, in its discretion, discontinue allowing new customers to purchase bandwidth from Provider. In addition, all the Service Level Commitment (defined below) shall not apply.

u. Buyers are recommended to upgrade its Port if Buyer's ninety-fifth (95%) percentile monthly capacity equals or exceeds seventy (70%) of such Port's capacity usage for two (2) consecutive months or eighty (80%) for any one month. The Service Level Commitment shall not apply if Buyer fails to perform such upgrade.

#### 4. Equinix Direct Pricing Requirements

a. The billing period will be from the first of the month to the last day of the calendar month (the "Billing Period").

b. Providers may change their pricing before the 15<sup>th</sup> of the current Billing Period and such pricing shall be effective at the beginning of the next Billing Period. The price changes must be submitted to Equinix via user portal, by the 15<sup>th</sup> of each month. On the 16<sup>th</sup> of each month, an announcement will be sent via email to every Buyer on the platform, informing them of new Providers and existing Provider price changes. Providers may not change any pricing for the following Billing Period after such notice has been sent to Buyers. All Provider price changes will be activated on the first day of each billing period.

c. Providers may install between the 1<sup>st</sup> - 15<sup>th</sup> of each month. If a Provider installs outside of this window, an expedite fee will apply.

d. Buyers may install between the 16<sup>th</sup> - last day of each month. If a Buyer installs outside of this window, an expedite fee will apply.

e. Buyers may change their Provider settings in advance for each Billing Period provided the change is made between the 16<sup>th</sup> and last day of the prior Billing Period.

f. If a Provider's price change has been submitted but is not yet in effect, such Provider may login to the user interface and amend such price change. If a Buyer preference change has been submitted but is not yet in effect, such Buyer may login to the user interface and amend such preference requests.

g. Providers shall provide a product with no minimum bandwidth usage requirements and 30-day term requirements.

h. Bandwidth usage for both Providers and Buyers will be calculated based on the following formula: Equinix will measure bandwidth usage in five-minute intervals on all points of connection between each MAC pair between Buyer Port and selected Provider Port (first sample is 12:05 am and last sample is 12:00 am). Equinix will measure both incoming and outgoing bandwidth usage at each interval. At the end of each Billing Period, all data samples in each category will be sorted from highest to lowest and the top five percent (5%) of measurements will be discarded. The highest remaining data sample in the higher of the two categories will constitute the bandwidth usage amount for the relevant Billing Period. Buyers will be billed each Billing Period per Port based on their usage of each Provider's services. Providers will receive a statement of the cumulative bandwidth usage from all Buyers on each Port and an invoice for each Billing Period.

The following example illustrates a calculation using 40 samples. The top 5% (2 samples) in bold are discarded. The next highest usage in italics for both inbound and Outbound are evaluated. The higher of Inbound and Outbound in italics is the 95th percentile billing usage.

Highest 5 % of the samples - 2 of 40 samples

Highest sample below 5% - or the 3rd highest sample

95th percentile billing usage: 48Mbps

1	2.5	<b>23</b>
2	2.8	<b>25</b>
3	2.6	<i>26</i>
4	2.4	<i>24</i>
5	2.3	<i>26</i>
6	2.7	<i>28</i>
7	2.0	<i>30</i>
8	2.9	<i>29</i>
9	3	<i>32</i>
10	3.2	<i>33</i>
11	3.1	<i>35</i>
12	3.2	<i>37</i>
13	3.8	<i>36</i>

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EQUINIX

003

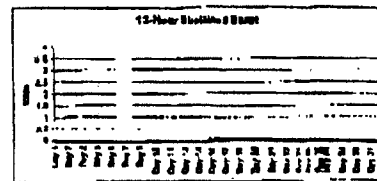
Aug-06-04 01:47pm From-

T-372 / .003/024 F-407

14	3.2	35
15	3.4	38
16	3.8	35
17	3.8	39
18	3.8	38
19	3.6	38
20	3.5	39
21	3.9	40
22	4	39
23	4.1	41
24	4.5	43
25	4.2	42
26	4.1	43
27	4.8	44
28	4.8	45
29	4.2	47
30	4.9	48
31	5	45
32	4.7	44
33	4.2	41
34	4.5	40
35	4.8	38
36	4.5	38
37	4.2	37
38	4.1	36
39	3.8	35
40	3.5	33

i. Exceptions. If, for a given Billing Period, the average of the discarded top 5% of samples for a Buyer (using the 95<sup>th</sup> percentile calculation described herein) is greater than twice the 95<sup>th</sup> percentile calculation (as calculated in Section h above), Equinix reserves the right to bill Buyer based on the average of the discarded top 5% samples instead of using the 95<sup>th</sup> percentile calculation. The following are examples of traffic patterns which would fall under the alternate billing calculation method (the application of this section shall not be limited solely to these examples).

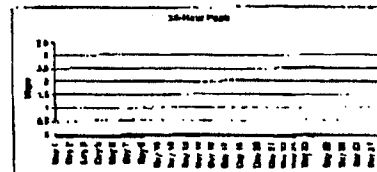
i. Example 1.



$$((A - 95^{th})/A) * 100 > 50\%$$

95th Percentile	0.87200893
Peak	3.77772284
Average of Discarded Top 5% (A)	1.888836
Percent Difference of	54.55%
Average of Top 5% from 95th Percentile	

ii. Example 2.



$$((A - 95^{th})/A) * 100 > 50\%$$

95th Percentile	1
Peak	1
Average of Discarded Top 5% (A)	2.000881
Percent Difference of	50.22%
Average of Top 5% from 95th Percentile	

j. Traffic Accounting:

i. Equinix will bill the Buyer based on the total traffic that it sends from its MAC address to each Port to each selected Provider Port.

ii. Total traffic measurement for any Provider will be the sum of the 95<sup>th</sup> percentile calculation for each service offered by Provider on the Switch.

k. Minimum Commitments.

i. Providers. Providers may choose to offer minimum usage and term products on the Switch. In the event such products are offered, Provider shall honor the pricing offered for the term of the offer and shall maintain its connection to the Switch until such time as all such minimum terms selected by Buyers have been satisfied.

ii. Buyers. In the event a Buyer chooses to purchase a minimum usage and term product on the Switch, Buyer agrees that it shall be fully liable for all minimum payments due with respect to such product for the entire term of such product regardless of Buyer's actual usage of the services.

Equinix

EQUINIX DIRECT POLICIES VERSION 7.12.04

Equinix Confidential

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EQ000024



08/09/04 12:03 FAX 6505137905

EQUINIX

004

Aug-06-04 01:47pm From:

T-372 P.004/024 F-407

**5. Limited Service Level Warranty.**

a. **Service Level Agreement.** In the event that a Participant's Port is a redundant Port, the Port will be up and available and passing traffic among at least one of the ports in the Port and other operational ports 99.99% of the time in each calendar month (the "Service Level Commitment"). Non-redundant ports are not subject to this Service Level Commitment.

**b. Service Level Credit**

i. For the purpose of these Equinix Direct Policies, an "Outage" is defined as the occurrence of a failure of any component of the Port or Switch (that prevents delivery of Participant's traffic to required ports) on both ports comprising the Port simultaneously, excluding regularly scheduled maintenance windows of which the Participant is given prior notice, that causes the Port to miss the Service Level Commitment in any given calendar month.

ii. In the event of an Outage, Equinix shall credit Participant's account for one-half of the Monthly Recurring Charges for the affected Port (excluding all non-recurring fees charged pursuant to the relevant Sales Order or based on Customer's usage) for the appropriate Billing Period.

iii. The maximum credit Equinix will issue per Billing Period is one month of Monthly Recurring Charges (or of prorated amount if applicable for the Billing Period during which a qualifying Outage was experienced) attributable to each Port that experiences the Outage.

**c. Service Level Procedures**

i. **Equinix Reporting.** Equinix will report key Switch traffic flow metrics, including total bits per second and total packets per second ("Flow Metrics") on the Switch website. Flow Metrics will be reported to each Participant online on a web page customized for such Participant on the Equinix Direct website.

ii. **Participant Reporting.** Participant will be required to report Outages within five (5) days of the date of their occurrence by contacting the Equinix Response Center. Equinix may investigate and isolate the cause of an Outage. If the investigation confirms that Equinix's act or omission caused the Outage, Equinix will credit Participant's account pursuant to Section 5(b) above. If the investigation confirms that the Outage is due to Participant's act or omission or Participant's equipment, Equinix shall not owe Participant a credit for the Outage.

d. **Exceptions.** Notwithstanding anything to the contrary, the Service Level Commitments shall not apply (and Equinix shall have no liability) in the following cases: (a) acts of God; (b) war or acts of terrorism, including any malicious attack of on-line systems control; (c) labor strikes or other labor action; (d) fire; (e) flood; (f) earthquake, landslide, earth movement, hurricane, typhoon, tsunami, volcanic eruption or other natural disaster; (g) circumstances beyond Equinix's reasonable control or (h) riot or civil unrest.

**Customer to complete:**

By signing below, Customer acknowledges receipt of this Exhibit.

Submitted By: Mark Zucker

(Authorized Signature)

Printed Name: Mark ZuckerbergCompany Name: Thefacebook, Inc.Date Signed: 08.06.04

EQUINIX

EQUINIX DIRECT POLICIES VERSION 7.12.04

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4 OF 4

EQ000025

Customer Name: THE FACE BOOK, INC.		Account Manager: Tom Offenbach		Order Number: The Face Book-50-277424	
#N/A SJO #N/A		Order Date: 01/10/05	Customer Contact: Taner Halicoglu		Billing Commencement Date: January 15, 2005

Services Ordered	Quantity	NRC per Unit	MRC per Unit	Non-Recurring Charges	Monthly Recurring Charges
Cross Connect (CAT, Fiber, Coax) - CC90002	1	\$500	\$250	\$500	\$250
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0
Total		\$0	\$0	\$0	\$0
				\$500	\$250

*Quintus*

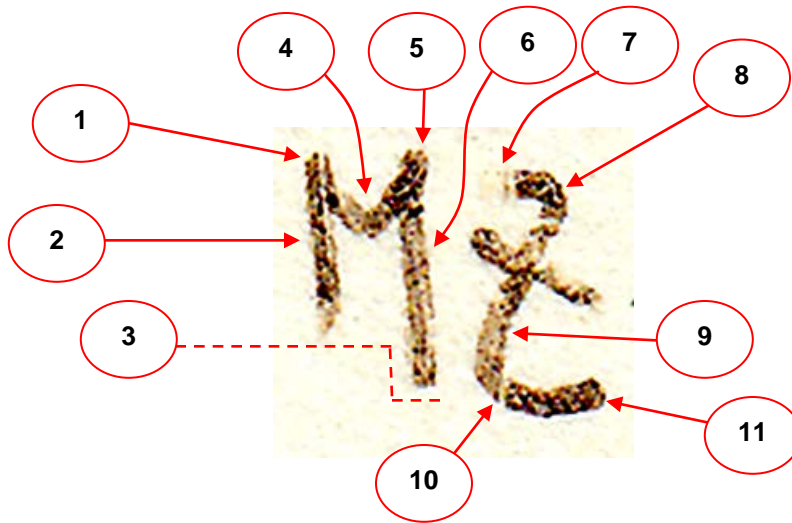
**EXHIBIT 20**

**EXHIBIT 20**

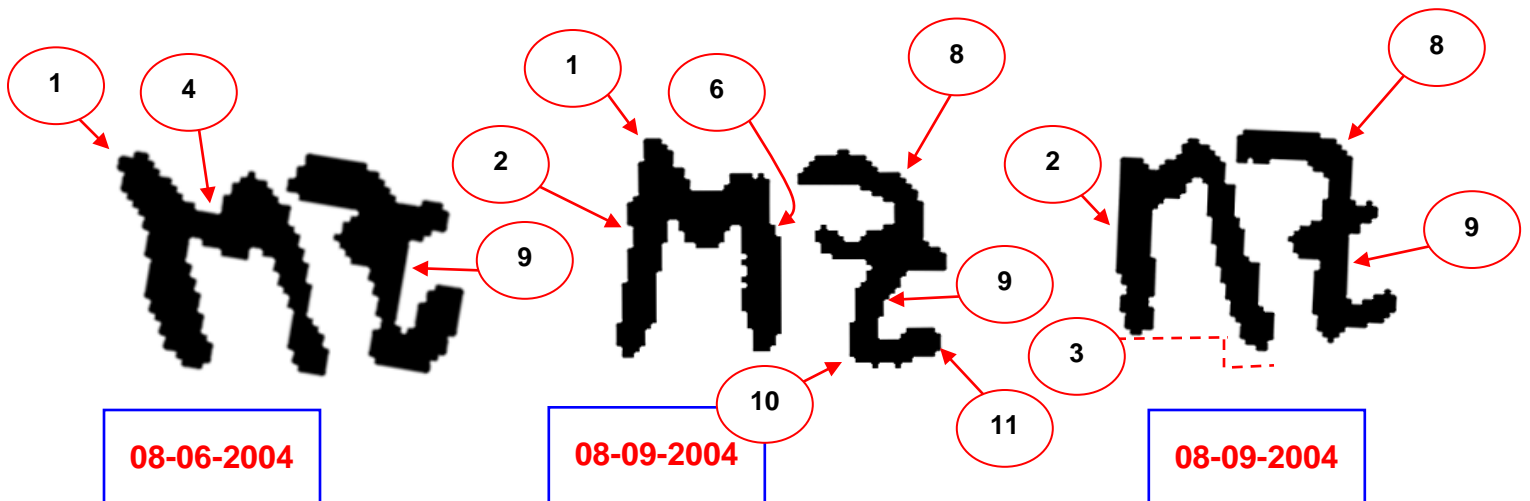
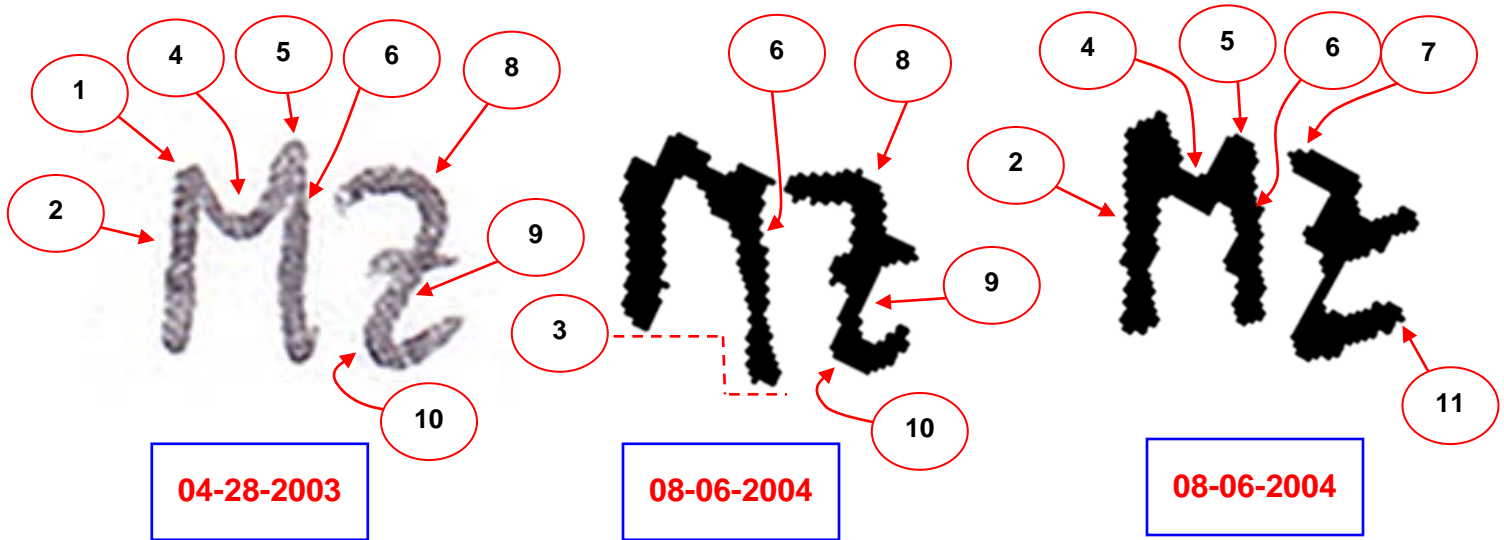
**EXHIBIT 20**

# Questioned "Mark Zuckerberg" initials from page 1

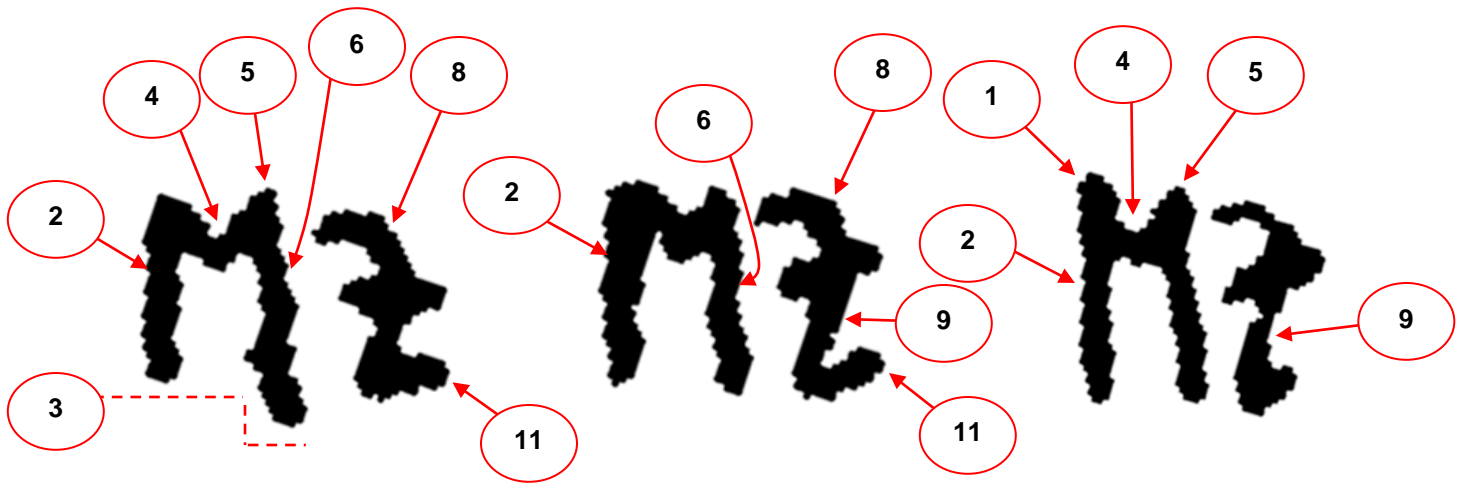
Note the writing similarities by comparing the corresponding numbers and arrows



## Known specimen initials of Mark Zuckerberg



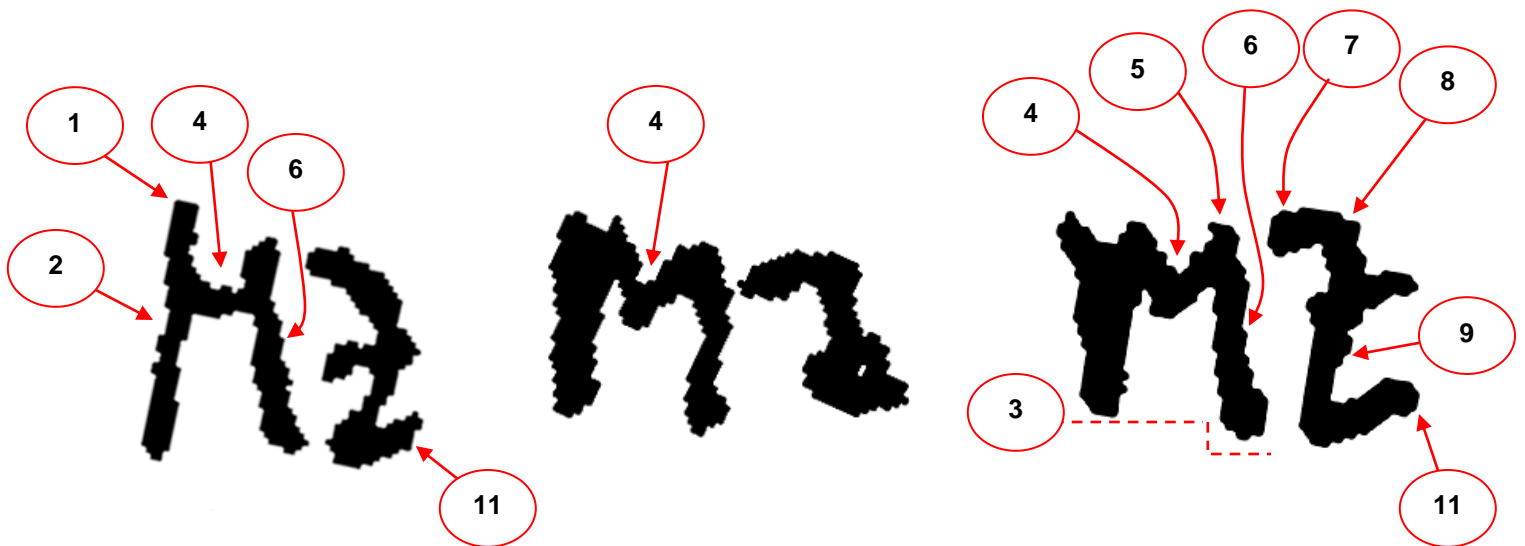
# Known specimen initials of Mark Zuckerberg



08-09-2004

08-09-2004

08-09-2004



08-09-2004

08-09-2004

08-09-2004



**EXHIBIT 21**

**EXHIBIT 21**

**EXHIBIT 21**

✓ Track Your Expenses...			TAX DEDUCTIBLE ITEM → <input type="checkbox"/>	
<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel	<b>DO NOT USE FOR REORDERING</b>	
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental		
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care		
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment		
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other		
<p>03.14.04</p> <p>Alpha Epsilon Pi International</p> <p>Three thousand seven hundred and twenty three and <math>\frac{00}{100}</math></p> <p>...Here's How:</p> <ul style="list-style-type: none"> <li>• Carry balance forward</li> <li>• Check type of expense</li> <li>• Add details on memo line</li> <li>• Retain duplicates in Deluxe Check box</li> </ul>			<p>BAL. FOR'D</p> <p>THIS PAYMENT 3,723.00</p> <p>BALANCE</p> <p>OTHER</p> <p>BAL. FOR'D</p>	
<p>Memo Brother Dues</p>			<p>0192 NOT NEGOTIABLE</p>	

☐ Mortgage / Rent

☐ Gas / Electric

☐ Telephone

☐ Food

☐ Clothing

☐ Transportation

☐ Credit Card

☐ Taxes

☐ Insurance (Life, Home, Auto)

☐ Home Improvement (Paint, Repairs)

☐ Entertainment & Travel

☐ Medical / Dental

☐ Dependent Care

☐ Savings & Investment

☐ Other

✓ Track Your Expenses...

DO NOT USE FOR REORDERING

03.14.04

BAL. FOR'D

THIS PAYMENT

BALANCE

OTHER

BAL. FOR'D

TAX DEDUCTIBLE ITEM

196

Alex Linkev

Four hundred and thirty dollar and  $\frac{00}{100}$

...Here's How:

- Carry balance forward
- Check type of expense
- Add details on memo line
- Retain duplicates in Deluxe Check box

Memo

WD-DUP (3)

0196

NOT NEGOTIABLE



✓ **Track Your Expenses...**

<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other _____

**DO NOT USE FOR REORDERING**

TAX DEDUCTIBLE ITEM ☐ **198**

04.07.04

Nick Orenstein

Five hundred twenty one and 59/100

...Here's How:

- Carry balance forward
- Check type of expense
- Add details on memo line
- Retain duplicates in Deluxe Check box

BAL. FOR'D

THIS PAYMENT 521.59

BALANCE

OTHER

BAL. FOR'D

Memo \_\_\_\_\_

WD-DUP (3)

0198 NOT NEGOTIABLE

**✓ Track Your Expenses ...**

<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other _____

**DO NOT USE FOR REORDERING**

04.07.04

TAX DEDUCTIBLE ITEM ☐

**199**

*Naon Tanaka*

One hundred and 00/100 \_\_\_\_\_

**...Here's How:**

- Carry balance forward
- Check type of expense
- Add details on memo line
- Retain duplicates in Deluxe Check box

BAL. FOR'D

THIS PAYMENT **100.00**

BALANCE

OTHER

BAL. FOR'D

Memo Steve

**0199 NOT NEGOTIABLE**

Fleet Bank  
200 Exchange St  
Malden, MA 02148

Memo Date: April 30, 2003  
Transaction Date: April 29, 2003  
Transaction Time: 15:41:34

MARK E ZUCKERBERG

DOBBS FERRY

NY

This advice is to notify you of an error in your ATM deposit which was made on the above referenced date. The corrected deposit listed in the "New Amount" has been processed to your account.

If you have any questions regarding this correction, please call us at 1-800-841-4000.

Reason: 10 - DDA Error in Addition  
Adjustment Amount: 20.00db  
Old Amount: 3378.14  
New Amount: 3358.14  
Account Number: [REDACTED]  
Card Number: [REDACTED]  
Transaction Number: 5488  
ATM Number: 91424

FOR DEPOSITS/PAYMENTS	
NAME	Mark Zuckerberg
DOLLARS	
CENTS	
TOTAL CASH (No Coins)	
TOTAL CHECKS	3378
TOTAL AMOUNT in Envelope	3378
	14
	14

FOR A PAYMENT

Please complete boxed area and enclose cash and/or checks with your payment stub or coupon. If you do not have a payment stub or coupon, complete area below:

☐ Credit Line / Cash Reserve  
☐ Commercial Loan  
☐ MasterCard® / VISA®  
☐ Installment Loan

CREDIT PAYMENT TO ACCOUNT NUMBER: [REDACTED]

24036 05/2001 (AB)

REMINDER: • No Slip Required For Deposits (deposit account chosen at ATM will receive funds)  
• Enclose payment stub or coupon for loan or line payments  
• Use separate envelope for each deposit or payment

Availability of Deposits  
Funds from deposits may not be available for immediate withdrawal. Please refer to Fleet Bank's rules governing funds availability for details.

INSERT THIS  
SIDE DOWN

**✓ Track Your Expenses...**

<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other _____

TAX DEDUCTIBLE ITEM ☐

**DO NOT USE FOR REORDERING**

**209**

05.16.04

BAL. FOR'D

THIS PAYMENT	150.00
BALANCE	
OTHER	
BAL. FOR'D	


*Donnel Stickler*

One hundred and fifty and <sup>00</sup>/<sub>100</sub>

...Here's How:

- Carry balance forward
- Check type of expense
- Add details on memo line
- Retain duplicates in Deluxe Check box

Memo \_\_\_\_\_



0209 NOT NEGOTIABLE

WD-DUP (3)

✓ Track Your Expenses ...			TAX DEDUCTIBLE ITEM → <input type="checkbox"/>	
<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel	<b>DO NOT USE FOR REORDERING</b>	
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental		
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care		
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment		
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other _____		
<p><i>Josh Bowen</i></p> <p><i>One hundred dollars and <math>\frac{00}{100}</math></i></p> <p><b>... Here's How:</b></p> <ul style="list-style-type: none"> <li>• Carry balance forward</li> <li>• Check type of expense</li> <li>• Add details on memo line</li> <li>• Retain duplicates in Deluxe Check box</li> </ul>			<p>05/16/04</p> <p>BAL. FOR'D</p> <p>THIS PAYMENT</p> <p>BALANCE</p> <p>OTHER</p> <p>BAL. FOR'D</p>	
<p>Memo _____</p>			<p>100.00</p>	
<p>WD-DUP (3)</p>			<p>0211 NOT NEGOTIABLE</p>	

## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of July 29, 2004, by and between TheFacebook, Inc., a Delaware corporation (the "Company"), and Mark Zuckerberg (the "Indemnitee").

### RECITALS

The Company and Indemnitee recognize the increasing difficulty in obtaining liability insurance for directors, officers and key employees, the significant increases in the cost of such insurance and the general reductions in the coverage of such insurance. The Company and Indemnitee further recognize the substantial increase in corporate litigation in general, subjecting directors, officers and key employees to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited. Indemnitee does not regard the current protection available as adequate under the present circumstances, and Indemnitee and agents of the Company may not be willing to continue to serve as agents of the Company without additional protection. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, and to indemnify its directors, officers and key employees so as to provide them with the maximum protection permitted by law.

### AGREEMENT

In consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, receipt of which is hereby acknowledged, the Company and Indemnitee hereby agree as follows:

1. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall indemnify Indemnitee if Indemnitee is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred by Indemnitee in connection with such action, suit or proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee

The parties hereto have executed this Agreement as of the day and year set forth on the first page of this Agreement.

TheFacebook, Inc.

By: MR Zuck

Title: CEO

Address: 1743 Westbrook Ave  
Los Altos, CA 94024

Phone Number: 914.646.8593

AGREED TO AND ACCEPTED:

Mark Zuckerberg  
Print Indemnatee Name

MR Zuck  
(Signature)

Address: 1743 Westbrook Ave  
Los Altos, CA 94024

Fax Number: \_\_\_\_\_

**EXHIBIT 22**

**EXHIBIT 22**

**EXHIBIT 22**



①

Providing web designer is finished by May 24, 2003

⑤

Providing web designer is finished by May 24, 2003

(3)

Providing web designer is finished by May 24 2003

9

Providing web designer is finished by May 24, 2003

(5) Providing web designer is finished by may 24 2003

⑥ Providing web designer is finished by may 24 2003

⑤

Providing web designer is finished by May, 23 2003

8. Providing web design is finished by May 24, 2003



9. Providing web design is finished by May 24 2003

10. Providing web designer is finished by May 24, 2003

Providing web

Providing web

Proving well

Providing web designer is finished by May 24, 2003

Probing web designer is finished by May 24, 2003

Providing web designer is finished by May 24 2003



Providing web designer is finished by May 24, 2003

Providing web designer is needed by May 24, 2003.

Providing web designer is finished by May 24, 2003

Providing work designer is finished by May 23 2003  
24

8.

Providing web designer is finished by May 24, 2003

Providing web designer is finished by May 24 2003

9.

Providing web design is finished by May 24, 2003

10.

**EXHIBIT 23**

**EXHIBIT 23**

**EXHIBIT 23**



1.

M2

2.

m2

3.

mz

4.

M2

5.

m2

6. m2

7. m2

8. M2



9. m2

10. MZ