



Colocation Policy

Description

Clear Rate Communications LLC (“Clear Rate”) provides customers the ability to locate their servers and other network equipment in our Southfield and Battle Creek locations. Colocation facilities are monitored and secured 24x7x365.

Conditions of Service

(a) Grant of License

In consideration of the fees and charges set forth in the Service Order Form, Clear Rate hereby grants to Customer a non-exclusive license, revocable at will under the circumstances described below, to place within the equipment space(s) in the designated Clear Rate location(s) (“Premises”) certain servers, and/ or networking equipment (“Equipment”). Customer agrees not to employ any actions, equipment, tools or methods that may, in the sole judgment of Clear Rate, endanger or interfere with the personnel, property, systems, or operations of Clear Rate. The licensing of space, the installation of Equipment, the provision of electrical power and other services, and the receipt of payment thereof by Clear Rate shall not create or vest in Customer any leasehold estate, easement, ownership interest, or other property right. Customer shall not cause or permit Clear Rate’s Premises to be subject to any lien, pledge, trust, or security interest arising out of any equipment, materials, or services provided by or for Customer; Customer shall indemnify and hold Clear Rate harmless from the same. Customer acknowledges that the rights granted to Customer hereunder do not constitute a lease or easement of any portion of Clear Rate’s Premises, but rather constitutes a nonexclusive license for use in common with others. Such license is revocable by Clear Rate at Clear Rate’s reasonable discretion upon any default by Customer under this policy which is not cured within five business days after written notice from Clear Rate to Customer or upon any casualty, which destroys Clear Rate’s Premises or renders it substantially unusable.

(b) Term and Termination

The term of the license shall be as set forth in the applicable Service Order Form or Colocation Agreement. Clear Rate may suspend access to the Premises or terminate the license immediately upon Customer’s material breach, nonpayment, violation of facility security rules, or conduct that poses a threat to network integrity, safety, or regulatory compliance.

(c) Allocation of Risk / Insurance

It is understood that Clear Rate is not an insurer and the parties mutually agree that Customer will obtain insurance against the risk of loss, damage, and liability, as set forth hereinafter. The parties also mutually agree that the liability will be allocated or limited in accordance with this Section (b) and Section (c) following. Throughout the license term, Customer agrees to maintain in effect, at Customer’s expense, and shall cause any of its agents or contractors requiring access to Clear Rate’s Premises to maintain in effect: (i) Comprehensive General Liability Insurance: Customer shall maintain Commercial General Liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, and shall provide certificates of insurance upon request naming Clear Rate as an additional insured; and ii) Employer’s Liability; and (iii) Worker’s Compensation in an amount not less than prescribed by statutory limits.

(d) Limitation of Liability

To the fullest extent permitted by law, in no event shall Clear Rate, its affiliates, or any of their respective officers, directors, employees, agents, or contractors be liable to Customer or any third party for any loss of profits or revenues, loss of business, loss of data, loss of use, or for any indirect, incidental, consequential, special, punitive, or exemplary damages, whether foreseeable or unforeseeable, arising out of or relating to Customer's use or occupancy of the Premises, the colocation services, or this Policy, including, without limitation, damages arising from interruption of electrical power, HVAC services, network connectivity, or security incidents, even if Clear Rate has been advised of the possibility of such damages.

To the fullest extent permitted by law, Clear Rate's aggregate liability for any and all claims arising out of or relating to this Policy, the Premises, or the colocation services, whether in contract, tort, or otherwise, shall not exceed the total fees actually paid by Customer to Clear Rate for the colocation services during the six (6) months immediately preceding the event giving rise to the claim.

Customer shall indemnify, defend, and hold harmless Clear Rate, its affiliates, and their respective officers, directors, employees, agents, and contractors from and against any and all claims, demands, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to (i) Customer's use of the Premises, (ii) Customer's Equipment, data, or content, (iii) Customer's violation of applicable laws or regulations, or (iv) the acts or omissions of Customer's employees, contractors, vendors, or invitees.

Nothing in this Section shall limit Clear Rate's liability for gross negligence or willful misconduct.

(e) Removal of Cable, Wiring and Connecting Lines

Customer agrees that, upon the expiration or termination of the license, Customer (or, at Clear Rate's election, the contractor designated by Clear Rate) shall promptly remove, at Customer's sole cost and expense, all cable, wiring, connecting lines, and other installations, equipment or property installed or placed by or for Customer in the Premises. Customer further agrees to restore those portions of the Premises damaged by such removal to their condition immediately prior to the installation or placement of such items. If Customer fails to promptly remove all such items pursuant to this section, or if Clear Rate elects to have such work performed by Clear Rate's contractor, Clear Rate may remove such items and restore those portions of the Premises damaged by such removal to their condition immediately prior to the installation or placement of such items, in which case Customer agrees to promptly pay Clear Rate for Clear Rate's reasonable costs of removal and restoration, including Clear Rate's administrative fees.

(f) Force Majeure

Clear Rate shall not be liable for failure or delay in performance due to events beyond its reasonable control.

(g) Governing Law

This Policy shall be governed by and construed in accordance with the laws of the State of Michigan.

General Rules and Regulations

CUSTOMER EQUIPMENT

Equipment Delivery & Storage

Clear Rate will accept delivery of and store customer's equipment in accordance with the guidelines set forth below. Due to limited storage space in each colocation facility, Clear Rate, at its sole discretion, has the right to deny or limit the amount of storage space and storage time to customers.

Delivery Scheduling

Due to individual building requirements at each site, all Customer deliveries must be scheduled at least 48 hours in advance with Clear Rate's Network Operations Center (NOC), reachable toll-free at (877) 877-1250. If Clear Rate has not been notified of equipment arrival, Clear Rate will deny acceptance of shipment.

Third Party Equipment Delivery

If the equipment is delivered by a third party, Clear Rate facility personnel will receive it on behalf of Customer, provided that Customer pre-scheduled the delivery with Clear Rate's NOC. If Clear Rate has not been notified of equipment arrival, Clear Rate will deny acceptance of shipment.

Include the following packing and shipping information:

- Customer account number
- Customer ticket number (assigned by Clear Rate) on the shipping label
- Clear Rate colocation facility address
- Customer cabinet or cage number (assigned by Clear Rate)
- Special instructions

Customer shall prepay all shipments, freight, packages, etc. Clear Rate will not accept shipments that require payment. Customer is responsible for all shipping and/or freight claims.

If the shipment is large and cannot be easily brought in to the Data Center then it is the responsibility of the Customer to have the shipping company bring the equipment into the Data Center from the building loading dock.

Upon receipt of Customer's equipment, Clear Rate will perform the following:

- Verify that the shipment is for the correct colocation facility.
- Conduct a thorough visual inspection of the external packaging for possible damage.
- Inventory all boxes and verify that the carton count matches shipping receipt.
- Place the equipment in the Colocation Space or store the equipment in a secured area until Customer's Space is ready or available in accordance with the equipment storage policy.
- Notify Customer of receipt of all shipments, damages, or shortages, if any.

In the event of damaged external packaging, Clear Rate will accept the equipment and indicate, "damaged shipment/freight" on the shipping receipt and request the delivery driver to countersign acknowledging delivery of "damaged shipment/freight."

In the event of a discrepancy, Clear Rate will accept the shipment and indicate "short shipment/freight" on the shipping receipt and request the delivery driver to countersign acknowledging delivery of "short shipment/freight."

Storage

If Customer's equipment can be safely locked in the Customer's Space, no storage charges will apply. However, once the initial customer build has been completed no spare equipment can be stored in cardboard boxes within the confines of a customer's space or any portion of the colocation floor. If there is not enough storage area in a Customer's Space, Clear Rate will store Customer's equipment in a designated and secure storage area if there is space to do so at the discretion of the Network Operations Manager and the Clear Rate NOC. Customer will have ten (10) days in which to retrieve its equipment from the storage area from the date the equipment was delivered, after which, storage fees will apply.

All equipment left in Clear Rate storage areas for more than fifteen (15) days will be shipped to a Customer specified location at Customer's sole cost and expense.

Clear Rate is not responsible for loss or damage to Customer equipment stored in Clear Rate facilities or in transit if returned to Customer.

Inventory of Equipment

Clear Rate requests an inventory of Customer equipment configuration upon execution of a colocation contract or installation. Clear Rate has the right to conduct, upon reasonable advance notice to Customer, an inventory of Customer's equipment and equipment configurations during the term of Customer's license. Customer is required to notify Clear Rate of any significant change in equipment, including, but not limited to, upgrades, reconfigurations and de--installations.

Installation

Prior to the use of the Space, Customer shall install or have Clear Rate install within Customer's Space an appropriate number of (i) patch panels, (ii) DSX panels for category 5 twisted pair, coax, single and multi--mode fiber or (iii) other appropriate point of demarcation equipment. Clear Rate may modify the appropriate amount of demarcation equipment required by Clear Rate from time to time in its reasonable discretion. Upon such modification, Customer shall install or have Clear Rate install within the Space licensed by Customer, the appropriate amount of demarcation equipment.

Customer is solely responsible for any connections, wiring and items inside Customer's Space between the demarcation equipment and Customer's equipment.

All cables, interconnections, demarcation equipment and wiring must be cleanly wrapped and tied together and kept within the applicable cabinet or rack within the Space licensed by Customer in a manner satisfactory to Clear Rate. Upon request, Clear Rate shall assist with cleanly wrapping wiring, interconnections, Customer demarcation equipment wiring or cables through our Remote Hands services. Customer shall not permit any wiring, interconnections, Customer's demarcation equipment connections or cables to enter any other space outside of Customer's cabinet, rack or Customer licensed Space.

Customer shall not install any equipment that cannot be securely affixed or bolted into a cabinet or rack in a manner reasonably acceptable to Clear Rate. Any and all equipment that is too large or heavy for a rack or cabinet (including, but not limited to, large servers) shall be fastened, securely affixed or bolted directly to the floor by a Clear Rate technician. Customer shall not stack or rest any equipment on any other equipment. In addition, nothing may be mounted on cage walls that may restrict the airflow through the Clear Rate facility. No equipment shall be placed directly on the floor. The equipment shall be at least 6 inches off the floor using either shelves or rack rails. No other method shall be used. (i.e. Cardboard boxes to elevate equipment).

SECURITY

General

Clear Rate facilities are physically secure installations that are accessible to authorized full-rack customers 24x7x365. A closed-circuit television security system is typically located at all entrances. A scanner/card access system controls access to the facility.

All customers shall maintain an "access list" of permitted employees that are allowed entry to the facility and access to the customer space. Any Customers that wishes to grant access to an employee not on the permitted "access list" must ensure that the employee is accompanied by someone on the "access list" at all times. Customers are responsible for all actions of their employees.

Access/Security Badges

Upon execution of a colocation contract, Customer must also complete Clear Rate's Colocation Access List prior to the issuance of security codes and badges. The Colocation Access List contains information on which Customer employees or Customer vendor employees are authorized by the Customer to enter a Clear Rate facility on the Customer's behalf. It is the Customer's responsibility to keep the Colocation Access List updated at all times by contacting Clear Rate's Network Operations Center at (877) 877-1250 with any changes.

The standard number of security codes and badges issued will be in accordance with the amount of Space licensed by Customer. Upon the first visit to every facility, Customer authorized personnel are required to contact Clear Rate personnel to go through the identification and badge issuance process. All persons accessing the facility will be required to show a valid driver's license or other government issued form of picture identification. Once Customer's identification is confirmed, Clear Rate personnel will build the Customer into the security system. Once this process is completed, Customer will have access to its Space and shared areas of the colocation facility without further need of assistance from Clear Rate personnel. Customer must have a minimum of one full rack space to obtain access codes or security badges along with 24x7 unescorted access to the facility.

Additional and replacement security badges

If a badge is lost or stolen, Customer must contact Clear Rate Network Operations Center at (877) 877-1250 immediately. A completed Colocation Access List is required to order additional or replacement security badges and must be submitted to Clear Rate Network Operations Center by email at noc@clearrate.com for proper authentication and processing. Customer's identification number and password will be required when requesting additional security badges due to possible additional charges. Customers will be assessed a replacement fee for any lost badges at the then applicable rate.

Customer Sponsored Visitors

Facility tours must be scheduled at least 48 hours in advance by contacting the Clear Rate Network Operations Center at (877) 877-1250. Please allow 1 business day for confirmation of tour approval. Clear Rate at its sole discretion may apply tour charges. Customer will be informed at the time of confirmation if Customer will incur a charge for the tour. All tours must be cancelled 24 hours in advance or tour charges may apply.

Customers are required to escort their sponsored visitors in the facility at all times, including entering and exiting the facility.

Power

Power provided will be based solely on accepted equipment configurations as set forth on any applicable executed colocation contract. Clear Rate cannot guarantee additional power for equipment reconfigurations or upgrades.

All individual power runs are to be installed and maintained by Clear Rate. Customers may not install any batteries in the colocation facility.

Customer must inform Clear Rate immediately upon discovery of any worn, frayed or cut cables by contacting our Clear Rate Network Operations Center at (877) 877---1250.

All equipment utilized in a Clear Rate facility must meet Underwriter Laboratory (UL) listing or a similarly recognized governing board. No soldering or open flames are allowed.

Customers may not plug any equipment permanently into receptacles or courtesy power outlets without the express written permission of Clear Rate.

No equipment specifically designed to emit Radio Frequency (RF) energy is permitted to be installed in the Customer Space or to be operated within the Clear Rate facility without express written consent of an authorized Clear Rate representative. Receiver equipment operating under Part 15 rules is permitted.

No device that is designed to emit communications or control signals on either AC or DC power lines is permitted to be installed in the Customer Space or to be operated within the Clear Rate facility without express written consent of an authorized Clear Rate representative.

Use of Colocation Facilities, Building and Customer Space

Customer shall maintain its Space in an orderly and clean manner and in good repair and condition, satisfactory to Clear Rate. Customer shall keep the Space free of litter, cartons, packing materials or packaging and related items (collectively "waste materials"). Customer shall deposit all waste materials in designated trash receptacles that may be located in the colocation facility or within or outside of the building. Under no circumstances shall waste materials be discarded or left in the colocation facility or the building. Customer shall deposit all non---hazardous waste in appropriate receptacles located outside the building. Clear Rate does not provide and is not responsible for providing receptacles for Customer waste materials.

Customer shall insure that their Space is in compliance with all Federal and State Occupational Safety and Health Organization (OSHA) standards. Customer will be responsible for all damage that may be caused by failure to comply with any OSHA standards within the space and under the customer's control.

Customer shall not eat, drink, or smoke within the colocation facility or the building, except in areas designated by Clear Rate or the building management.

Customers shall not bring any weapons, including guns, knives or mace, alcohol; or drugs within the colocation facility or the building. Customer shall not photograph, videotape or film any areas in the colocation facility or the entrances to the colocation facility.

Customer, its officers, employees, technicians, agents, representatives, subcontractors and visitors shall behave in a courteous and professional manner at all times while in a Clear Rate colocation facility or the building in which the colocation facility is located.

Customer, its officers, employees, technicians, agents, representatives, subcontractors and visitors shall not touch, access, tamper, or interfere with another customer's or Clear Rate's Space or equipment without such customer's written authorization, even if Customer owns equipment within another customer's Space.

Customer, its officers, employees, technicians, agents, representatives, subcontractors and visitors shall not loiter or solicit within the colocation facility, the building in which the colocation facility is located, or on the grounds that the colocation facility is located.

Customer shall not do or permit anything to be done, or fail to do or permit anything to be done in, on or about the building that might constitute or result in a private or public nuisance or waste.

Customer shall not make any alterations, additions or improvements to the Space without the prior written consent of Clear Rate, which shall be in Clear Rate's sole discretion.

Customer shall not, nor shall Customer permit others to: (i) fail to maintain a suitable environment as specified by Clear Rate; (ii) alter, tamper with, adjust or repair any equipment or property of Clear Rate or any other property (other than its own equipment inside Customer's Space) located within the colocation facility or the building; or (iii) abuse or fraudulently access the building or the colocation facility to obtain or attempt to obtain service by any means or device with intent to avoid payment, unauthorized access, alteration or destruction, or any attempt thereof, of any information of Clear Rate or any other customer of Clear Rate by means of device, use of any equipment in violation of the law or in aid of any unlawful act, use any equipment so as to interfere with the use of the Telecommunications Network operated by Clear Rate or customers or authorized users or in a manner which, in the opinion of Clear Rate is not in accordance with its generally accepted standards of Telecommunications access and use.

Customer shall wear slip-resistant shoes while on the data center floor and inform Clear Rate technicians immediately of any unsafe facility conditions of which the Customer is aware (e.g., loose ladder racks, slick floors or electrical issues).

Customer agrees to safely configure, operate, and maintain equipment in Customer's Space. This includes appropriate engineering and design of equipment systems in adherence to manufacturer specifications. Failure to comply with these safety measures can result in an order to remedy or shut down unsafe equipment. If necessary, Clear Rate reserves the right to disrupt the services provided to any customer, without advanced notice, if deemed necessary to protect network integrity or restore the service of another customer being affected as a result. (for example, ARP floods, packet spoofing, virus outbreak, etc.)

Cubicle workstations may be utilized on a first come first serve basis and must be vacated and cleaned daily. Customer may not leave equipment in the work area without a Customer technician present.

Order Processing and Invoicing

Upon order acceptance and approval, Clear Rate will (i) issue a letter acknowledging the order and inform Customer of the Target Installation Completion ("TIC") date. The TIC date indicates when the customer space and services will be "customer ready". The TIC date also represents the date that monthly recurring billing will begin, regardless of whether Customer actually occupies the Space. Activation fees are due immediately in order to initiate the installation process. Orders may have more than one TIC date for Space and power.

Clear Rate deployment team may engage Customer during the installation planning stage at which time mutual tasks, responsibilities, and timeframes will be identified and committed with regard to the TIC date. Cross-connects will be billed when installed by Clear Rate. Clear Rate will not be responsible for delays of the TIC date caused by Customer.

Customer can request one-time services such as remote hands, conference rooms, etc., by calling Clear Rate Customer Service at (877) 877-4799. Once a month, Clear Rate will invoice the customer for all fees associated with service requests performed during the prior month.

Change Orders

Changes to an executed Colocation Contract must be made in writing using the appropriate Change Order Process and submitted to Clear Rate. Any changes made to the initial Order Form may cause serious delays and change fees will apply. Installation fees associated with a Change Order are due and payable when the Change Order is submitted to Clear Rate.

Confidentiality

Clear Rate maintains the confidentiality of Customer's identity within the colocation facility, including, but not limited to, the location of Customer's equipment. Customer may not post any signage in the Clear Rate facilities, including Customer cages or cabinets. Customer may, at its discretion, and provided Customer completes the required documentation, have its name displayed on Clear Rate standard customer signage.