



MASTER SERVICES AGREEMENT FOR TELECOMMUNICATION SERVICES

THIS AGREEMENT, made and entered into effective as of the date signed below, by and _____, a corporation, organized under the laws of the State of Washington, hereinafter called "**Retail Service Provider**" or "**RSP**", and "**Public Utility District #1 of Franklin County**", Washington, a municipal corporation, hereinafter called "**Utility**". This Agreement becomes legally binding on the signing parties upon signature by the Retail Service Provider and Utility.

RECITALS

Retail Service Provider (RSP) desires to obtain telecommunication transport services on Utility's fiber optic cable and/or wireless systems to provide retail services to consumers of the broadband services; and

Utility is agreeable to provide telecommunication transport services and allow RSP to terminate its signal cable in facilities generally described in Service Order Documents. RSP may use service only for authorized and lawful purposes.

NOW, THEREFORE, Retail Service Provider and Utility, in consideration of mutual conditions and covenants hereinafter described, do agree as follows:

1. Overview: This Agreement states the general terms and conditions by which Utility will deliver and the RSP will receive any or all of the services provided by Utility. The specific services and/or products to be provided and the procedure for obtaining services shall be detailed in associated Service Order Documents (Service Order Requests/Quotations, Service Orders, and/or Service Order Summaries). This Agreement is intended to cover any and all services ordered by RSP and provided by Utility. RSP may use services only for authorized and lawful purposes and must ensure all of RSP's end-users use services only for authorized and lawful purposes.

2. Delivery of Services: By signing Service Order Documents, RSP agrees to take and pay for, and, by accepting the signed Service Order Documents the Utility agrees to provide, the services(s) during the term described in the Service Order Documents. Utility has the right to limit the manner in which any portion of its network and facilities ("Network") is used to protect the technical integrity of the Network. Utility is not liable or responsible for content, errors in transmission, or failure to establish connection.

Utility is a member of the Northwest Open Access Network (NoaNet). As such, part or all of the fiber optic cable system over which Utility will provide transport services to RSP may be part of the Public Benefits Fiber, the use of which NoaNet has licensed from the Bonneville Power Administration (the "BPA") pursuant to a License Agreement with BPA (which, together with all amendments thereto is referred to herein as the "BPA Agreement"). The transport services Utility agrees to provide to the RSP as described in the attached Service Order Documents must at all times comply with the limitations within which Utility is permitted to use the system by the terms of the BPA Agreement. This compliance means the transported data or circuit end points will meet the definition of either "Public Benefits Fiber" or as a service for "Economic Development" in a "Rural Area". "Public Benefits Fiber" is optical fiber designated for use by schools; hospitals; emergency services; museums; libraries; Federal, state and local governments and

subdivisions thereof; public, co-operative and municipal utilities; Tribal governments; for Economic Development in Rural Areas or within Washington Enterprise Communities or the Oregon Enterprise Zones, as defined by the laws of those respective States. "Economic Development" means the facilitating of timely and increased communication services and solutions to diversify economic, educational, social, quality of life, environmental and cultural objectives. "Rural Area" means any county with a population density of less than 100 persons per square mile on July 1, 1998, according to information released to the Internet on March 12, 1999 by the Statistical Information Staff of the Population Division of the U.S. Bureau of the Census. RSP represents and warrants that the services it receives under this Agreement comply with these requirements of the BPA Agreement.

3. Installation and Interconnection of Services: Other than the facilities, termination equipment or other devices provided by RSP, and unless otherwise provided elsewhere in this Agreement or any attachments hereto, Utility will pay for, provide, install, maintain, operate, control and own any equipment, cable or facilities connected to the Network ("System Equipment"), which equipment at all times remains Utility's personal property, regardless of where located or attached. Utility may change, replace or remove the System Equipment, regardless of where located, so long as the basic technical parameters of the service are not altered, and this Agreement constitutes RSP's consent to such change, replacement or removal. RSP may not rearrange or move or disconnect the System Equipment, and is responsible for any damage to or loss of System Equipment caused by RSP's negligence or willful misconduct or that of its end users. Utility has no obligation to install, maintain or repair any equipment owned or provided by RSP, except as may be specifically provided herein. If RSP's or an end user's equipment is incompatible with service, RSP is responsible for any special interface equipment or facilities necessary to ensure compatibility. RSP is responsible to ensure that its equipment does not interfere with the provision of or functionality of services to RSP or other parties with whom Utility contracts. If, in

responding to a RSP initiated service call, Utility reasonably determines that the cause of such service call is a failure, malfunction or inadequacy of RSP-provided equipment or software, RSP will pay Utility for such service call at Utility's then prevailing rates.

Utility may reconfigure, reprogram, substitute, rearrange or otherwise change any Utility Facilities, whether such Utility Facilities are on the RSP's premises or otherwise, at any time and from time to time, but shall not thereby alter the technical parameters of the service provided the RSP without the RSP's knowledge or consent. Although no specific advance notification period is applicable, Utility will use its best efforts to notify the RSP of the planned timing of such activities and will use reasonable efforts to perform such activities at a time that is agreeable to the RSP (except where emergency conditions exist or where such change is required by a governmental agency or other authority to take place immediately).

4. Term: Subject to the provisions of Sections 11 and 12, the initial term for each service will commence and end on the dates indicated in the applicable Service Order Documents. Thereafter, the service automatically renews for successive 1-year terms unless terminated by either party upon no less than 30 days written notice prior to the end of the initial or renewal term, or unless otherwise specified in the Service Order Documents. This Agreement shall continue until so terminated by written notice as provided in Section 25. Upon termination of this Agreement, all rights of RSP to order new services cease and Utility has no further obligations to furnish new services to RSP.

5. Fees and Payment and Security Terms: RSP shall pay all fees due for services according to the prices and terms listed in the Service Order Documents. Upon completing provisioning, installation and testing of the System Equipment needed to provide services ordered by RSP, Utility will notify RSP that the services are available for RSP's use. These services are subject to, but are not limited to a Monthly Recurring Charge ("MRC") as set forth in the Service Order Documents. Utility reserves the right to change the MRC for such services at any time, after the initial term hereof upon 25 days prior written notice to RSP. The MRC does not include any governmental taxes or tax-related charges, fees, surcharges or other amounts assessed by any government, which may be incurred in connection with services to be provided hereunder, all of which shall be paid by RSP. Any installation charges or other non-refundable Non-Recurring Charge ("NRC") to be billed one time will appear on the first monthly invoice. Utility reserves the right to recover any additional installation charges accrued during installation.

Prior to commencement of service, RSP may be required to post Security with Utility in an amount equal to two months' anticipated billings or ten thousand dollars (\$10,000.00), whichever is greater. This Security shall be in the form of: 1) a surety bond, 2) an irrevocable letter of credit from a Washington bank, or 3) other security acceptable to Utility. All security instruments used by RSP to meet the requirements of this section must be approved in advance by Utility as to form and issuer, which approval is in Utility's sole discretion. Utility will refund any security deposit or return security instruments at such time as RSP ceases to use Utility services, provided that all amounts owed

to Utility have been paid in full and all other obligations of RSP under this Agreement have been satisfied. RSPs which are governmental or municipal entities may be exempted from the security requirement at the sole discretion of Utility.

Any payment not received within thirty (30) days of the invoice date will accrue interest at a rate of one and one-half percent (1½%) per month, or the highest rate allowed by applicable law, whichever is lower. Failure of an RSP's end-user to pay for service does not negate the responsibility of the RSP to make payment to the Utility or otherwise fulfill its obligations under this Agreement.

6. Early Termination Charges: If (a) RSP terminates this Agreement or any Service Order hereunder for reasons other than Cause; or (b) Utility terminates this Agreement or any Service Order hereunder pursuant to Sections 11 or 12, then RSP will pay, within thirty (30) days after such termination: (i) all accrued but unpaid charges incurred through the date of such termination, plus (ii) an amount equal to fifty percent (50%) of the "MRC" for the then current term (and any pro rata portion thereof for any partial then current term) remaining in the un-expired portion of the then current term on the date of such termination, plus (iii) a pro rata portion of any and all credits received by RSP. If RSP desires to cancel a Service Order, the following conditions apply: (I) where a Service Order is canceled by RSP prior to the start of any design work or installation of facilities, no charge applies, (II) when a Service Order that requires special design work is canceled after the design work has begun, Utility may collect charges equal to the cost incurred for the associated design work time and materials to date, and (III) if cancellation is requested after completion of an installation, it will be treated as an early termination of service and is pursuant to the terms and conditions of Section 6. In the event of early termination by either Party, RSP shall not be entitled to reimbursement of fees already paid to Utility and shall not be entitled to receive services from Utility as specified in the Agreement.

7. Limitation of Liability: The total liability of Utility to RSP in connection with this agreement, for any and all causes of actions and claims, including, without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts, shall be limited to the lesser of: (a) direct damages proven by RSP; or (b) the amount paid by RSP to Utility under this agreement for the one (1) month period prior to accrual of the most recent cause of action. In no event shall Utility be liable for special, punitive, consequential or incidental damages, including without limitation, lost revenue, profits or other benefit whether by tort, contract, or otherwise.

8. Force Majeure: Neither party is liable for any failure of performance if such failure is due to any cause or causes beyond such party's reasonable control, including without limitation, acts of God, fire, explosion, vandalism, cable cut, antenna failure, adverse weather conditions, governmental action, labor difficulties and supplier failures. RSP's invocation of this clause shall not relieve RSP of its obligation to pay for any services actually received. In the event such failure continues for 60 days, the other party may terminate the affected portion of the Services.

9. Assumption of Risk: RSP recognizes that use of the Utility's system shall be at its own risk, and therefore, expressly assumes any risk arising from the exercise of any rights, privileges or obligations identified herein.

10. Indemnity: RSP agrees to indemnify, defend and hold harmless Utility, the commissioners, officers, directors, employees, agents and other representatives of Utility. RSP must indemnify, defend and hold harmless Utility from all claimed losses or damages, asserted by anyone, which arise from RSP's breach of this Agreement, violation of any third party intellectual property right, all claims of any kind by RSP's end users, or any act or omission of RSP in connection with any service provided hereunder.

Subject to the provisions of Section 7, Utility agrees to indemnify, defend and hold harmless RSP from all losses or damages arising from or related to personal injury or property damage caused by the negligence or willful misconduct of Utility.

11. Termination by Utility: Utility may terminate this Agreement or any Service Order hereunder, or suspend services, with prior written notice, upon (a) failure of RSP to pay any amounts as provided herein within thirty (30) days of invoice date; or (b) RSP's breach of any provision of this Agreement or any law, rule or regulation governing the services; or (c) if RSP provides false information to Utility regarding the RSP's identity, creditworthiness, or its planned use of the services; or (d) if Utility deems necessary to take any reasonable and lawful action to protect the property and rights of Utility, and existing and potential RSPs of Utility's services.

12. Termination for Cause: Either Party may terminate this Agreement for Cause. "Cause" shall mean a breach by the other party of any material provision of this Agreement, provided that written notice of the breach has been given to the breaching party, and the breach has not been cured within thirty (30) days after delivery of such notice.

13. Resale of Services: Any service provided under this Agreement may be resold to or shared with other persons or entities at the option of RSP, subject to compliance with any applicable laws, regulations, or Utility policy governing such resale or sharing. RSP remains solely responsible for all services ordered by it or billed to its account, for determining who is authorized to use its services and taking appropriate actions to enforce such a determination, and for immediately notifying Utility of any unauthorized use. Utility has no obligation to provide notice to or otherwise communicate with the end-users of RSP or with any other party with whom RSP contracts or provides service.

14. Assignment: RSP shall not assign, pledge, transfer or otherwise convey all or any part of the rights and privileges granted by this Agreement in any manner without prior written consent of Utility, which consent it will not unreasonably withhold. Any transfer of this Agreement by merger, consolidation or liquidation of RSP, or any change in the ownership of or power to vote the majority of its outstanding voting stock (whether effected in one or more transactions or events occurring over any period of time) shall constitute an

assignment for purposes of this Section. RSP may enter into agreements with other parties for transport circuits on terms consistent with this Agreement.

15. Taxes: Each party shall be responsible for its own federal, state and local taxes, assessments, fees, surcharges and other financial impositions. Notwithstanding the foregoing, RSP agrees that if there is any tax payable by it, but which is to be collected by Utility which Utility does not collect for any reason, upon assessment thereof by the applicable taxing agency, and demand by Utility, RSP shall immediately remit the same to Utility or the agency, as directed by Utility, even if such assessment arises after the termination of this Agreement.

16. Representations and Warranties: Each party represents and warrants that it has full power and authority to execute, deliver, and perform its obligations under this Agreement. Utility represents and warrants to RSP that any services provided hereunder will be performed in a manner consistent with that of other reputable providers of the same or similar services in the same locality. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT, UTILITY MAKES NO WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF ANY PORTION OF THE NETWORK OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED.

17. Governing Law: This Agreement is governed by and subject to the laws of the State of Washington, excluding its principles of conflicts of law.

18. Litigation: If either party commences litigation under this Agreement, the prevailing party is entitled to reimbursement of its costs and attorneys' fees from the other party.

19. Remedies not Exclusive: The remedies provided in this Agreement shall be in addition to all other remedies to which Utility may be entitled at law or in equity, including without limitation the right to recover unpaid amounts with interest at the applicable statutory judgment rate, but accruing from the date initially due.

20. Jurisdiction; Venue: The parties consent to the personal jurisdiction of the courts of the State of Washington so that any litigation concerning or arising out of this Agreement shall be brought in Washington. The parties agree not to claim that Washington is an inconvenient place for trial. The venue of any such legal action shall be Benton County Superior Court of the State of Washington.

21. Exclusivity: This Agreement is not exclusive. Nothing in this Agreement will prevent RSP or Utility from entering into similar arrangements with, or otherwise providing services to, any other person or entity.

22. Waivers: No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party and any such

waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

23. Use of Name and Trademarks: Neither party shall use any name, logo or service mark of the other party in marketing services to others without the express written consent of the other party.

24. Confidentiality: RSP shall treat all information made available or disclosed to, or developed or obtained by, RSP as the result of or related to this Agreement ("Confidential Information") as confidential, and shall not disclose or use Confidential Information for the benefit of any person other than Utility; provided however, that RSP shall have no obligation with respect to that portion of Confidential Information which is disclosed by Utility to others without any restriction on use or disclosure, or which must be disclosed to others under law. If RSP receives a request for Confidential Information from a third party, RSP shall promptly notify Utility in writing of such request, and if RSP in good faith believes it is obligated to disclose the requested Confidential Information, Utility shall be given the opportunity to seek judicial or other protection of such Confidential Information, with the cooperation of RSP.

25. Notices: All notices, requests, demands or other communications which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of delivery if personally delivered by hand, (ii) upon the third day after such notice is (a) deposited in the United States mail, if mailed by registered or certified mail, postage prepaid, return receipt requested, or (b) sent by a nationally recognized overnight express courier, or (iii) by fax upon written confirmation (other than the automatic confirmation that is received from the recipient's fax machine) of receipt by the recipient of such notice:

If to Utility:
 Public Utility District #1 of Franklin County
 P.O. Box 2407
 1411 W. Clark Street
 Pasco, WA 99302
 Office: (509) 542- 5905
 Fax: 509-546-5966

If to RSP:
 Name _____
 Address _____
 City, State, Zip _____
 Office # _____
 Email _____

Such addresses and numbers may be changed, from time to time, by means of a notice given in the manner provided in this Section 25.

26. Authority: RSP affirms that they are authorized under current statutes, regulations and/or codes to resell telecommunication services.

27. Entire Agreement: This Agreement and any addendums, attachments, Service Order Documents and other documents incorporated herein constitutes the entire agreement between the parties with respect

to its subject matter and supersedes all other representations, understandings or agreements that are not expressed herein, whether oral or written. Except as otherwise set forth herein, no amendment to this Agreement shall be valid unless in writing and signed by both parties. In the event of any inconsistency between the terms contained in this Agreement and any specific provisions of the Service Order Documents, the terms of the Service Order Documents shall prevail. References herein to exhibits mean exhibits to this Agreement unless the context indicates otherwise.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

Public Utility District #1 of Franklin County

By: _____
 Name: Brian Johnson
Print/Type
 Title: Director of Administrative Services
 Date: _____

Retail Service Provider

By: _____
 Name: _____
Print/Type
 Title: _____
 Date: _____