

Board of Trustees Special Meeting  
Friday, March 13, 2020, 4:15pm  
Port Angeles Main Library  
Administrative Conference Room  
Port Angeles, WA

### **Public Comments**

*Any person or group desiring to bring an item to the attention of the Library Board may do so by addressing the Board at meetings. Individuals having comments specifically related to agenda topics should raise their hand at the appropriate point on the agenda to indicate a wish to speak. Public comments on items not on the agenda, but within the jurisdiction of the North Olympic Library System Board of Trustees, are heard at the beginning of the meeting and at the end; individuals may choose to speak at either point. When time constraints require, the Chair may limit public remarks during meetings to less than three minutes. The Board will not discuss or take action on items raised during Public Comment, but may choose to add items to a future meeting agenda. Public comments may also be sent to: Library Board of Trustees, North Olympic Library System, 2210 South Peabody Street, Port Angeles, WA 98362 or [LibraryBoard@nols.org](mailto:LibraryBoard@nols.org).*

## AGENDA

1. Call to order, roll call and introductions
2. Approval of Agenda
3. New Business
  - N.I. Approval of internet service agreement between NOLS and WAVE
4. Adjournment

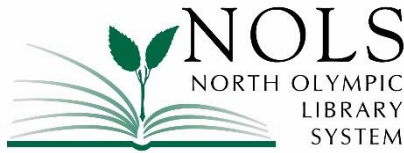
“Nurturing imagination, connection, and understanding,  
to improve lives and strengthen community.”

NOLS Mission Statement  
Adopted 11/22/16

### **Upcoming Board meetings**

| <b>Date</b>              | <b>Time</b> | <b>Location</b>           |
|--------------------------|-------------|---------------------------|
| Thursday, March 23, 2020 | 5:30pm      | Port Angeles Main Library |





Meeting Date: March 13, 2020  
To: Library Board of Trustees  
From: Margaret Jakubcin, Library Director  
Subject: Approval of service agreement for internet service

Attachments: Service Agreement between NOLS and WaveDivision Holdings, LLC

**Topic/Issue:** Approval of service agreement for internet service.

**Background.** NOLS utilizes Wave as a service provider for internet connection to the Port Angeles Main Library, Forks Branch Library and Sequim Branch Library. After working with an E-rate consultant, NOLS decided to make updates to the current contract to address E-rate compliance issues and to greatly increase the efficiency and ease of the E-rate competitive bidding process in future years. The new contract further allows NOLS to take advantage of needed increases to connection speeds that were not previously available.

**Policy considerations.** Policy 5.5: Purchasing Policy defines the process for bidding, and specifies Board approval for contracts valued at \$25,000 or more in a single calendar year.

NOLS put out a new Request for Proposals for internet service on January 29, 2020. The service agreement presented for approval at this time is the result of that RFP process.

Approval of the new contract is a matter of some urgency, in relation to NOLS' E-rate reimbursement request, which is currently being prepared for submission. Participants in the E-rate program are required to follow all federal, state, local, and their own agency's policies.

**Fiscal considerations.** Provision was made for this service in the 2020 Operating Budget. The amount of E-rate reimbursement varies from year to year, but could be up to 70% of the total cost for internet service.

**Recommendation/Alternatives for Consideration.** That the Board approve the March 2020 contract with WaveDivision Holdings, LLC.

**Motion:** That the Board approve the contract with WaveDivision Holdings, LLC as presented, and authorize the execution of the service agreement document.



**ORDER FOR DATA TRANSPORT SERVICES  
E-Rate 2020**

This Order for Data Transport Services: E-Rate 2020 (this “Service Order”) is entered into as of the date of last signature below (the “Effective Date”), by and between WAVEDIVISION HOLDINGS, LLC, a Delaware limited liability company (“Provider”), and NORTH OLYMPIC LIBRARY SYSTEM, a Washington rural county library district (“Customer”). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement for Enterprise Services – Governmental Customer between Provider and Customer dated May 20, 2016 (the “MSA”). All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the MSA.

**Section 1: Termination of Old Contract.** Provider and Customer are also the parties to that certain Order for Data Transport Services: E-Rate 2019 dated March 26, 2019 (the “Old Contract”). Provider and Customer now intend for this Service Order to replace and supersede the Old Contract in its entirety. Accordingly, as of the Service Commencement Date for the Services provided pursuant to this Service Order, the Old Contract shall terminate and have no further force or effect; provided, that any outstanding payment obligations under the Old Contract shall survive until met.

**Section 2: Data Transport Services.** Provider shall provide to Customer the EVC data transport services set forth in the following table (each, a “Service,” and collectively, the “Services”), at the bandwidths set forth below, in exchange for the one-time, non-recurring installation cost (“NRC”) set forth below, and the monthly recurring charges (“MRC”) set forth below:

| <b>Circuit Identifier</b>                    | <b>Bandwidth and Type of Connection</b> | <b>Service Site</b>  | <b>NRC</b> | <b>MRC</b>              |
|--|---|--|------------|-------------------------|
| Circuit 1                                    | 2 Gbps<br>ELAN Circuit                  | Port Angeles Main Library<br>2210 South Peabody Street<br>Port Angeles, WA 98362 | \$0        | \$1,400.00<br>\$210.00* |
| Circuit 2                                    | 1 Gbps<br>ELAN Circuit                  | Sequim Branch Library<br>630 North Sequim Avenue<br>Sequim, WA 98382             | \$0        | \$1,000.00<br>\$150.00* |
| Circuit 3                                    | 30 Mbps<br>ELAN Circuit                 | Forks Branch Library<br>171 Forks Avenue South<br>Forks, WA 98331                | \$0        | \$1,027.00<br>\$154.05* |
| Circuit 4                                    | 10 Mbps<br>EVC Circuit                  | Port Angeles Main Library<br>2210 South Peabody Street<br>Port Angeles, WA 98362 | \$0        | \$200.00<br>\$30.00*    |
| Total MRC:                                   |   |  | \$0        | \$3,627.00              |
| *Total estimated taxes, fees and surcharges: |   |  | N/A        | \$544.05*               |
| <b>TOTAL COST:</b>                           |   |  | <b>\$0</b> | <b>\$4,171.05</b>       |

\* As of the Effective Date, in addition to the MRC, there is an additional 15% for estimated taxes, fees and surcharges and are billed monthly. Estimated taxes, fees and surcharges are subject to change.

**Section 3: Service Term.** The Service Term for the Services is 36 months. The Service Commencement Date for the Services is July 1, 2020. The Service Term will expire on June 30, 2023.

**Section 4: Customer Information.**

Account Name: North Olympic Library System  
Account Executive to Customer: Mike Puckett

Invoicing Address: 2210 South Peabody Street  
Port Angeles, WA 98362  
ATTN: Accounts Payable

E-Rate Billing Method:  SPI Method (FCC Form 474)  
 BEAR Method (FCC Form 472)

To facilitate communication the following information is provided as a convenience and may be updated at any time without affecting the enforceability of the terms and conditions herein:

Customer Site Contact:  
Sarah Goff  
sgoff@nols.org  
360-417-8500 x7723 (Ph)

Customer Billing Contact:  
Accounts Payable  
sgoff@nols.org  
360-417-8500 x7723 (Ph)

Customer Technical Contact:  
Sarah Goff  
sgoff@nols.org  
360-417-8500 x7723 (Ph)

**Section 5: Option to Extend Term.** Upon expiration of the Service Term for this Service Order, Customer shall have the option (the “Extension Option”) to extend the term of this Service Order for up to three (3) additional periods of one (1) year each (each, an “Extended Term”), with all pricing and other terms and conditions to remain the same during the Extended Term. To exercise its Extension Option, Customer must deliver written notice of extension to Provider no less than sixty (60) days prior to the expiration of the Service Term.

**Section 6: Participation in E-Rate Program.** With respect to this Service Order, Customer is participating in the Federal Universal Service Discount program for schools and libraries (“E-Rate”), offered by the Federal Communications Commission via the Schools and Libraries Division (the “SLD”), which is administered by the Universal Service Administrative Company (“USAC”).

**Section 7: Customer’s Contingent Right to Cancel.** As set forth in the MSA, this Service Order is conditional and subject to Customer receiving full E-Rate funding by the SLD. Notwithstanding anything to the contrary contained in Section 3 of this Service Order or in the MSA, Customer reserves the right to cancel or in any manner reduce the scope of this Service Order in the event SLD does not completely fund the request for funding submitted by Customer with respect to the Services described in this Service Order.

**Section 8: E-Rate Billing.** Under the E-Rate program, Customer must elect one of the following methods of invoicing, both of which require the cooperation of Provider:

- (i) SPI Method: Under the Service Provider Invoice method (the “SPI” method) of billing, Customer receives a discount on the invoices Customer receives from Provider. Customer pays in full the invoices it receives from Provider. Provider then submits FCC form 474, the Service Provider Invoice Form, to USAC in order to receive payment from USAC for the discounts Provider provided to Customer.
- (ii) BEAR Method: Under the Billed Entity Applicant Reimbursement Method (the “BEAR” method) of billing, the invoices Customer receives from Provider contain the full amount of the non-discounted rates set forth in Section 3 above. Customer pays in full the invoices it receives from Provider. Customer then submits FCC Form 472, the Billed Entity Applicant Reimbursement Form, to USAC in order to receive reimbursement from USAC for a portion of the amounts paid to Provider.

Customer has specified in Section 5 above which of the two methods of E-Rate billing Customer desires to use with respect to this Service Order. Regardless of which E-Rate billing method Customer has elected, the Parties agree to cooperate with one another as reasonably necessary to complete and process such paperwork as may be necessary for Customer to take advantage of the E-Rate funding available for the Services.

**Section 9: Potential Upgrade of Circuit 3.** Provider understands that Customer would prefer for the bandwidth of Circuit 3, which serves the Forks Branch Library, to be increased to 50 Mbps or even 100 Mbps. As of the Effective Date of this Service Order, Provider

does not have the network capacity to provide a higher bandwidth for Circuit 3 as network capacity to Forks is very constrained. However, if and when Provider is able to increase the bandwidth available to the Forks Branch Library, Provider shall so notify Customer. At such point, the Parties may negotiate an increased bandwidth for Circuit 3 together with a mutually acceptable increase in MRC for said Circuit. Any agreed upon changes to Circuit 3 shall be memorialized in a written amendment to this Service Order that is signed by both Parties.

**Section 10: Customer’s RFP and Provider’s Response to RFP.** This Service Order is being entered into by the Parties pursuant to Customer’s E-Rate BEN 145263 Request for Proposal (RFP) WAN Connections Speed Upgrades, a copy of which is attached to this Service Order as Schedule 1, and Provider’s North Olympic Library System 470 Response WAN Connection Speed Upgrades 470# 200018055, a copy of which is attached to this Service Order as Schedule 2, and both of which are incorporated herein by this reference.

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party’s signature) will be deemed the Effective Date of this Service Order.

**CUSTOMER:**

NORTH OLYMPIC LIBRARY SYSTEM

By \_\_\_\_\_

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

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

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

**PROVIDER:**

WAVEDIVISION HOLDINGS, LLC

By \_\_\_\_\_

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

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

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

*[The remainder of this page is intentionally left blank.]*

**SCHEDULE 1**  
**to**  
**Order for Data Transport Services: E-Rate 2020**

**North Olympic Library System's E-Rate BEN 145263 Request for Proposal (RFP) WAN Connections Speed Upgrades**

*[See attached.]*



**NORTH OLYMPIC LIBRARY SYSTEM**

**E-RATE BEN 145263**

**REQUEST FOR PROPOSAL (RFP)**

| Title                                 | Due Date                                |
|---------------------------------------|---|
| <b>WAN Connections Speed Upgrades</b> | <b>30 Days from posting of 470 Form</b> |

Submit bids and direct questions to:

Contact: Claire O’Flaherty, Consultant, E-Rate Expertise, Inc.

Phone: (253) 320-0664

Email: [claire@erateexpertise.com](mailto:claire@erateexpertise.com)

**SCOPE:**

*The North Olympic Library System (NOLS) requires broadband fiber WAN connectivity between its main library in Port Angeles and its branches. These services were competitively bid during the 2019-2020 E-rate application year and contracts were awarded, but this 470/RFP is being posted to allow for greater ranges of speeds in the contracts.*

*The current WAN is comprised of lit fiber circuits connecting the Sequim, Forks and Clallam Bay branches to the hub at the Port Angeles main library. The Library System’s Internet access is provided through the K20 Network and is not part of this RFP. The current WAN speeds to each branch are as follows:*

- 1. Port Angeles – 200 Mb*
- 2. Sequim – 100 Mb*
- 3. Forks – 30 Mb*
- 4. Clallam Bay - 20 Mb*

*The Library may choose to maintain or to upgrade circuit speeds as needed during the contract term and the maximum speed in the contract could be up to 5 G. Upgrades would be made via service/change orders to existing contracts.*

## BID FORMAT & REQUIREMENTS:

1. Existing contracts with updates for the expanded speed range may be used as quotes for this bidding process and will fulfill the other bid requirements.
2. Please provide quotes for 30Mb, 50 Mb, 100 Mb, 200 Mb, 1 Gb, and 5 Gb speeds for the branches. You do not need to provide quotes for speeds lower than the existing speeds for each branch as noted above.
3. Itemize any nonrecurring set-up and/or installation fees.
4. List any applicable taxes and fees (including network access fees, regulatory fees, surcharges, etc.) for these services (% of MRC estimate is acceptable).
5. Indicate if the lines have already been built and give the GUARANTEED service availability date.
6. Does proposed service require Library to purchase new equipment (routers, switches, firewalls, etc.)? Required equipment may be purchased through a separate bidding process. Provide suggested make/model #s (equivalent products will be considered).
7. Indicate if your company owns the lines for the service you are proposing. If not, then provide the name of company that owns the lines and the length of time you have worked with this other company.
8. Indicate if speeds can be burstable during peak usage periods. Indicate if Static IP is available and the cost/line.
9. Bids should include an example of the monthly billing statement that includes all estimated costs, taxes and fees for different levels of service at each location. Billing shall be monthly, net 30 days.
10. Submit a copy of your standard contract with terms for service.
11. Provide qualifications and experience of the dedicated project manager for implementation.
12. A proposed Service Level Agreement (SLA) that must include a description of the services provided, and where applicable, describe how these services will be measured. At a minimum, the SLA should describe that the vendor will make all reasonable efforts to ensure 99.99% network availability of each circuit, and it should provide frame/packet loss, network latency, and network jitter commitments. Additionally, each SLA should describe 24x7x365 trouble-reporting procedures, offer commitments with regard to the time to repair outages, and describe provisions offered in the event of chronic trouble. The services described in the SLA shall be maintained to the specifications of these commitments throughout the term of the contract, and the selected vendor shall remediate any deficiencies at no cost to the Library. Additional features, such as DDoS protection, should also be described.
13. Bids should include three (3) reference sites where your company has performed a similar service, including business name, contact name and contact information. It is preferable that at least one reference should be for a Library/school district of similar size within 200 miles of Library.
14. Please indicate if your company has successfully sold this equipment before as part of the E-rate program and your number of years of experience with the E-rate program. Vendors should include their E-Rate SPIN number in their bid and confirm that they are current on their 2020 SPAC/473 requirements. Failure to

- maintain E-rate SPIN eligibility requirements could result in contract termination. Vendor must be willing to do either SPI or BEAR methods of reimbursement and the Library will select the reimbursement method.
15. The Library reserves the right to request additional information and/or a Best And Final Offer (BAFO) during this bidding process as bids are compared and evaluated.
  16. The Library reserves the right to reject any or all proposals, to waive informalities, and to determine the best overall proposal based on a uniform evaluation criteria and the best interests of the Library.
  17. Bidders are required to read and understand all information contained within this entire quote package. Bidder further offers to furnish materials, equipment or services in compliance with all terms, conditions, and specifications herein including all amendments. Submitting this document constitutes complete understanding and compliance with the terms and conditions and certifies that all necessary facilities and personnel are available and established at the time of bid submittal.

#### **VENDOR CONTRACT ISSUES:**

1. The new contract for these services, will include a copy of the vendor's submitted proposal/quote, the terms outlined below and elsewhere in this RFP, and additional terms provided by the vendor and agreed upon by the Library.
2. The Library seeks a guaranteed start date of July 1, 2020 for the service and end dates that coincide with the end of the E-rate program years.
3. The Library seeks a 3 year contract with three (3) 1-year renewal periods for a total of six (6) years. The contract would revert to a month-to-month arrangement for the same monthly cost at the end of the final term.
4. Within the scope of this RFP, the Library may seek to increase speeds, change circuit types, add lines, or add service to an existing or new branch through change orders with the selected vendor to meet future system needs and to ensure cost effectiveness of the service. These changes may be the result of the need for greater capacity, greater cost effectiveness, expiration of existing contracts, new branch openings/remodels/relocations or other circumstances. If different services are phased in over the program year, the contract end date would remain the same.
5. Vendors shall notify Library in writing upon completion of installation of all required circuits. Library shall have up to two weeks to reconfigure their systems and test that the services are functioning properly and will notify vendor in writing of their acceptance of the service. Billing may commence upon the Library's acceptance of the service.

#### **BID SUBMITTAL, Q&A and CONTACT INFORMATION:**

1. Interested bidders should provide their contact information to [claire@erateexpertise.com](mailto:claire@erateexpertise.com) in order to receive notifications, updates and Q&A regarding this RFP.

2. Questions regarding the RFP should be submitted in writing to Claire O’Flaherty at [claire@erateexpertise.com](mailto:claire@erateexpertise.com) no later than 7 days before the bid deadline to ensure that information can be disseminated to all interested bidders.
3. Bids should be submitted to Claire O’Flaherty, [claire@erateexpertise.com](mailto:claire@erateexpertise.com) and copied to Shaina Rajala, [srajala@nols.org](mailto:srajala@nols.org).
4. All RFP documents, including instructions, bid formats, Q&A, updates (if any) will be uploaded to the original E-Rate 470 form and uploaded to the library’s website at: <https://www.nols.org/bids-requests/>.
5. Bidding period will last 30 days from the date the 470 application is posted, but may be extended at Library’s discretion if necessary to conduct a competitive bidding process.
6. For Library branch addresses, please see <https://www.nols.org/locations-hours/>

Proposals will be judged on the following criteria:

1. 40 - Price: Least cost for the needed capacity (this will be the most heavily weighted criteria)
2. 15 – Capacity: Proposed circuits meet the library’s current and future needs
3. 10 – Completeness, quality and reliability of the proposal
4. 15 – Administrative efficiency of managing contracts/services; Ability to serve the most locations
5. 10 – Prior experience with the vendor
6. 5 – Local or in-state vendor
7. 5 – Prices for ineligible services, products and fees

**SCHEDULE 2**  
**to**  
**Order for Data Transport Services: E-Rate 2020**

**Wave Business's North Olympic Library System 470 Response WAN Connection Speed Upgrades 470# 200018055**

*[See attached.]*



## **North Olympic Library System**

### **470 Response**

**“WAN Connection Speed Upgrades”**

**470 # 200018055**

**Due Date: By February 26, 2020**

### **Delivered to:**

**North Olympic Library System**

**Claire O’Flaherty**

**2210 S Peabody Street, Port Angeles, WA 98362**

**claire@erateexpertise.com**



North Olympic Library System  
Attn: Claire O’Flaherty  
2210 S Peabody Street, Port Angeles, WA 98362

**RE: RFP “WAN Connection Speed Upgrades”**

Dear Claire,

Wave Division Holdings, LLC d/b/a Wave Business is pleased to present its response for this RFP for the North Olympic Library System. Wave Business acknowledges receipt of every communication and addendum issued for this solicitation and have read, understood, and have fully complied with all mandatory requirements identified in the RFP and associated documents.

Wave Business has made every effort to present the most complete and cost-effective solutions in our response. Wave is presenting solutions that can be easily be upgraded into your existing network – with minimal to zero additional build costs. I will be your main point of contact and my information is below.

Please review this document and attachments carefully and if you have any questions, I welcome the opportunity to meet face-to-face or via phone to address, discuss, and review this proposal or any other potential circuit in its entirety. We want the NOLS to completely understand the service dynamics, support, and technology being offered.

Thank you for the opportunity to continue working with the North Olympic Library System. We sincerely believe our team is presenting solutions that demonstrate not only our capabilities, but our commitment to provide solutions that are cost effective and meet your every need.

Mike Puckett, Education Channel Manager  
13483 Seabeck Hwy NW, Seabeck, WA 98380  
Voice: (360) 550-4496 / Cell: (206) 406-9672  
E-mail: [mpuckett@wavebusiness.com](mailto:mpuckett@wavebusiness.com)  
SPIN # 143030836 FRN#0015-63-7911 GREEN LIGHT STATUS: ACTIVE

Respectfully,

*Michael W Puckett*

Michael W. Puckett, Education Channel Manager – Wave Business



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- Master Services Agreement – Attached at the end of proposal
- Service Level Agreement – Attached at the end of proposal
- Transport Service Order – Attached at the end of proposal



**wave** **LARGEST REGIONAL BROADBAND PROVIDER**  
business on the West Coast

**8000+**  
ROUTE of METRO MILES of FIBER

**50+**  
DATA CENTERS  
in Washington, Oregon & California

Supported by **1400** West Coast employees

**SPEEDS** from **10** to **100** and beyond  
Mbps Gbps

**300+** private peer CONNECTIONS routing

**7** of the world's **BIGGEST Tier 1 PROVIDERS**

CARRIER-GRADE **SLAs**  
guarantee critical service uptime levels

## Why choose Wave Business?

- **Scale** – Our system is the third largest IP network on the West Coast, designed and built solely for IP transit. With our recent acquisition, Wave is now the 6<sup>th</sup> largest internet and cable operating in the nation.
- **Network Architecture** – the most advanced state-of-the-art fiber optic network and architecture in the western U.S.
- **Redundancy** – more points of presence than any other provider in our West Coast footprint – microwave mesh network for redundancy.
- **Headroom** – operate our network to 40% – 45% of capacity to allow for maximum speed and throughput and accommodate DDoS attacks and trunk breakage.
- **Direct peering** – we peer with all major content providers with direct 10 gigabit fiber connections in key data centers – result is lowest latency in the industry.
- **Play well with others** – we respect other providers and cooperate through all aspects from construction to service delivery



## OUR ORGANIZATION

Wave Division Holdings, LLC dba Wave Business operates leading broadband cable systems under the trade name Wave Broadband in the Tier 1 suburban markets of Seattle, WA, Portland, OR, Sacramento, CA, and San Francisco, CA. As of September 1, 2018, we had approximately 291,650 customer relationships, and served approximately 482,010 revenue generating units (“RGUs”), including approximately 271,825 HSD subscribers and approximately 88,530 voice subscribers.

Wave serves residential and small-to-midsized business customers through a fully-upgraded, fiber-rich and redundant communications network, which utilizes a variety of state-of-the-art technologies including up to 860 MHz hybrid fiber-coaxial (“HFC”) systems and select fiber-to-the-home (“FTTH”) service areas. Our four primary markets are interconnected through 10 and 100 Gbps networks of owned and leased fiber transport connections that allow us to transmit data, video, voice and internal communications traffic between our systems.

In addition to our HFC and FTTH network, we offer business solutions that utilize owned metro fiber assets in Seattle, Portland, Sacramento, and San Francisco all of which are interconnected to our 10 and 100 Gbps fiber backbone.

Wave Business, our commercial services division, offers a range of telecommunication solutions to local businesses, enterprises, other telecommunications carriers, and institutions such as schools, hospital networks, government agencies and military bases throughout our fiber footprint.

Wave Business is a facilities-based provider of communications products including:

- Multi-line business-class phone offerings,
- Commercial-class Internet services,
- Enterprise-level dedicated fiber-optic direct Internet access,
- Point-to-point fiber communications services, and
- Colocation capabilities

Wave entered its first market, Seattle, through the completion of three acquisitions in 2003 and established central operations in the Seattle area. From the start, we have grown both organically and through acquisitions of cable systems and fiber assets. Our commercially-focused acquisitions have enhanced our product offerings with additional fiber-based enterprise solutions and significantly added to our fiber assets. In addition, these acquisitions have added expertise and capabilities to take advantage of commercial growth opportunities across all of our markets.

In early 2018, Wave merged with RCN Telecom Services and Grande Communications to form the nation’s sixth largest cable operator. Together, the combined companies cover a vast and growing nationwide fiber footprint spanning nearly 20 metro areas in 11 states including California, Illinois, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Texas, Virginia, Washington, and Washington, D.C.



## OUR STRENGTHS

### *Advanced and interconnected network infrastructure*

- We have made a significant commitment to develop and maintain a state-of-the-art network. Earlier this year, we invested over \$5MM in core network upgrades to ensure we maintain an industry leading network from a reliability, scalability and cost perspective. Our four markets in Seattle, Portland, Sacramento, and San Francisco are all interconnected through 10 and 100 Gbps networks of owned and leased fiber transport connections that allow us to transmit all HSD, video, voice and internal communications traffic between our systems.

## OUR STRATEGY

### *Provide our customers with a full suite of advanced connectivity solutions through a fully-upgraded network*

- We continually strive to provide customers with the industry's newest, high-quality advanced solutions and attractive discounted bundles that enhance customer retention. *We're local*
- Look around a bit and you're sure to see a Wave vehicle nearby. That's because our technicians and support staff live in your area. Our fiber splice teams are also local.

### *Provide superior customer service*

- Wave seeks to maximize customer satisfaction and retention by providing superior customer service through our in-house customer call center, excellent technical service assistance and network reliability. We operate a centralized customer call center at our Kirkland headquarters, which handles customer service and support for all of our products. We provide live 24/7/365 technical support for both residential and commercial customers. Our customer service operations utilize technologically advanced software and equipment that enhance interactions with our customers through more intelligent call routing, data management, forecasting and scheduling.
- Providing our customers with best-in-class support services will remain our priority going forward as we work hard to deliver the best products, a superior value, world-class customer service, and the most reliable network.
- By accomplishing this, Wave rises above the competition to become the number one choice for broadband products and services.



## **TIME-LINE and TECHNICAL NOTES**

As a potential vendor, if awarded the agreement, within 14 days (or as soon as a meeting can be agreed to), a member of the Wave Fiber Design and Construction team will meet with Library representatives to formulate a final time-line for the project. Wave's intent is to make any design changes to best suit the Library's needs. At this same time, a Business Implementation Manager will be assigned that will work directly with the Library to provide on-going updates, request information and provide answers to any School questions.

These upgraded circuits, in most cases, should be ready for use by 7/1/2020.

Service will be delivered via single-mode fiber to a NID installed at the demarcation point. Handoff will be Ethernet via single-mode fiber on an LC connected.

CPE will be deployed with dual power supplies to ensure fault tolerance. DC power supplies are available for units deployed in a DC-powered data centers.

## **SUPPORT**

Wave has a 24/7/365 NOC that is manned by Wave employees at its headquarters in Bothell, WA. A full escalation list with contacts, phone numbers and email addresses will be issued to the School at the kickoff meeting following award of contract. All issues flow through Wave's NOC. All tickets are started by a call or an email to [noc@wavebroadband.com](mailto:noc@wavebroadband.com)

Copies of Wave's High Availability SLA, Master Services Agreement and Service Order have been attached at the end of this proposal.

North Olympic Library System will be supported by Wave's regional office in Port Angeles, WA. Local technical and support personnel are based in the immediate area.

## **PRICING**

Wave has opted to propose a 3-year term with 2 optional 1-year extensions for a total of 5 years. Due to network constraints at Forks Library site, Wave has opted to put in temporary pricing for 50 Mbps and 100 Mbps for USAC funding purposes. Once bandwidth can be increased at that site – Wave will notify library and negotiate MRC and bandwidth.

## REFERENCES

- Edmonds School District (41-site dark fiber network) – Cynthia Nelson (Director of Technology) – 20420 68<sup>th</sup> Ave W, Lynnwood, WA 98036 - [NelsonC@edmonds.wednet.edu](mailto:NelsonC@edmonds.wednet.edu) - 425-431-7337
- Placer Union High School District: Mick Shatswell (Director of IT) – 1300 New Airport Road, Auburn, CA 95603 – [mshatswell@puhsd.k12.ca.us](mailto:mshatswell@puhsd.k12.ca.us)
- Western Placer Unified School District – Tsugu Furuyama (Director of Technology) – Lincoln, CA 95648 - [tfuruyama@wpusd.k12.ca.us](mailto:tfuruyama@wpusd.k12.ca.us)
- Placer County Office of Education (CA): James Anderberg (Executive Dir of Admin Services) – 360 Nevada Street, Auburn CA 95606 – 530-889-5904 – [janderberg@placercoe.k12.ca.us](mailto:janderberg@placercoe.k12.ca.us)
- K-20 Education Network (WA): Amanda Carroll – 410 11th Avenue SE, Suite 204, Olympia. WA 98501 - 360-292-4193 – [amandac@k20wa.org](mailto:amandac@k20wa.org)
- North Thurston Public Schools (WA - 20-site fiber WAN): Derek Stewart (Director of IT) – 6620 Carpenter Rd SE, Lacey, WA 98503 – 360-412-4503 – [dstewart@nthurston.k12.wa.us](mailto:dstewart@nthurston.k12.wa.us)
- Woodland Joint Unified School District (CA – 20 site fiber WAN): Tina Burkhart (Director of IT) – 435 Sixth Street, Woodland, CA 95695 – 530-406-3110 – [tina.burkhart@wjuds.org](mailto:tina.burkhart@wjuds.org)
- Modesto City School District (CA – 39 site Dark Fiber WAN): Cindy Minter (Director of IT) – 1017 Reno Avenue, Building A, Modesto, CA 95351 – 209-492-5000 – [minter.c@monet.k12.ca.us](mailto:minter.c@monet.k12.ca.us)
- Santa Maria-Bonita School District (CA – 10 Gbps DIA): Brian Rieke (Director of IT) – 708 S. Miller Street, Santa Maria, CA 93454 – 805-361-8155 – [brieke@smbds.net](mailto:brieke@smbds.net)
- Manteca Unified School District (CA – 4 Gbps DIA): Ungel Mamon (Network Supervisor) – 2271 W Louise Avenue, Manteca, CA 95337 – 209-858-0922 – [umamon@musd.net](mailto:umamon@musd.net)
- San Mateo Union High School District (CA – 5 Gbps DIA): Simon Bettis (Dir IT) - 650 N. Delaware Street, San Mateo, CA 94401 – 650-558-2489 – [sbettis@smuhsd.org](mailto:sbettis@smuhsd.org)



**470 PRICING - ELAN TRANSPORT CIRCUITS**

| FIBER ELAN - 36 Month Term |   |                                 |              |              |
|----------------------------|---|---------------------------------|--------------|--------------|
| Z LOC SITE                 | Z LOC ADDRESS                             | A LOC ADDRESS                   | 200 Mbps MRC | 200 Mbps NRC |
| Port Angeles Main Library  | 2210 S Peabody St, Port Angeles, WA 98362 | Nearest Wave Network Meet Point | \$700.00     | \$0.00       |
| <b>TOTALS:</b>             |   |                                 | \$700.00     |              |

| FIBER ELAN - 36 Month Term |   |                                 |            |            |
|----------------------------|---|---------------------------------|------------|------------|
| Z LOC SITE                 | Z LOC ADDRESS                             | A LOC ADDRESS                   | 1 Gbps MRC | 1 Gbps NRC |
| Port Angeles Main Library  | 2210 S Peabody St, Port Angeles, WA 98362 | Nearest Wave Network Meet Point | \$1,000.00 | \$0.00     |
| <b>TOTALS:</b>             |   |                                 | \$1,000.00 |            |

| FIBER ELAN - 36 Month Term |   |                                 |            |            |
|----------------------------|---|---------------------------------|------------|------------|
| Z LOC SITE                 | Z LOC ADDRESS                             | A LOC ADDRESS                   | 5 Gbps MRC | 5 Gbps NRC |
| Port Angeles Main Library  | 2210 S Peabody St, Port Angeles, WA 98362 | Nearest Wave Network Meet Point | \$1,750.00 | \$0.00     |
| <b>TOTALS:</b>             |   |                                 | \$1,750.00 |            |

| FIBER ELAN - 36 Month Term |                                     |   |              |              |
|----------------------------|-------------------------------------|---|--------------|--------------|
| Z LOC SITE                 | Z LOC ADDRESS                       | A LOC ADDRESS                             | 100 Mbps MRC | 100 Mbps NRC |
| Sequim Branch Library      | 630 N Sequim Ave., Sequim, WA 98382 | 2210 S Peabody St, Port Angeles, WA 98362 | \$700.00     | \$0.00       |
| <b>TOTALS:</b>             |                                     |   | \$700.00     |              |

| FIBER ELAN - 36 Month Term |                                     |   |              |              |
|----------------------------|-------------------------------------|---|--------------|--------------|
| Z LOC SITE                 | Z LOC ADDRESS                       | A LOC ADDRESS                             | 200 Mbps MRC | 200 Mbps NRC |
| Sequim Branch Library      | 630 N Sequim Ave., Sequim, WA 98382 | 2210 S Peabody St, Port Angeles, WA 98362 | \$800.00     | \$0.00       |
| <b>TOTALS:</b>             |                                     |   | \$800.00     |              |

| FIBER ELAN - 36 Month Term |  |   |            |            |
|----------------------------|--|---|------------|------------|
| Z LOC SITE                 | Z LOC ADDRESS                          | A LOC ADDRESS                                   | 1 Gbps MRC | 1 Gbps NRC |
| Sequim Branch Library      | 630 N Sequim Ave.,<br>Sequim, WA 98382 | 2210 S Peabody St,<br>Port Angeles, WA<br>98362 | \$1,000.00 | \$0.00     |
| <b>TOTALS:</b>             |  |   | \$1,000.00 |            |

| FIBER ELAN - 36 Month Term |  |   |            |            |
|----------------------------|--|---|------------|------------|
| Z LOC SITE                 | Z LOC ADDRESS                          | A LOC ADDRESS                                   | 5 Gbps MRC | 5 Gbps NRC |
| Sequim Branch Library      | 630 N Sequim Ave.,<br>Sequim, WA 98382 | 2210 S Peabody St,<br>Port Angeles, WA<br>98362 | \$1,750.00 | \$0.00     |
| <b>TOTALS:</b>             |  |   | \$1,750.00 |            |

| FIBER ELAN - 36 Month Term |                                      |   |             |             |
|----------------------------|--------------------------------------|---|-------------|-------------|
| Z LOC SITE                 | Z LOC ADDRESS                        | A LOC ADDRESS                                   | 30 Mbps MRC | 30 Mbps NRC |
| Forks Branch Library       | 171 Forks Ave. S.<br>Forks, WA 98331 | 2210 S Peabody St,<br>Port Angeles, WA<br>98362 | \$1,027.00  | \$0.00      |
| <b>TOTALS:</b>             |                                      |   | \$1,027.00  |             |

| FIBER ELAN - 36 Month Term |                                      |   |             |             |
|----------------------------|--------------------------------------|---|-------------|-------------|
| Z LOC SITE                 | Z LOC ADDRESS                        | A LOC ADDRESS                                   | 50 Mbps MRC | 30 Mbps NRC |
| Forks Branch Library       | 171 Forks Ave. S.<br>Forks, WA 98331 | 2210 S Peabody St,<br>Port Angeles, WA<br>98362 | \$1,700.00  | \$0.00      |
| <b>TOTALS:</b>             |                                      |   | \$1,700.00  |             |

| FIBER ELAN - 36 Month Term |                                      |   |              |              |
|----------------------------|--------------------------------------|---|--------------|--------------|
| Z LOC SITE                 | Z LOC ADDRESS                        | A LOC ADDRESS                                   | 100 Mbps MRC | 100 Mbps NRC |
| Forks Branch Library       | 171 Forks Ave. S.<br>Forks, WA 98331 | 2210 S Peabody St,<br>Port Angeles, WA<br>98362 | \$2,200.00   | \$0.00       |
| <b>TOTALS:</b>             |                                      |   | \$2,200.00   |              |



**PRICING NOTE ON FORKS LOCATION:**

As of this proposal, network is constrained to 30 Mbps going to Forks. Wave will notify Library when greater bandwidth is available and will negotiate MRC and bandwidth options. Wave has put in temporary pricing for those bandwidths for USAC funding purposes.





**MASTER SERVICES AGREEMENT FOR ENTERPRISE SERVICES  
Washington E-Rate Customer**

This Master Services Agreement for Enterprise Services: Washington E-Rate Customer (this “**MSA**”) is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the “**Effective Date**”), by and between WAVEDIVISION HOLDINGS, LLC, a Delaware limited liability company, on behalf of itself and its Affiliates (collectively, “**Provider**”), and \_\_\_\_\_, a \_\_\_\_\_ (“**Customer**”). For purposes of this MSA, the term “**Affiliate**” shall mean any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first person or any of its subsidiaries. Each of Provider and Customer may be referred to in this MSA as a “**Party**” and together as the “**Parties.**”

**ARTICLE 1 – STRUCTURE OF AGREEMENT**

1.1 Purpose of MSA. Provider and its Affiliates provide various facilities-based telecommunications services, including Ethernet transport, dedicated internet access, phone over fiber, dark fiber, and related services (as applicable, the “**Services**”). This MSA is neither an agreement to purchase nor a commitment to provide Services. The purpose of this MSA is to provide the general terms, conditions and framework within which Customer and its Affiliates may from time to time purchase Services from Provider and its Affiliates, pursuant to one or more “**Service Orders,**” as described in Section 1.2 below.

1.2 Service Orders. The purchase of Services shall be accomplished only through the negotiation and mutual execution and delivery of a Service Order memorializing the terms and conditions pursuant to which Provider shall provide the desired Services to Customer. Service Orders shall clearly specify the following: (i) the type of Service at issue (e.g., Internet access, data transport, VoIP, dark fiber, etc.); (ii) the location(s) at which the Service is to be provided (each, a “**Service Site**”); (iii) the initial term of the Service Order (the “**Initial Service Term**”); (iv) the pricing for the Service, including (a) the monthly recurring charges (“**MRC**”) for the Service, and (b) any non-recurring charges (“**NRC**”) associated with installation of the Service; and (v) any other terms or conditions specific to the particular Service Order. Each fully-executed Service Order shall be governed by and become part of this MSA, and this MSA together with all fully-executed Service Orders shall be collectively referred to as the “**Agreement.**”

1.3 Additional Documents Comprising Agreement; Order of Precedence. If one or more Service Level Agreements are attached to this MSA as Exhibits (the “**SLA**”), the SLA constitutes a part of this MSA. Customer’s use of any Services purchased pursuant to the Agreement will also be governed by Provider’s Acceptable Use Policy for Commercial Services (the “**AUP**”) which is posted on Provider’s website at <http://wavebusiness.com/commercial-AUP>. Additional provisions that are applicable only to specific types of Services are contained in Provider’s Service-Specific Terms and Conditions (the “**Service-Specific T&Cs**”) which is posted on Provider’s website at <http://wavebusiness.com/serviceterms>. In the event of a conflict between the provisions of any of the foregoing documents, the documents shall have the following order of precedence unless expressly stated otherwise in a particular Service Order: (i) this MSA (including the SLA); (ii) the applicable Service Order; (iii) the AUP; and (iv) the Service-Specific T&Cs.

**ARTICLE 2 – TERM AND RENEWAL**

2.1 Term of MSA. The term of this MSA (the “**MSA Term**”) shall be for five (5) years, commencing on the Effective Date and expiring on the date that is one day prior to the fifth (5<sup>th</sup>) anniversary of the Effective Date. Notwithstanding the foregoing, so long as any one or more Service Orders entered into pursuant to this MSA remain in effect, this MSA shall not terminate with respect to said Service Orders but shall continue to govern same until the expiration or termination of said Service Orders.

2.2 Term of Service Orders. The term of each Service Order shall be as specified in the Service Order.

**ARTICLE 3 – INSTALLATION, TESTING, ACCEPTANCE AND USE**

3.1 Service Site; Demarcation Points; Equipment. Unless a Service Site is within Provider’s control, Customer shall provide Provider with access to the Service Site as and to the extent reasonably necessary for Provider to install, test, inspect and maintain the Service(s) ordered during the Service Term. Unless otherwise stated in a Service Order: (i) Provider shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “**Provider Equipment**”) necessary to connect

Provider's network facilities to the Customer demarcation point(s) at the Service Site (the "**Demarcation Point(s)**"); and (ii) Customer shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the "**Customer Equipment**") from the Demarcation Point(s) to Customer's internal network. Unless a Service Site is within Provider's control, Customer shall be responsible for maintaining appropriate HVAC, electrical power, and security at the Service Site. Title to the Provider Equipment shall at all times remain vested in Provider. Customer shall not re-arrange, disconnect, tamper with, attempt to repair, or otherwise interfere with the Provider Equipment, nor shall Customer permit any third party to do so.

3.2 Testing, Acceptance and Service Commencement Date. Provider shall use commercially reasonable efforts to install the Services consistent with Provider's usual and customary installation timeline, and shall endeavor to keep Customer regularly informed regarding installation progress. Provider shall notify Customer when a Service has been installed and is ready for testing and use. Customer may, at Customer's option, participate in Provider's final testing of the Service. The Initial Service Term for the Service at issue shall commence on the date on which the Service has been installed, tested and is active and available for use by Customer (the "**Service Commencement Date**"). Customer shall have a period of five (5) business days after the Service Commencement Date in which Customer may notify Provider that the Service at issue is not functioning properly. If Customer notifies Provider of problems with a Service pursuant to this Section 3.2, Provider shall investigate and correct same and the Service Commencement Date shall be revised to be the first calendar day after the date on which Provider has corrected the problems. Unless Customer delivers notification of problems to Provider within the time period set forth above, Customer shall be deemed to have accepted the Service at issue and to have confirmed that the Service has been installed and is functioning properly as of the Service Commencement Date.

3.3 No Sub-Licensing; Non-Compete. Any Services provided to Customer pursuant to the Agreement are for the sole benefit of Customer. Customer shall not grant to any third party the right to use any of the Services, regardless of whether such grant were to take the form of a license, sublicense, lease, sublease, or any other form. Nor shall Customer use the Services for commercial purposes that are competitive with Provider's business (e.g., use the Services to sell Internet access services, point-to-point data transport services, VoIP services, etc., to third parties within Provider's service area).

#### ARTICLE 4 – PAYMENT AND BILLING

4.1 Invoicing. All amounts owed by Customer to Provider under the Agreement shall be collectively referred to as "**Fees.**" Provider shall begin billing Customer for the MRC applicable to a Service as of the Service Commencement Date. Invoices shall be delivered monthly, and shall be paid by Customer within thirty (30) days of receipt. Fixed Fees shall be billed in advance and usage-based Fees shall be billed in arrears. Fixed fees for any partial month shall be pro-rated. For Services having an NRC, unless otherwise stated in the Service Order, Provider shall invoice Customer for the NRC upon full-execution of the Service Order. Except for amounts disputed in good faith by Customer pursuant to Section 4.2 below, past due amounts shall bear interest in the amount of 1.5% per month, or the highest amount allowed by law, whichever is lower.

4.2 Disputed Invoices. If Customer in good faith disputes any portion of a Provider invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Provider regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a "**Fee Dispute Notice**"). A Fee Dispute Notice must be submitted to Provider within ninety (90) days from the date the invoice at issue is received by Customer. Customer waives the right to dispute any Fees not disputed within such ninety (90) day period. The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after Customer's delivery of the applicable Fee Dispute Notice. Fee disputes unresolved within that time period shall be resolved by the mediation and arbitration procedures set forth in Sections 11.2 and 11.3 below.

4.3 Applicable Taxes. All charges for Services set forth in Service Orders are exclusive of Applicable Taxes (as defined below). Except for taxes based on Provider's net income or taxes for which Customer possesses a valid exemption certificate, Customer shall be responsible for payment of all applicable taxes and regulatory fees, however designated, that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, fees, duties, charges or surcharges, that are imposed on, incident to, or based upon the provision, sale, or use of the Service(s) (collectively "**Applicable Taxes**"). The Applicable Taxes will be individually identified on invoices. If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Provider with a valid exemption certificate (in a form reasonably acceptable to Provider). Provider will give prospective effect to any valid exemption certificate provided in accordance with the preceding sentence.

## ARTICLE 5 – DEFAULT AND REMEDIES

5.1 Customer Default. Each of the following shall constitute a default by Customer under this Agreement (each a separate event of “**Default**”): (i) if Customer fails to pay any undisputed Fees when due, the failure of Customer to cure same within ten (10) days after receiving written notice from Provider regarding such failure to pay; (ii) if Customer fails to comply with any other material provision of this Agreement, the failure of Customer to cure same within thirty (30) days of receiving written notice from Provider regarding such non-compliance; or (iii) if Customer files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.2 Remedies for Customer Default. In the event of a Default by Customer under this Agreement, Provider may, at its option: (i) suspend any applicable Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer’s on-going obligation to pay Provider all Fees and other amounts due under the Agreement as if such suspension of Services had not taken place); (ii) terminate the applicable Service(s) and/or the applicable Service Order(s); (iii) after the occurrence of any two Customer Defaults in any twelve (12) month period, terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iv) pursue any other remedy available to Provider under this Agreement or applicable law. If Provider terminates one or more Service Orders due to Customer Default, Customer shall pay a “**Termination Charge**” to Provider equal to the sum of the following: (a) all unpaid amounts for Services actually provided prior to the termination date for the Service Order at issue; and (b) a percentage of all remaining MRCs Customer was to pay Provider for the remainder of the applicable Service Term (the “**Remaining Monthly Service Charges**”). If a Termination Charge is incurred during the first year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be one hundred percent (100%). If a Termination Charge is incurred during the second or third year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be seventy-five percent (75%). If a Termination Charge is incurred during or after the fourth year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be fifty percent (50%). If incurred, the Termination Charge will be due and payable within thirty (30) days after the termination date of the Service at issue. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider’s actual damages and is not a penalty.

5.3 Provider Default. Each of the following shall constitute a Default by Provider under this Agreement: (i) if Provider fails to comply with any material provision of this Agreement other than provisions of the SLA, the failure by Provider to cure same within thirty (30) days of receiving written notice from Customer regarding such non-compliance; or (ii) Provider files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.4 Remedies for Provider Default. In the event of a Default by Provider under this Agreement Customer may, at its option: (i) terminate the applicable Service(s) and/or the applicable Service Order(s); (ii) terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iii) pursue any other remedy available to Customer under this Agreement or applicable law. Early termination by customer shall be accomplished by providing termination notice to [disconnects@wavebroadband.com](mailto:disconnects@wavebroadband.com) and to the notice address specified in Article 13 below. In the event of early termination for Provider Default pursuant to this Section 5.4, Provider shall reimburse Customer for any pre-paid, unused monthly service Fees attributable to the terminated Service(s) and/or Service Order(s), and Customer shall have no further liability to Provider for the terminated Service(s) and/or Service Order(s). Early termination by Customer pursuant to this Section 5.4 shall not relieve Customer of its obligations to pay all Fees incurred prior to the early termination date.

## ARTICLE 6 – EARLY TERMINATION & PORTABILITY

6.1 Early Termination for Customer Convenience.

(a) E-Rate Funding Contingency. Customer is a participant in the Federal Universal Service Discount program for schools and libraries (“**E-Rate**”), offered by the Federal Communications Commission via the Schools and Libraries Division (the “**SLD**”). Customer may enter into one or more Service Orders with Provider to purchase Services through the E-Rate program. Should Customer enter into any Service Order with Provider for Services that Customer intends to fund, in whole or in part, through the E-Rate program, then Customer shall have the right to discontinue any one or more of such Services and/or terminate the corresponding Service Order(s) if Customer’s request for E-Rate funding is denied, cancelled or otherwise discontinued by SLD. In such event, Customer shall deliver no less than thirty (30) days’ advance written notice of termination to Provider specifying which Service or Services and/or which Service Order or Service Orders are being terminated and the date on which such early

termination shall occur. Customer shall remain obligated to pay for all Services delivered through the date of termination.

(b) Non-Appropriation Contingency. Customer is a public entity subject to legislative appropriation requirements. As a general matter, Customer cannot legally be obligated to make payments for Services that are provided after the end of the fiscal period in which Customer executes a particular Service Order. In the event that, for any future fiscal period, sufficient funds are not appropriated or allocated for payment of any one or more Service Orders, Customer may terminate the Service Order at issue as a matter of public convenience as provided herein. If and when Customer becomes aware that non-allocation of funds for the coming fiscal period appears likely, Customer shall use reasonable efforts to notify Provider of that possibility prior to the end of the then-current fiscal period. Once the non-appropriation decision has been made, Customer shall, as soon as reasonably practicable, deliver written notice of termination for non-appropriation to Provider specifying which Service or Services and/or which Service Order or Service Orders are being terminated for non-appropriation and the date on which such early termination shall occur. Customer shall remain obligated to pay for all Services delivered through the date of termination.

6.2 Early Termination for Default. As set forth in Article 5 above, either Party may elect to terminate this MSA and/or one or more Service Orders prior to the scheduled Expiration Date in the event of an uncured Default by the other Party.

6.3 Portability; Substitution of Services. At any time during the Service Term of a Service Order, Customer may elect to substitute new Services for then-existing Services. In such event, Provider will waive the Termination Charge associated with the termination of the then-existing Services as long as: (i) the Fees payable to Provider in connection with the substitute Services are equal to or greater than the Fees of the discontinued Services; (ii) Customer commits to retain the substitute Services for the remainder of the Service Term for the discontinued Services; and (iii) Customer pays all applicable installation and other NRCs, if any, for provision of the substitute Services.

#### ARTICLE 7 – CONFIDENTIAL INFORMATION

7.1 Definition of Confidential Information. “**Confidential Information**” shall mean all information, including the Agreement, regarding the telecommunications needs of Customer and the Services that Provider offers under the Agreement which is disclosed by one Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), to the extent that such information is marked or identified as confidential or proprietary or would be reasonably deemed confidential or proprietary given the circumstances surrounding its disclosure. All written or oral pricing and contract proposals exchanged between the Parties shall be deemed Confidential Information, whether or not so designated. The fact that Customer is a customer of Provider shall not be deemed Confidential Information and may be freely disclosed by either Party. Information shall not be deemed Confidential Information if (i) it is independently developed by or for the Receiving Party, (ii) it is lawfully received by the Receiving Party free of any obligation to keep it confidential, (iii) it becomes generally available to the public other than by breach of the Agreement, or (iv) it was known to the Receiving Party prior to the Disclosing Party’s disclosure of same.

7.2 Obligations Regarding Confidential Information. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. The Receiving Party shall hold all Confidential Information in confidence. The Receiving Party: (a) shall use such Confidential Information only for the purposes of performing its obligations and/or enforcing its rights under the Agreement; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees or contractors that have a need to know for such purposes (with disclosure to contractors being limited to contractors that have signed a non-disclosure agreement to protect the Confidential Information of third parties); (d) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in the Agreement or as required by law, by court order, by administrative order of an agency having jurisdiction, or in the enforcement of its rights under the Agreement; and (e) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information. In the event a Receiving Party is required to disclose Confidential Information of the Disclosing Party pursuant to law, court order or administrative order of an agency having jurisdiction, the Receiving Party will, if such notice is permitted by law, notify the Disclosing Party of the required disclosure with sufficient time for the Disclosing Party to seek judicial relief from the required disclosure, and reasonably cooperate with the Disclosing Party in any efforts the Disclosing Party may take to obtain protective measures in respect to the required disclosure. The Parties agree that breach of this Article 7 may cause irreparable injury for which monetary damages are not an adequate remedy; accordingly, each Party may seek injunctive relief and any other available equitable remedies to enforce the provisions of this Article 7.

7.3 Public Records Act. Notwithstanding anything to the contrary contained elsewhere in this Article 7, the Parties understand and acknowledge that Customer is a governmental entity, and that Washington law limits the ability of Customer to

shield from public disclosure any information given to Customer. Accordingly, the Parties agree to work together to avoid disclosures to Customer by Provider of confidential information which would result in economic loss or damage to Provider if such information were to be disclosed to third persons by Customer pursuant to a request submitted under the Public Records Act, chapter 42.56 RCW, or other similar public disclosure law. In the event that Customer receives a request pursuant to the Public Records Act (or other similar law) to disclose information identified by Provider in writing as confidential, Customer's sole obligations to Provider shall be: (i) to promptly notify Provider; and (ii) to refrain from disclosing such records for a period of up to ten (10) business days to allow Provider an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. Customer will not be required to withhold requested records beyond the ten (10) business days unless it may do so based on good faith reliance upon an exception to disclosure under the Public Records Act, or unless Customer is ordered to withhold disclosure by the order of a court having competent jurisdiction. Customer may, but shall not be required, to join in any legal proceedings relating to the requested disclosure unless required to do so by the court. In the event that Provider initiates legal proceedings, or Customer initiates legal proceedings or withholds requested records at Provider's request, Provider shall indemnify and hold Customer harmless from and against all costs, attorneys' fees, expenses, liabilities, damages or other liabilities Customer may incur due to the legal proceedings initiated at and/or Customer's withholding of records at Provider's request. Customer shall not be liable to Provider for any loss, cost or expense relating to the disclosure of requested records if Provider fails to obtain legal protection against disclosure and Customer releases the records in good faith.

#### ARTICLE 8 – LIMITATION OF LIABILITY

8.1 General Limitations. Provider shall not be liable for any loss or damage occasioned by a Force Majeure Event. Except as expressly provided to the contrary elsewhere in the Agreement, Provider's aggregate liability for any and all causes and claims arising under the Agreement, whether based in contract, tort, warranty or otherwise shall be limited to the lesser of: (i) the actual direct damages sustained by Customer; or (ii) an amount equivalent to the total MRC received by Provider from Customer for the Service(s) at issue during the preceding twelve (12) month period.

8.2 Service Level Agreement. Should Provider fail, on any one or more occasions, to deliver any one or more Services to Customer in accordance with all of the terms and conditions contained in the applicable SLA, Customer's sole and exclusive remedy for such failure shall be as set forth in the SLA. No such failure shall be considered a Default by Provider under the Agreement.

8.3 No Special Damages. EXCEPT FOR (i) EACH PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7 ABOVE, (ii) EACH PARTY'S THIRD-PARTY INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 9 BELOW, AND (iii) CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, ARISING OUT OF OR INCURRED IN CONNECTION WITH A PARTY'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, INCLUDING, BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF DATA OR COST OF PURCHASING REPLACEMENT SERVICES, EVEN IF THE OTHER PARTY HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH SPECIAL DAMAGES.

8.4 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, EITHER IN FACT OR BY OPERATION OF LAW, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY SERVICE PROVIDED PURSUANT TO THIS AGREEMENT.

8.5 Assumption of Risk. PROVIDER HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED BY CUSTOMER THROUGH THE SERVICES, SERVICE INTERRUPTIONS ATTRIBUTABLE TO CUSTOMER'S NETWORK, ANY CUSTOMER EQUIPMENT FAILURES, OR ANY OTHER SUCH CAUSES, AND CUSTOMER USES THE SERVICES AT CUSTOMER'S OWN RISK. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY. CONFIDENTIALITY AND INTEGRITY OF INFORMATION CUSTOMER TRANSMITS OR RECEIVES USING ANY SERVICES.

8.6 Disclaimer Regarding HIPAA Compliance. If and to the extent Customer is a covered entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and needs its business associates to comply with HIPAA, Provider hereby notifies Customer that Provider's operations are not compliant with HIPAA. Provider's operations are generally exempt from HIPAA pursuant to the conduit exception. However, if and to the extent the Services provided pursuant to any Service Order would not qualify for the conduit exception, Provider's operations with respect to the Services are not HIPAA compliant. Provider will not execute a business associate agreement under HIPAA.

## ARTICLE 9 – INDEMNIFICATION FOR THIRD PARTY CLAIMS

9.1 Indemnification by Customer. Customer shall indemnify, defend and hold Provider and its members, managers, officers, agents and employees (collectively, the “**Provider Indemnified Parties**”) harmless from and against any and all claims, lawsuits or damages asserted against the Provider Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Customer’s negligence or willful misconduct in exercising its rights or performing its obligations under the Agreement; (ii) Customer’s noncompliance with or Default under the Agreement; and/or (iii) Customer’s failure to comply with applicable law in connection with its performance under the Agreement.

9.2 Indemnification by Provider. Provider shall indemnify, defend and hold Customer and its members, managers, officers, agents and employees (collectively, the “**Customer Indemnified Parties**”) harmless from and against any and all claims, lawsuits or damages asserted against the Customer Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Provider’s negligence or willful misconduct in exercising its rights and performing its obligations under the Agreement; (ii) Provider’s noncompliance with or Default under the Agreement; and/or (iii) Provider’s failure to comply with applicable law in connection with its performance under the Agreement.

9.3 Indemnification Procedures for Third-Party Claims. Should any third-party claim arise under this Article 9, the indemnified party shall promptly notify the indemnifying party of same in writing, and shall take such action as may be necessary to avoid default or other adverse consequences in connection with such claim. The indemnifying party shall have the right to select counsel and to control the defense and settlement of such claim; provided, however, that the indemnified party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in handling the claim, and provided further, that the indemnifying party shall not take any action in defense or settlement of the claim that would negatively impact the indemnified party without the consent of the indemnified party. The indemnified party shall reasonably cooperate with the indemnifying party in the defense of the third-party claim, including making its files and personnel reasonably available to the indemnifying party, all at the cost and expense of the indemnifying party.

## ARTICLE 10 – FORCE MAJEURE EVENTS

Neither Party shall be liable for any delay in or failure of performance hereunder (other than Customer’s payment obligations under Article 4) due to causes beyond such Party’s reasonable control including, but not limited to, acts of God, fire, flood, earthquake, ice storms, wind storms, or other severe weather events, explosion, vandalism, cable cut, terrorist acts, insurrection, riots or other civil unrest, national or regional emergency, a governmental authority’s failure to timely act, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority (each, a “**Force Majeure Event**”). The Party claiming relief under this Article shall notify the other Party of the occurrence or existence of the Force Majeure Event and of the cessation of such event. If any Force Majeure Event causes an increase in the time required for performance of any of its duties or obligations, the affected Party shall be entitled to an equitable extension of time for completion. If the delay in performance caused by the Force Majeure Event exceeds thirty (30) days, either Party may terminate the Agreement or the applicable Service Order(s) immediately on written notice to the other Party, without incurring any liability in connection with such termination.

## ARTICLE 11 – DISPUTE RESOLUTION

11.1 Good Faith Negotiations. Except for actions seeking a temporary restraining order or injunction, in the event any controversy, disagreement or dispute (each, a “**Dispute**”) arises between the Parties in connection with this Agreement, the Parties shall use good faith efforts to resolve the Dispute through negotiation. In the event of a Dispute, either Party may give the other Party written notice of the Dispute (each, a “**Dispute Notice**”). The parties will meet and attempt to resolve the Dispute within sixty (60) days of the date on which the Dispute Notice is delivered. All discussions occurring and documents exchanged during negotiations under this Section are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation process. If the Parties do not resolve the Dispute within the sixty (60) day period, either of the Parties may pursue any remedy available to it under this Agreement, at law or in equity.

11.2 Governing Law. This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of Washington. Any judicial action arising in connection with this Agreement shall be in the Superior Court of the State of Washington in and for King County, or in the Federal District Court for the Western District of Washington, as applicable.

## ARTICLE 12 – ASSIGNMENT AND ASSUMPTION

Except as otherwise provided in this Article 12, neither Party shall assign, delegate or otherwise transfer the Agreement

or its obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the necessity of obtaining the other Party's consent, assign its interest in and to the Agreement to: (i) any entity acquiring such Party, whether by merger or through purchase of substantially all the assets of such Party; (ii) a lender as an asset securing indebtedness; or (iii) an Affiliate of such party; provided, that in the event of a transfer to an Affiliate, the transferring Party shall continue to remain liable for the obligations under the Agreement.

#### ARTICLE 13 – NOTICES

Unless otherwise provided elsewhere in the Agreement, any notice to be given to either Party under the Agreement will be in writing and directed to the addresses set forth below. Notices will be deemed received (i) the next business day, when sent by reliable, commercial overnight courier; (ii) three (3) business days after being sent by certified mail, postage prepaid and return receipt requested; (iii) when actually received, if sent by email during the business hours of 9:00 a.m. to 5:00 p.m. (recipient's time). Notices received after 5:00 p.m. (recipient's time) will be effective the next business day.

**If to Provider:**

WaveDivision Holdings, LLC  
401 Parkplace Center, Suite 500  
Kirkland, WA 98033  
ATTN: Paul Koss  
Email: pkoss@wavebroadband.com

**If to Customer:**

**With a Copy to:**

WaveDivision Holdings, LLC  
401 Parkplace Center, Suite 500  
Kirkland, WA 98033  
ATTN: Jim Penney  
Email: jpenney@wavebroadband.com

**With a Copy to:**

Either party may change its notice address by giving notice to the other party in accordance with this Article.

#### ARTICLE 14 – REPRESENTATIONS AND COVENANTS

Each Party represents and covenants to the other as follows: (i) the execution and delivery of the Agreement and the performance of its obligations hereunder have been duly authorized; (ii) the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms; (iii) to the best of its knowledge and belief, it is in material compliance with all laws, rules and regulations and court and governmental orders related to the operation of its business; and (iv) it shall comply with all applicable laws and regulations when exercising its rights and performing its obligations under the Agreement.

#### ARTICLE 15 – MISCELLANEOUS

15.1 Entire Agreement; Interpretation. The Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each Party. The Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of the Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties. If any provision of the Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of the Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect.

15.2 No Waiver. No failure by either Party to enforce any rights hereunder will constitute a waiver of such rights. Nor shall a waiver by either Party of any particular breach or default constitute a waiver of any other breach or default or any similar future breach or default. Provider's acceptance of any payment under the Agreement will not constitute an accord or any other form of acknowledgement or satisfaction that the amount paid is in fact the correct amount, and acceptance of a payment will not release any claim by Provider for additional amounts due from Customer.

15.3 Attorneys' Fees. If any proceeding is brought by a Party to enforce or interpret any term or provision of the Agreement, the substantially prevailing Party in such proceeding will be entitled to recover, in addition to all other relief as set forth in the Agreement, that Party's reasonable attorneys' and experts' fees and expenses.

15.4 Relationship; No Third Party Beneficiaries. The Agreement is a commercial contract between Provider and Customer and the relationship between the Parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal- agent, employer-employee or joint venture relationship between the Parties or any of their Affiliates, agents or employees for any purpose. The Agreement is for the sole benefit of Provider and Customer and is not intended to confer any rights on any other person; there are no third party beneficiaries of the Agreement.

15.5 Exhibits. The following Exhibits, which are attached to this MSA, are incorporated herein and by this reference made a part of this MSA:

- EXHIBIT A - Service Level Agreement for Lit Fiber Services
- EXHIBIT B - Service Level Agreement for Dark Fiber Services

15.6 Computation of Time. Except where expressly provided to the contrary, as used in the Agreement, the word "day" shall mean "calendar day," and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time periods specified in the Agreement. If the final date of any period of time set out in any provision of the Agreement falls upon a Saturday or a Sunday or a legal holiday, then in such event, the time of such period shall be extended to the next day that is not a Saturday, Sunday or legal holiday. As used in the Agreement, the term "business day" shall mean a day that is not a Saturday, Sunday or a legal holiday.

15.7 Counterparts. This MSA and any Service Order entered into by the Parties pursuant to this MSA may be executed in multiple counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document.

The Parties are signing this MSA as of the Effective Date set forth in the preamble above.

**CUSTOMER:**

**PROVIDER:**

WaveDivision Holdings, LLC, a Delaware limited liability company

By \_\_\_\_\_

By \_\_\_\_\_

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

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

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

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

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**EXHIBIT A**  
**Service Level Agreement**  
**for**  
**Ultra High Availability Enterprise Services**

This Service Level Agreement for Ultra High Availability Enterprise Services (this “SLA”) is a part of the Master Services Agreement (“MSA”) between Wave Business Solutions, LLC (“WAVE”) and Customer. This SLA applies to the following types of Enterprise Services offered by WAVE: (a) Ethernet Transport Services, (b) Dedicated Internet Access Services, and (c) Phone Solutions Over Fiber Services.

**1. AVAILABILITY SLA**

WAVE’s Network is designed to provide a target **Availability of at least 99.999%** per month. If the Availability target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

| Target Availability         | Duration of Service Outage | Customer Credit as % of MRC for the applicable Circuit*     |
|-----------------------------|----------------------------|---|
| <b>99.999% Availability</b> | Less than 26 seconds       | Target Met  |
|                             | > 26 seconds up to 1 hour  | 5%  |
|                             | > 1 hours up to 3 hours    | 10%   |
|                             | > 3 hours up to 5 hours    | 15%   |
|                             | > 5 hours                  | an additional 5% for each additional hour of Service Outage |

\*Customer credits for Unavailability are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

**2. MEAN TIME TO RESTORE (“MTTR”) SLA**

In the event of Outages in Services due to failure or malfunction of the WAVE Network or WAVE Equipment, WAVE’s NOC is designed to provide a **MTTR of 4 hours or less**. If the target MTTR is not met for a particular circuit in a given calendar month, and Customer receives a Service from WAVE on the circuit at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

| Target MTTR      | Actual MTTR        | Customer Credit as % of MRC for the applicable Circuit |
|------------------|--------------------|--|
| <b>4 hr MTTR</b> | ≤ 4 Hrs.           | Target Met   |
|                  | > 4 Hrs. to 6 Hrs. | 5%   |
|                  | > 6 Hrs. to 8 Hrs. | 10%  |
|                  | > 8 Hrs.           | 25%  |

**3. PACKET DELIVERY / PACKET LOSS SLA**

The WAVE Network is designed to provide **no greater than 0.05% Packet Loss**. If the Packet Loss target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA. Customer credits for average monthly Packet Loss are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

| Target Maximum Packet Loss | Actual Packet Loss (lower end – upper end) | Customer Credit as % of MRC for the applicable Circuit |
|----------------------------|--|--|
| <b>≤ 0.05% Packet Loss</b> | 0% - 0.05%                                 | Target Met   |
|                            | > 0.05% - 0.08%                            | 5%   |
|                            | > 0.08% - 0.1%                             | 10%  |
|                            | > 0.1% - 0.7%                              | 25%  |
|                            | > 0.7% - 1.0%                              | 50%  |
|                            | > 1.0%                                     | 100%   |

**4. LATENCY SLA**

The WAVE Network is designed to provide a monthly average round trip Latency not to exceed the following:

- **Round Trip Local Market Latency of 8 ms or less**
- **Round Trip Inter-Market Latency\* of 39 ms or less**

If WAVE determines the applicable Latency target was not met in a given month and also cannot remedy the problem within fifteen (15) calendar days from the date on which Customer opens a Trouble Ticket with the WAVE NOC regarding excessive Latency, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

| Target Local Market Latency Round Trip | Target Inter-Market Latency* Round Trip | Actual Latency Round Trip (lower end - upper end) | Customer Credit as % of MRC for the applicable Circuit |
|--|---|---|--|
| <b>8 ms or less</b>                    | <b>39 ms or less</b>                    | ≤ Target Latency                                  | Target Met   |
|  |   | > Target up to 5 ms over Target                   | 5%   |
|  |   | > 5 ms up to 10 ms over Target                    | 10%  |
|  |   | > 10 ms up to 15 ms over Target                   | 25%  |
|  |   | > 15 ms over Target                               | 50%  |

\* Inter-Market Latency means up to 800 network miles between locations

**5. NETWORK JITTER SLA**

The WAVE Backbone Network is designed to have a monthly average one-way Network Jitter **no greater than 1 ms**. If the Network Jitter target is exceeded in a given calendar month, Customer will be entitled to a credit of 1/30<sup>th</sup> of the MRC of the affected circuit for that month for each full 1ms of Network Jitter above the applicable Network Jitter target set forth above. Any such credit must be claimed as described in this SLA.

**6. CHRONIC OUTAGE**

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different circuit/path for the Service and circuit/path that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the circuit/path that experienced the Chronic Outage without incurring any Termination Charge.

**7. DEFINITIONS**

For purposes of this SLA the following terms shall have the meanings set forth below.

“Availability” means the ability of Customer to exchange Ethernet packets with the WAVE Network via Customer’s router port. Availability is measured in minutes of uptime over the calendar month during which the Services are Available:

$$\begin{aligned} \text{\% Availability} &= \frac{(\text{Total Minutes in Month} - \text{Total Minutes of Unavailability in Month})}{\text{Total Minutes in Month}} \\ \text{(per calendar month)} & \end{aligned}$$

For Ethernet Transport Services and Phone Over Fiber Services, Availability is calculated at the individual circuit level, between WAVE’s Backbone Network and the Customer’s router port. For Dedicated Internet Access Services, Availability is calculated from the Customer’s router port through the WAVE Network to the handoff point for the Internet. Dedicated Internet Access Service Availability does not include the availability of the Internet itself or any particular Internet resource. Periods of Excused Outage are not included in Availability metrics.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the same circuit during a given calendar month, each of which has an actual time to restore “TTR” in excess of WAVE’s targeted MTTR.

“Emergency Maintenance” means WAVE’s efforts to correct conditions on the WAVE Network that are likely to cause a material disruption to or outage in services provided by WAVE and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. WAVE may undertake Emergency Maintenance at any time WAVE deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond WAVE’s reasonable control, such as, by way of example only, Force Majeure, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by WAVE, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for WAVE’s delivery of the Services to Customer.

“Jitter” or “Network Jitter” refers to an undesirable variation in the interval at which packets are received, also described as the variability in Latency as measured in the variability over time of the packet Latency across a network. Jitter is calculated as aggregate average monthly metric measured by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Jitter metrics.

“Latency” means how much time it takes, measured in milliseconds, for a packet of data to get from one designated point on WAVE’s Network to another designated point on WAVE’s Network. Latency is calculated as aggregate average monthly metric measured by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Latency metrics.

“Mean Time to Restore” or “MTTR” means the average time required to restore the WAVE Network to a normally operating state in the event of an Outage. MTTR is calculated on a circuit basis, as a monthly average of the time it takes WAVE to repair all Service Outages on the specific circuit. MTTR is measured from the time an Outage related Trouble Ticket is generated by the WAVE NOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\begin{aligned} \text{MTTR in Hrs} &= \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}} \\ \text{(per calendar month)} & \end{aligned}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by WAVE. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Packet Loss” means the unintentional discarding of data packets in a network when a device (e.g., switch, router, etc.) is overloaded and cannot accept any incoming data. Packet Loss is calculated as aggregate average monthly metric measured

by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Packet Loss metrics.

“Scheduled Maintenance” means any maintenance of the portion of the WAVE Network to which Customer’s router is connected that is performed during a standard maintenance window (1:00AM – 5:00AM Pacific Time). Customer will be notified via email at least seven (7) days in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the WAVE NOC upon notification of a Service-related problem. Trouble Tickets may be generated by WAVE pursuant to its internal network monitoring process, or by Customer’s reporting of a problem to the WAVE NOC. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the WAVE NOC and open a Trouble Ticket regarding the problem; Trouble Tickets generated internally by WAVE will not provide a basis for Customer credits or Chronic Outage remedies.

“WAVE Network” means all equipment, facilities and infrastructure that WAVE uses to provide Services to Customer, and includes Customer’s access port. The “WAVE Network” does not include Customer owned or leased equipment (unless leased from WAVE), or any portion of Customer’s local area network after the demarcation point for the Services provided by WAVE.

“WAVE Backbone Network” means WAVE’s core fiber backbone that connects WAVE’s POPs and regional hubs.

“WAVE’s Network Operations Center” or “WAVE’s NOC” means WAVE’s network operations center which is staffed 24x7x365 and can be reached at: 888-317-0488.

## 8. CLAIMING CREDITS AND REMEDIES

**8.1 Requesting SLA Related Credits and Chronic Outage Remedies.** To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be in good standing with WAVE and current in its financial obligations to WAVE. Credits are exclusive of any applicable taxes charged to Customer or collected by WAVE.

- (i) To claim SLA-related Service credits, Customer must do the following:
  - (a) Open a Trouble Ticket with the WAVE NOC within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);
  - (b) Submit a written request for the credit(s) to WAVE’s customer service department within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and
  - (c) Provide the following documentation when requesting the credit(s):
    - Customer name and contact information;
    - Trouble Ticket number(s);
    - Date and beginning/end time of the claimed Outage or failed SLA metric;
    - Circuit IDs for each pertinent circuit/path; and
    - Brief description of the characteristics of the claimed Outage or failed SLA metric.
- (ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:
  - (a) Open a Trouble Ticket regarding the Chronic Outage with the WAVE NOC within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;
  - (b) Submit a written request for a remedy regarding the Chronic Outage to WAVE’s customer service department within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and
  - (c) Provide the following documentation when requesting the remedy:
    - Customer name and contact information;
    - Type of remedy requested (e.g., substitution or termination);
    - Trouble Ticket numbers for each individual Outage event;

- Date and beginning/end time of each of the claimed Outages;
- Trouble Ticket number for the Chronic Outage at issue;
- Circuit IDs for each pertinent circuit/path; and
- Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer's sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

**8.2 WAVE's Evaluation of Claims.** All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by WAVE. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, WAVE will evaluate the claim and respond to Customer within thirty (30) days. If WAVE requires additional information in order to evaluate Customer's claim, WAVE will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives WAVE's request for additional information in which to provide the requested information to WAVE. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. WAVE will promptly notify Customer of WAVE's resolution of each Customer claim. If Customer's claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer's claim for a credit is approved, WAVE will issue the credit to Customer's account, to appear on the next monthly invoice. If Customer's claim for a Chronic Outage remedy is approved, WAVE will notify Customer of the date on which the requested substitution or termination will occur. WAVE's determination regarding whether or not an SLA has been violated shall be final.

**8.3 Limitations and Exclusions.** Total credits for any given calendar month shall not exceed 100% of the MRC for the affected circuit and Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) The acts or omissions of Customer, its agents, employees, contractors, or Customer's end users, or other persons authorized by Customer to access, use or modify the Services or the equipment used to provide the Services, including Customer's use of the Service in an unauthorized or unlawful manner; (ii) The failure of or refusal by Customer to reasonably cooperate with WAVE in diagnosing and troubleshooting problems with the Services, including the unavailability of required Customer personnel due to Customer's failure to keep WAVE provided with current and accurate contact information for such personnel; (iii) Scheduled Service alteration, maintenance or implementation; (iv) The failure or malfunction of network equipment or facilities not owned or controlled by WAVE or WAVE's Affiliates; (v) Force majeure events; (vi) WAVE's inability (due to no fault of WAVE) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; (vii) Customer's failure to release the Service for testing or repair and continuing to use the Service on an impaired basis; (viii) WAVE's termination of the Service for cause, or as otherwise authorized by the MSA; (ix) Improper or inaccurate network specifications provided by Customer; (x) Interruptions resulting from incorrect, incomplete or inaccurate Service orders from Customer; (xi) Special configurations of the standard Service that have been mutually agreed to by Customer and WAVE, unless a separate Service Level Agreement for the special configuration has been established with the Service Order; or (xii) WAVE's inability to deliver Service by the Customer's desired due date.

**ORDER FOR DATA TRANSPORT SERVICES  
E-Rate Customer**

This Order for Data Transport Services: E-Rate Customer (this "Service Order") is entered into as of the date of last signature below (the "Effective Date"), by and between WAVEDIVISION HOLDINGS, LLC, a Delaware limited liability company ("Provider"), and \_\_\_\_\_, a \_\_\_\_\_ ("Customer"). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement between Provider and Customer dated \_\_\_\_\_ (the "MSA"). All capitalized terms used but not defined in this Service Order shall have the meanings given to them MSA.

**Section 1: Data Transport Services.** Provider shall provide to Customer the data transport services set forth in the following table (each, a "Service," and collectively, the "Services"). The Services shall connect the "A Location" and "Z Location" set forth below (each such location a "Service Site," and collectively, the "Service Sites"), at the bandwidths set forth below, in exchange for the one-time, non-recurring installation cost ("NRC") set forth below, and the monthly recurring charges ("MRC") set forth below:

| <b>Circuit Identifier</b> | <b>Bandwidth and Type of Connection</b> | <b>A Location Service Site</b>  | <b>Z Location Service Site</b>  | <b>NRC</b> | <b>MRC</b> |
|---------------------------|---|---|---|------------|------------|
| Circuit 1                 | [INSERT BANDWIDTH OF CONNECTION]        | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [INSERT]   | [INSERT]   |
| Circuit 2                 | [INSERT BANDWIDTH OF CONNECTION]        | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [INSERT]   | [INSERT]   |
| Circuit 3                 | [INSERT BANDWIDTH OF CONNECTION]        | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [ADDRESS LINE 1]<br>[ADDRESS LINE 2]<br>[ADDRESS LINE 3]<br>(aka NAME OF BUILDING)<br><br>Demarc: | [INSERT]   | [INSERT]   |
| <b>TOTAL COST:</b>        |   |   |   | [INSERT]   | [INSERT]   |

**Section 2: Service Term.** The Service Term for Circuit 1 is: \_\_\_\_\_. The Service Term for Circuit 2 is: \_\_\_\_\_. The Service Term for Circuit 3 is: \_\_\_\_\_.

**Section 3: Estimated Installation Date.** The estimated installation date for Circuit 1 is: \_\_\_\_\_. The estimated approximate installation date for Circuit 2 is: \_\_\_\_\_. The estimated approximate installation date for Circuit 3 is: \_\_\_\_\_.

**Section 4: Customer Information.**

Account Name:

Invoicing Address:

Account Executive to Customer:

E-Rate Billing Method:  SPI Method (FCC Form 474)

BEAR Method (FCC Form 472)

To facilitate communication the following information is provided as a convenience and may be updated at any time without affecting the enforceability of the terms and conditions herein:

Customer Site Contact:

[INSERT NAME]  
[INSERT EMAIL]  
[INSERT PHONE 1]  
[INSERT PHONE 2]

Customer Billing Contact:

[INSERT NAME]  
[INSERT EMAIL]  
[INSERT PHONE 1]  
[INSERT PHONE 2]

Other Customer Contact:

[INSERT NAME]  
[INSERT EMAIL]  
[INSERT PHONE 1]  
[INSERT PHONE 2]

**Section 5: Service Term.** Installation, testing and acceptance of the Services shall be in accordance with Article 3 of the MSA. The Service Term for each Service, set forth in Section 2 above, shall commence on the applicable Service Commencement Date.

**Section 6: Rates and Charges.** Customer is responsible for paying to Provider the NRC and MRC set forth in Section 1 above, all in accordance with Article 4 of the MSA.

**Section 7: Performance.** Provider shall use commercially reasonable efforts in keeping with normal industry standards to ensure that the Services are available to Customer 24 hours per day, seven days per week, consistent with the applicable SLA. It is possible, however, that there will be interruptions of Services. Customer understands and agrees that the Services may be unavailable from time to time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Provider's reasonable control. Temporary Service interruptions for such reasons, as well as all Service interruptions caused by Customer, or by Force Majeure Events, will not constitute failures by Provider to perform its obligations under this Service Order. Instead, Customer's sole remedies for any such interruptions in the Services are described in the SLA.

**Section 8: Customer Equipment and Software.** As between Provider and Customer, Customer is solely responsible for the installation, repair, maintenance and use of all Customer Equipment and all software supplied by Customer for use in connection with the Services, including all aspects of Customer's internal network. Provider does not manufacture Equipment or software and does not support Customer Equipment or software. Any questions concerning or requests for maintenance or repair of third-party hardware or software should be directed to the provider of that product. If Customer Equipment or software impairs the Services, Customer will remain liable for payment of the applicable Fees. If, at Customer's request, Provider should attempt to resolve difficulties caused by Customer Equipment or software, such efforts may be performed at Provider's discretion and Customer will be responsible for Provider's then-current commercial rates and terms for such consulting services.

**Section 9: Customer Security Measures.** Customer is responsible for all access to and use of the Services by means of Customer's Equipment and Customer's internal network, whether or not Customer has actual knowledge of or authorizes such access or use. Customer is responsible for the security of Customer's internal network, and shall implement commercially reasonable security measures to prevent unauthorized use of or access to the Services. In accordance with Section 6.3 of the MSA, the failure by Customer to implement commercially reasonable network security measures may result in immediate termination of the Services and this Service Order by Provider. Customer will be solely liable and responsible for all conduct occurring through either authorized or unauthorized use of the Services through Customer's network and/or Customer's Equipment, until Customer informs Provider of a security breach. Provider is not responsible and assumes no liability for losses, claims, damages, expenses, or costs resulting from persons accessing Customer's internal network and/or Provider's network through Customer's Equipment, and Customer shall hold Provider harmless from and indemnify Provider against any such claims, losses, or damages to the full extent arising from such access.

**Section 10: E-Rate Program.**

(a) Participation in E-Rate Program. With respect to this Service Order, Customer is participating in the Federal Universal Service Discount program for schools and libraries ("E-Rate"), offered by the Federal Communications Commission via the Schools and Libraries Division (the "SLD"), which is administered by the Universal Service Administrative Company ("USAC").

(b) Customer's Contingent Right to Cancel. As set forth in the MSA, this Service Order is conditional and subject to Customer receiving full E-Rate funding by the SLD. Notwithstanding anything to the contrary contained in this Service Order or in the MSA, Customer reserves the right to cancel or in any manner reduce the scope of this Service Order in the event SLD does not completely fund the request for funding submitted by Customer with respect to the Services described in this Service Order.

(c) E-Rate Billing. Under the E-Rate program, Customer must elect one of the following methods of invoicing, both of which require the cooperation of Provider:

- (i) SPI Method: Under the Service Provider Invoice method (the “SPI” method) of billing, Customer receives a discount on the invoices Customer receives from Provider. Customer pays in full the invoices it receives from Provider. Provider then submits FCC form 474, the Service Provider Invoice Form, to USAC in order to receive payment from USAC for the discounts Provider provided to Customer.
- (ii) BEAR Method: Under the Billed Entity Applicant Reimbursement Method (the “BEAR” method) of billing, the invoices Customer receives from Provider contain the full amount of the non-discounted rates set forth in Section 1 above. Customer pays in full the invoices it receives

from Provider. Customer then submits FCC Form 472, the Billed Entity Applicant Reimbursement Form, to USAC in order to receive reimbursement from USAC for a portion of the amounts paid to Provider.

Customer has specified in Section 4 above which of the two methods of E-Rate billing Customer desires to use with respect to this Service Order. Regardless of which E-Rate billing method Customer has elected, the Parties agree to cooperate with one another as reasonably necessary to complete and process such paperwork as may be necessary for Customer to take advantage of the E-Rate funding available for the Services.

*[The remainder of this page is intentionally left blank.]*



The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

**CUSTOMER:**

\_\_\_\_\_

By \_\_\_\_\_

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

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

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

**PROVIDER:**

WAVEDIVISION HOLDINGS, LLC

By \_\_\_\_\_

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

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

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

*[The remainder of this page is intentionally left blank.]*