

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Philip Morley, County Administrator

FROM: Kate Driehaus, WSU Jefferson County Extension

DATE: 12/9/13

RE: Contract with Jamestown Networks

STATEMENT OF ISSUE:

This contract is for phone and internet services to be provided to Jefferson County Extension by Jamestown Networks.

ANALYSIS:

By switching to Jamestown Networks from the current CenturyLink service, Extension will have faster, more reliable internet speed improving office capabilities and efficiency, and a much needed phone upgrade to a more streamlined and user-friendly interface.

FISCAL IMPACT:

Contract is for 5 years @ \$790/month. There is a \$240 non-recurring charge at set-up. As a comparison, current internet/phone bill with CenturyLink is approximately \$1100/month.

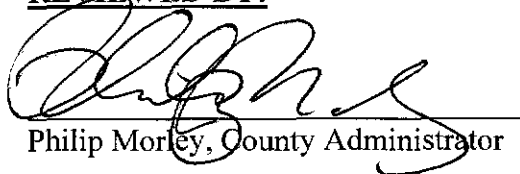
RECOMMENDATION:

We recommend that the Commissioners approve this agreement

DEPARTMENT CONTACT:

Kate Driehaus 379-5610 Ext. 206

REVIEWED BY:


Philip Morley, County Administrator

12/4/13
Date

INTER-LOCAL AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT (the "Agreement") is made and entered into effective the 5th day of November, 2013, between **Jefferson County**, a County organized in Washington State, ("COUNTY"), on behalf of Jefferson County Extension, and the Jamestown S'Klallam Tribe Economic Development Authority, a political subdivision of a Federally recognized Indian Tribe, dba **Jamestown Networks** ("JNET"). COUNTY and JNET are sometimes referred to in this Agreement as the "Parties."

RECITALS

- A. COUNTY wishes to obtain services ("Services") from JNET, as follows:
1. Ethernet connectivity between its specific buildings within Jefferson County, WA via a service referred to in this Agreement as "Ethernet Service" or "Ethernet" (see Exhibit A – Services Statement of Work").
 2. A dedicated Internet feed which may be referred to in this Agreement as "Internet Service" or "Internet" (See Exhibit A – Services Statement of Work").
- B. JNET uses the network infrastructure and personnel resources of Northwest Open Access Network ("NoaNet"), a Washington nonprofit mutual corporation, which operates a statewide fiber optic network. JNET has, by separate agreement, secured the services and personnel of NoaNet to provision and maintain the services provided to COUNTY as set forth in this Agreement.
- C. JNET is willing to provide the two types of services COUNTY requires, referenced in A., above, for the consideration as set forth in Exhibit A.

AGREEMENT

Now, therefore, COUNTY and JNET, in consideration of the mutual benefits hereunder, agree as follows:

1. PURPOSE AND SCOPE

The purpose and scope of this Agreement is to specify the terms and conditions under which COUNTY and JNET will undertake the Ethernet and Internet Services. The details are described in Exhibit A to this Agreement.

1.1 COUNTY's Obligations:

- a. COUNTY hereby agrees to provide JNET, and its vendor NoaNet, access to COUNTY's personnel and facilities to complete the setup of Ethernet and Internet Services specified in the Exhibit A, which services may only be used for lawful purposes, for the compensation set forth in that exhibit.
- b. The COUNTY agrees to pay JNET for the Services, as stipulated in Exhibit A to this Agreement, in a timely manner.

1.2 JNET's Obligations:

- a. JNET, through its agreement with its vendor NoaNet, agrees to operate and maintain the facilities ("Facilities") and Services as set forth in the Exhibit A for the compensation set forth in that exhibit.

- b. JNET agrees to provide the Services in a responsible and business-like manner, in exchange for the compensation stated in Exhibit A to this Agreement.

- 1.3 Property Ownership and Disposition. The Parties shall retain their respective ownership of all of their properties. This Agreement does not contemplate joint ownership of property and, therefore, does not contain provisions regarding disposition of property owned by either Party.

2. TERM; TERMINATION

The initial term ("Initial Term") of the Agreement shall be for a period of five (5) years from and after the Effective Date. The Effective Date shall be the date on which the Services first become available for use by COUNTY.

Either Party may terminate this Agreement at the end of the Initial Term upon written notification to the other Party of their intent to do so at least sixty (60) days prior to the expiration of the Initial Term. Should a terminating Party not notify the other Party of their intent to terminate the Services at least sixty (60) days prior to the expiration of the Current Term, the Services and Agreement will continue in effect for an additional one (1) year term ("Default Extended Term").

Upon termination of this Agreement, all JNET involvement in the provision of the Services will terminate.

3. COMPLIANCE WITH LAWS

Each Party shall comply with all applicable laws and regulations in the exercise and performance of its rights and obligations under this Agreement.

4. FIBER OPTIC EQUIPMENT AND FACILITIES

- 4.1 No Representations or Warranties. EACH PARTY MAKES NO REPRESENTATIONS, WARRANTIES, COVENANTS OR ASSURANCES: (1) WITH RESPECT TO THE DESIGN, CONSTRUCTION, DURABILITY, SUITABILITY OR RELIABILITY OF THE EQUIPMENT OR FACILITIES, OR ANY PART THEREOF, WHETHER EXPRESS OR IMPLIED, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (2) WITH RESPECT TO THE NATURE OR ACCURACY OF THE DESCRIPTION, LOCATION OR MEASUREMENT OF THE EQUIPMENT OR FACILITIES, OR ANY PART THEREOF; AND (4) WITH RESPECT TO INTERRUPTION OR CONTINUATION OF THE FACILITIES AND/OR SERVICES.
- 4.2 Unauthorized Access/Breach. Except as provided in this Agreement, each Party is prohibited from accessing, directly or indirectly, the other Party's equipment or facilities, or any part thereof. Any unauthorized access by either Party of the other Party's equipment or facilities, or any part thereof, shall constitute a material breach of this Agreement and a default by the unauthorized Party under this Agreement.
- 4.3 Approval of Design and Interconnection Specifications. Each Party shall provide, as reasonably requested from the other Party, information relating to the proposed design and/or installation specifications prior to modifying or making any connection to the COUNTY facilities or associated equipment or facilities.
- 4.4 Installation. Both Parties shall mutually agree to a work schedule during which the interconnections for the fiber optic equipment or facilities can be made. Each Party shall timely complete all such work within the agreed upon schedule.
- 4.5 Cooperation and Coordination. Each Party shall cooperate with the other concerning the timing, method or placement of its construction, installation and testing activities.

5. ALTERATIONS, MAINTENANCE AND REPAIRS

5.1 Scheduling/Notice. Except as set forth in Section 6.2, each Party, at its sole cost and expense, may schedule and perform or cause to be performed scheduled alterations, maintenance and repairs on its own fiber optic equipment or facilities, or any part thereof, at the times and in the manner as may be established by the owner thereof. Subject to the provisions of Section 12, the Party scheduling work shall provide two (2) weeks prior written notice to other Party identifying the time, location, and nature of each scheduled alteration or maintenance and repair job for performance thereof which reasonably presents a substantial risk of damage to the other Party's property or creates a substantial likelihood of an interruption of fiber optic equipment or facilities. If fiber optic equipment or facilities include redundant fiber pathways, work will be scheduled to include no more than one pathway at any given time.

Each Party shall furnish on a continuing basis the current name, title, telephone number, and personal communications device number (including facsimile transmission number, cellular telephone number and paging device number), if any, of any representative who shall be kept informed of maintenance schedules. The initial contacts are as follows:

Party: JNET
Address: 1033 Old Blyn Hwy, Sequim, WA 98382
Name: Ben Neff
Title: Operations Manager
Telephone Number: 360.683.2025
Facsimile Number: 360.683.9583
Email address: bneff@jamestowntribe.org

Party: Jefferson County Extension
Address: 380 Jefferson St., Port Townsend, WA 98368
Name: Laura Lewis
Title: Extension Director
Telephone Number: 360.379.5610
Facsimile Number:
Email address: laura.lewis@wsu.edu

NoaNet (JNET Vendor): NoaNet's contact regarding maintenance and repairs of the fiber optic equipment or facilities is NoaNet's Network Operations Center (NOC)
Phone: 509-456-3611
800 Phone: 866-662-6380
Address: 422 W. Riverside, Suite 400, Spokane, WA 99201

5.2 Maintenance, Repair, and Restoration of the Cable.

5.2.1 Maintenance of Fiber Optic Equipment or Facilities.
Per terms outlined in attached Exhibit B "Service Level Agreement for Ethernet Transport" and Exhibit C "Service Level Agreement for IP Services".

5.2.2 Restoration Priorities and General Requirements.

- a. Each Party's obligation to maintain and repair its own fiber optic cable and equipment, and any activity incidental thereto, shall not unreasonably conflict with the other Party's rightful use and operation of its facilities and equipment.
- b. Timely restoration is dependent upon the timely coordination and cooperation between both Parties. Each Party will provide the other, in writing, with its

emergency contact/call-out list as soon as practicable following the effective date of this Agreement.

5.2.3 Restoration/Repairs of the Cable.

Per terms outlined in attached Exhibit B "Service Level Agreement for Ethernet Transport" and Exhibit C "Service Level Agreement for IP Services".

6. FORCE MAJEURE

- 6.1 As used in this Agreement, the term "Force Majeure" means acts of nature (including but not limited to, earthquakes, fires, floods, windstorms, landslides, and ice storms), strikes, lockouts, or other labor disputes; acts of public enemy; acts of vandalism, wars, riots, and insurrection; epidemics; civil disturbances; explosions; train derailments; breakdown or failure of machinery or facilities (excluding the cable and cable accessories); accidents to machinery or equipment (excluding the cable and cable accessories), and delay in delivery of equipment, to the extent such occurrences are beyond the reasonable control of the Parties and any other event, cause, or condition beyond a Party's reasonable control, which, by the exercise of reasonable diligence, prevents the Party claiming Force Majeure from performing its obligations under this Agreement.
- 6.2 If either Party is unable to carry out its obligations under this Agreement as a result of an event, cause, or condition of Force Majeure, the Party claiming Force Majeure shall give notice and full particulars of such Force Majeure in writing to the other Party within five (5) calendar days of the beginning of the occurrence of the Force Majeure event, cause, or condition. Any obligations that such Party is unable to perform due to an event, cause, or condition of Force Majeure shall be suspended during the continuance of such event of Force Majeure. The Party claiming Force Majeure shall use reasonable efforts to remedy and minimize the effects of such event of Force Majeure with all reasonable dispatch.
- 6.3 Neither Party shall be liable, or be considered to be in material breach or default under this Agreement, on account of any delay in or failure of performance due to Force Majeure unless specifically stated in this Agreement.
- 6.4 If Force Majeure prevents restoration within three (3) months from the event of such Force Majeure, then either Party shall have the option to terminate this Agreement.
- 6.5 The obligations set forth in this section are expressly subject to the limitation of liability provisions contained in Section 12.

7. INSURANCE

- 7.1 Liability Insurance. Each Party shall, at its own expense, carry and maintain the following liability insurance coverage throughout the term of the Agreement:
- 7.1.1 General Liability Insurance: In the amounts of at least \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- 7.1.2 It is the sole responsibility of each Party to provide updated insurance information, in a timely manner, including any notices of cancellation or reduction in limits of insurance. Each Party will require that its insurer provide at least thirty (30) days notice to the other Party regarding any changes in insurance coverage required by this Agreement.

- 7.2 Property Insurance. Each Party shall carry and maintain property insurance in a form that will provide all risk coverage for the fiber optic equipment or facilities upon or within the other Party's property.
- 7.3 Insurance Shall Not Limit Liability. Subject to the limitation of liability provisions set forth in Section 12, the insurance coverage and benefits required herein shall not be deemed to limit liability to either Party or any third party.

8. INDEMNITY, HOLD HARMLESS AND DUTY TO DEFEND

Subject to the limitation of liability provisions set forth in Section 12, each Party shall, at its sole expense, indemnify, defend, save, and hold harmless the other Party, its officers, directors, agents, members, and employees from all actual or potential claims or losses, including costs and attorneys' fees at trial and on appeal, and damages or claims for damages to property or persons, suffered by anyone whomsoever to the extent caused by any negligent or willful act of or omission of the indemnifying Party or its subcontractors, excluding damages caused by the negligence of the indemnified Party, its officers, directors, agents, or employees.

This indemnification includes, without limitation, any liability for injury to the person or property of either Party, its agents, officers, employees or invitees. Both Parties specifically waive any immunity provided by Title 51 RCW, Washington's Industrial Insurance Act. The provisions of this section shall survive the expiration or termination of this Agreement.

9. ASSIGNMENT

This Agreement cannot be assigned, transferred or any portion subcontracted by either Party hereto without the prior written consent of the other Party, which shall not unreasonably be withheld.

10. WAIVER

The consent by COUNTY or JNET to any act by the other shall not be deemed to imply consent or to constitute the waiver of a breach of any provision hereof or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the Parties in the administration of any part of the provisions hereof be construed to waive or lessen the right of a Party to insist upon the performance by the other Party in strict accordance with the provisions hereof.

11. DEFAULT AND REMEDIES FOR DEFAULT

- 11.1 Breach. This Agreement may be terminated upon the occurrence of a material breach and default under this Agreement. If the Party in breach fails to cure the breach within thirty (30) days or such longer period of time as is provided below, after receipt of notice thereof from the non-breaching Party, or, when the cure reasonably requires more than thirty (30) days, the breaching Party fails to commence the cure within such thirty (30) days and thereafter diligently and continuously prosecutes such cure to completion, such action or inaction shall constitute a material breach and default under this Agreement.
- 11.2 Remedies Not Exclusive. In the event of a material breach and default under this Agreement, termination is not the exclusive remedy. Any and all other remedies available of law or equity are expressly preserved.

12. LIMITATION OF LIABILITY

- 12.1 THE PARTIES SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, LIQUIDATED, OR SPECIAL DAMAGES OR LOST REVENUE OR LOST PROFITS ARISING OUT OF THIS AGREEMENT OR THE PERFORMANCE OR NONPERFORMANCE OF ANY PROVISION OF THIS AGREEMENT.

12.2 SUBJECT TO SECTION 12.1, EACH PARTY'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS OR DEMANDS ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY THE OTHER PARTY PURSUANT TO THIS AGREEMENT.

13. NOTICE

Except as may otherwise be provided herein, any notices, except service of process and notice of emergency which may be given personally, telephonically, by e-mail or facsimile, shall be effective if personally served upon the other Party or if mailed by registered or certified mail, return receipt requested, to the following addresses:

For COUNTY, c/o Laura Lewis, Jefferson County Extension, 380 Jefferson St., Port Townsend, WA 98368;

For JNET, c/o Douglas Sellon, Executive Director, 1033 Old Blyn Hwy, Sequim, WA 98382.

Notices mailed shall be deemed given on the date of mailing. The Parties shall notify each other in writing of any change of address.

14. BREACH OF AGREEMENT; REMEDIES; DISPUTE RESOLUTION

If either Party fails to comply with the terms and conditions of this Agreement, the other Party may pursue such remedies as are legally available, including, but not limited to, the immediate termination of this Agreement. In the event that a non-material breach or dispute arises under this Agreement, it shall be resolved as follows: Each Party shall appoint a member to a disputes board and be responsible for the costs of that appointee. These two members shall then select a third member not affiliated with COUNTY or JNET. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with the aforesaid process is a prerequisite to filing of any litigation concerning the dispute. The Parties shall share equally in the cost of the third member of the disputes board.

15. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Washington.

16. ATTORNEYS' FEES AND COSTS

In the event of litigation regarding any of the terms of this Agreement, each party will be solely responsible for the fees and costs it incurs..

17. MUTUAL NEGOTIATION AND CONSTRUCTION

17.1 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

17.2 Headings. The captions and section headings hereof are inserted for convenience purposes only and shall not be deemed to limit or expand the meaning of any section.

18. ENTIRE AGREEMENT; AMENDMENTS

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

19. SEVERABILITY

Should any part, term or provision of this Agreement be determined to be invalid, the remainder of this Agreement shall not be affected, and the same shall continue in full force and effect.

20. NO THIRD PARTY RIGHTS

This Agreement shall not be construed to create rights in or grant remedies to any third Party as a beneficiary of this Agreement.

21. TAXES

Each Party shall be responsible for its own federal, state and local taxes, assessments, fees, surcharges and other financial impositions.

22. COMPLIANCE WITH LAWS

Each Party hereto, in its performance of this Agreement, agrees to comply with all applicable local, State, and Federal laws and regulations that apply to it.

23. RELATIONSHIP OF THE PARTIES

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligations or liability upon either Party. No agent, employee or representative of COUNTY shall be deemed to be an agent, employee, or representative of JNET for any purpose. No agent, employee or representative for JNET shall be deemed to be an agent, employee or representative of COUNTY for any purpose.

24. CONFIDENTIALITY

Each Party may deem information or records made available or disclosed to, or developed or obtained by, it as the result of or related to this Agreement to be ("Confidential Information"). Such Confidential Information shall not be disclosed or used for the benefit of any person other than the disclosing Party. However, the Party receiving the Confidential Information which is disclosed shall have no obligation with respect to that portion of Confidential Information which is disclosed by the disclosing Party to others without any restriction on use or disclosure, or which must be disclosed to others under law. If the receiving Party receives a request for Confidential Information from a third party, the receiving Party shall promptly notify the disclosing Party in writing of such request, and if the receiving Party in good faith believes it is obligated to disclose the requested Confidential Information, the disclosing Party shall be given the opportunity to seek judicial or other protection of such Confidential Information, at its own expense, with the cooperation of the receiving Party.

25. SURVIVABILITY

All provisions of this Agreement regarding indemnification, representations, warranties, confidentiality, and any other provisions that by their nature are intended to survive termination of this Agreement shall survive after its termination or expiration, including exhibits.

26. CONTRACT ADMINISTRATORS FOR RESPECTIVE PARTIES

The initial contract administrators of the respective Parties to this Agreement shall be as follows:

For JNET, its Executive Director, or their designated representative; and

For COUNTY, its Jefferson County Extension Director, or their designated representative.

27. AUTHORIZATION

Each Party hereby represents and warrants to the other that it is duly authorized to enter into and carry out the terms of this Agreement.

28. COUNTERPARTS

This Agreement may be executed in counterparts, which together shall constitute a single agreement.

29. LIMITED WAIVER OF SOVEREIGN IMMUNITY

The parties respectively waive, relative to the enforcement of this Agreement only, by them against each other, any claims they may have to sovereign immunity.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

For: Jamestown Networks

By: *Douglas Seffon*
Douglas Seffon
Jamestown S'Klallam Tribe
Economic Development Authority

For: Jefferson County

COUNTY OF JEFFERSON BOARD OF
COMMISSIONERS

John Austin, Chair

Phil Johnson, Member

David W. Sullivan, Member

SEAL

ATTEST

Carolyn Avery
Deputy Clerk of the Board

Approved as to form only: *11/25/13*
David Alvarez *Date*
David Alvarez
Deputy Prosecuting Attorney

List of Exhibits Attached:

- Exhibit A - Services Statement of Work
- Exhibit B - "Service Level Agreement for Ethernet Transport"
- Exhibit C - "Service Level Agreement for IP Services".

Exhibit A

Service Order Summary

1. Internet 20 Mbs, 380 Jefferson St. Port Townsend, WA
Price: \$150.00 monthly on 60 month term

2. VoIP, 380 Jefferson St. Port Townsend, WA
Price: \$640.00 monthly on 60 month term

3. 12 Handsets, 12 Installations
Price: \$3348.00 non-recurring charge

4. Number Portability: 12
Price: \$240.00 non-recurring charge

5. Long term discount
Price: (\$3348.00) non-recurring discount

Total Price: \$790.00 monthly on a 60 month term
\$240.00 non-recurring charge

EXHIBIT B

Service Level Agreement for

Ethernet Transport

I. Overview

This Service Level Agreement (SLA) applies to Service Orders for Customers that use the Ethernet Network provided by Jamestown Networks ("JNET") via the Northwest Open Access Network (NoaNet) fiber infrastructure. This SLA describes the standards, rights and remedies regarding the performance of the Ethernet Network in the provision of service to Customer as defined in the Service Order. This SLA only applies to customers who have a term of contract of no less than one (1) year and the entire circuit is delivered via fiber.

Network Scope

II. The scope of NoaNet's Network includes any and all NoaNet controlled equipment between and inclusive of those NoaNet devices closest to the Customer Provided Equipment (CPE) that provide a Demarcation Point between the Customer Network and NoaNet Network. A Demarcation Point is defined as the Ethernet Switched infrastructure and/or Optical infrastructure residing in a NoaNet Point of Presence (POP) on the NoaNet network and under the direct control of NoaNet. The Network as it applies to this document and all rights and remedies herein does not include any CPE, any third party equipment other than equipment furnished by NoaNet, any physical cross connections between Customer and NoaNet or any Customer application riding on the NoaNet network unless specifically noted within the contract for services entered into between Customer and NoaNet.

Network Service Standards and Performance

Network Availability: NoaNet guarantees within the rights and limits of this Service Level Agreement that the Network will be available to the Customer 99.9 percent of the time as measured on a monthly basis. 99.9 percent uptime is defined as a period or periods of network outage. A Network Outage is calculated from the time service becomes unavailable to the time service is restored as verified by NoaNet's monitoring systems and based on the availability of service during the service monthly billing period in which the Customer opens a Trouble Ticket with the Network Operations Center regarding the Network Outage.

III.

Latency: NoaNet's guarantees within the rights and limits of this Service Level Agreement

that the Average Round-Trip Latency on the NoaNet Network will not exceed 50 milliseconds for a period of three (3) samples by NoaNet's network monitoring facilities, or for a continuous twenty (20) minute period, whichever is less. Average Round-Trip Latency, with respect to a given month, is defined as the average time required for a round-trip frame transfer between POP's on the NoaNet Network during that month as measured by NoaNet. Average Round-Trip Latency does not extend past the demarcation between the CPE and the NoaNet Demarcation Point.

Mean Time to Repair: NoaNet's Mean Time to Repair (MTTR) goal for any Service is two (2) hours. MTTR commences after the Customer opens a Trouble Ticket with NoaNet's NOC. MTTR is defined as the time required to restore the NoaNet Network to a normally operating state. MTTR is calculated on a monthly average of the time taken to repair all Trouble Tickets on a specific circuit with the same severity level during a Network Outage. The cumulative length of network outages per circuit is divided by the number of Trouble

Tickets in the billing month to gather the monthly MTTR per circuit.

IV. Credits

All customer credits are based on a monthly billing cycle. Credits for network non-compliance will be credited to the Customer's account within two (2) billing cycles. No credit will exceed the monthly value for the billing month of the affected circuit. Credits are exclusive of any applicable taxes charged to Customer or collected by JNet.

In the event that NoaNet is unable to satisfy the Network Service Standards and Performance Guarantees as defined in the SLA, the following credits apply:

Network Standard	Measurement	Credit Structure
Network Availability	Per incident	20% of MRC
Latency	50 milliseconds, per incident	10% of MRC
Mean Time To Repair	2 hours per month	25% of MRC

As measurements of MTTR and Network Availability are two different ways of measuring the same non-compliance, JNet will issue credit for whichever method results in the greater credit to the customer on this specific circuit.

Credit Request

V. Trouble Tickets are the only authorized medium to report perceived SLA noncompliance events and must be opened with the NoaNet Network Operations Center (NOC). In order to receive credits, Customer must open a Trouble Ticket with the NOC within the time limits as listed in this Section of this SLA. If the Customer does not open a Trouble Ticket or

does not open a Trouble Ticket within proscribed time Customer will not be able to receive a credit. A list of proscribed times according to the Network Standards in Section III of this

Document are below:

Network Standard	Measurement
Network Availability	Trouble Ticket must be opened within (2) two hours of the occurrence in order to request credits or other remedies as they relate to this Document.
Latency	Trouble Ticket must be opened within (2) two hours of the occurrence in order to request credits or other remedies as they relate to this Document.
Mean Time To Repair	Trouble Ticket must be opened before the end of the billing cycle, defined as the date of the 26th of any given month.

In addition to the Trouble Ticket requirements as listed in the Section of the Document request for credit must be made in writing to JNet within five (5) days of opening the Trouble Ticket. The request for credit must include the Trouble Ticket number, applicable Circuit ID's and relevant information regarding the scope of the occurrence as it relates to the Rights and Remedies as specified within this Document. Requests for Credit can be made to a Customers Service Representative or to the NoaNet NOC. JNet will provide a formal response to the Customers request for SLA credits within fifteen (15) working days of receipt of such request.

VI. Exceptions

All Network Service Standards and Performance Guarantees do not include periods of service interruption of or on the NoaNet network caused in whole or in part by:

- Reasons of Force Majeure as defined in the applicable Service Agreement.
- Customer's or Customer's Agent's acts or omissions including without limitation, any negligence, willful misconduct or use of the NoaNet Network or NoaNet Services in breach of applicable service agreement by the Customer or others authorized by the Customer.
- NoaNet, JNet or Customer Scheduled Maintenance.
- Failure of circuits beyond the demarcation point or points on the NoaNet Network,

unless such failure is caused solely by NoaNet.

- ☐ Service Outage attributable to the installation of a New Circuit where a New Circuit is defined as a circuit over which service may be active but a signed Service Order Acceptance document has not been received and duly noted by an assigned agent of NoaNet.
- ☐ Spanning Tree Reconvergence – for a period not to exceed sixty (60) seconds during any given event.
- ☐ Circumstances beyond JNet or NoaNet's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike, or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the SLA.

EXHIBIT C

Service Level Agreement for

IP Services

This SLA provides the Customer with certain rights and remedies regarding the performance of the NoaNet Network. Customer is defined as the entity with a direct fiber connection into the NoaNet infrastructure at a NoaNet Point of Presence (POP). This SLA does not extend to any entity beyond the Customer.

The Network is defined as the IP routing infrastructure and/or Optical infrastructure consisting of selected NoaNet points of presence (POPs) and the connections between them in the states of Washington and Oregon. The NoaNet Network does not include Customer Premises Equipment or any telephone company access facilities connecting the Customer's premises or equipment to such infrastructure, or "local loop" or "middle mile" infrastructure provided by others, unless specifically noted within the contract for services entered into between the Customer and JNet.

I. Availability Guarantees

Network Availability

The goal is to make the Network available to the Customer free of unplanned Network Outages 100% of the time. Upon the Customer's request (in accordance with the procedure set forth below), JNet will issue a credit to the Customer for Network Outages occurring during any calendar month that are reported by the Customer and confirmed by measurements of the Network. Such credit will be equal to one day's worth of the monthly base IP access fee paid by the Customer, multiplied by each hour (or portion thereof rounded to the next hour) of the cumulative duration of such Network Outages.

Latency Guarantee

The goal is to keep the Average Round-Trip Latency on the Network to 50 milliseconds or less. Average Round-Trip Latency, with respect to a given month, is defined as the average time required for round-trip packet transfers between POPs on the Network during such month, as measured by NoaNet. Average Latency does not extend to the Customer Premise Equipment (CPE). If Average Round-Trip Latency on the Network for a calendar month exceeds 85 milliseconds, then upon Customer's request (in accordance with the procedure set forth below), JNet will issue a credit to the Customer equal to one day's worth of the base IP access fee paid by the Customer for such month.

Packet Loss Guarantee

The goal is to keep Average Packet Loss on the Network to 1% or less. Average Packet Loss, with respect to a given month, is defined as the average percentage of IP packets transmitted on the Network during such month that are not successfully delivered, as measured by NoaNet. If Average Packet Loss exceeds 1% during a calendar month, then upon Customer's request (in accordance with the procedure set forth below), JNet will issue a credit to the Customer equal to one day's worth of the base IP access fee paid by the Customer for such month.

The terms of the SLA relating to Average Round-Trip Latency and Average Packet Loss will take effect the first full calendar month after the Customer's first use of the Network.

II. Exceptions

Customer shall not receive any credits under this SLA in connection with any failure or deficiency of the NoaNet Network caused by or associated with:

- Circumstances beyond JNet or NoaNet's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike, or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the SLA;
- Scheduled Maintenance, defined as work performed by staff on any of our equipment for which notification is sent to the Maintenance Mailing List no less than 48 hours before the work is to begin;
- Failure of access circuits to the Network, unless such failure is caused solely by JNet or NoaNet;
- General telco failure;
- DNS issues outside the direct control;
- Outage or error of any measurement system;
- Any negligence, willful misconduct, or use of the Network or services in breach of the governing agreement, by the Customer or others authorized by the Customer.

III. Measurement of the SLA

We will periodically (on average every 5 minutes) measure the Network at selected POPs using software and hardware components capable of measuring IP traffic and responses at such POPs. The Customer acknowledges that not every POP may be covered by such measurements, that such measurements may not measure the exact path traversed by the Customer's packets, and that such measurements constitute measurements across the Network but not other networks to which the Customer may connect. JNet reserves

the right to periodically change the measurement points and methodologies it uses without notice to the Customer.

IV. Credit Request and Payment Procedures

Requests for credits must be made to the applicable JNet Account Manager as identified in the Service Order Acceptance. The JNet Account Manager must receive each request in connection with a Network Outage within seven (7) days of the Network Outage. Each request in connection with Average Round-Trip Latency or Average Packet Loss in a calendar month must be received by the JNet Account Manager within seven (7) days after the end of such month.

The total amount credited to a Customer in connection with Network Outages, Average Round-Trip Latency, and Average Packet Loss in any calendar month will not exceed the base IP access fee paid by Customer to JNet for such month.

Each valid request for credit will be applied to a Customer invoice within two (2) billing cycles after the JNet receipt of such request and confirmation of the Outage. Credits are exclusive of any applicable taxes charged to Customer or collected by JNet.

V. General

JNet reserves the right to change or modify this Service Level Agreement to benefit the Customer. Except as set forth in the Service Level Agreement, JNet makes no claims regarding the availability or performance of the NoaNet Network.