

Telecommunications Service Agreement

Pursuant to this agreement ("Agreement"), entered into between **Utility Telephone, Inc.** ("Utility") and the customer identified on this agreement ("Customer") (each of Utility and Customer a "party"), Utility agrees to provide and Customer agrees to purchase the services and/or equipment ("Service" and/or "Leased Equipment") described on the reverse side hereof or in addenda attached hereto ("each a Service Description"), at the prices and on the terms and conditions stated in such Service Description and below, and as provided in relevant tariffs. Addenda executed from time to time shall become part of this Agreement by reference hereto. Each Service Description may describe (i) the requested service commencement date ("Requested Service Date"), (ii) the agreed duration of Customer's purchase ("Term"), (iii) the recurring charge ("Service Charge), non-recurring charge and any other charges, and (iv) other pertinent information. This contract shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

1. **INITIATION AND TERM OF SERVICE:** With respect to each Service Description, the Term shall begin on the later of the Requested Service Date or the day following the date on which Utility notifies Customer that the Service is ready for use ("Service Commencement Date") and shall continue for the applicable Term. At the expiration of the Term, this Agreement shall continue in effect with respect to the Service on a month-to-month basis, until canceled by either party on 30 days notice; provided, however, that the Service Charge during such period shall be the then current monthly rate provided by tariff or Utility's standard price list. Customer shall be responsible for obtaining and maintaining rights-of-way and facilities required for access from Utility's network to Customer's premises, as well as necessary space and other facilities for Utility and Customer equipment.
2. **PAYMENT:** Except as otherwise required by tariff, Customer agrees to pay Utility monthly throughout the Term, on the Service Commencement Date and on the first of each month (or other) billing period thereafter, a Service Charge at the rate stated as "Recurring" charge for each Service Description. The first Service Charge shall be prorated from the Service Commencement Date through the end of the calendar month in which the Service Commencement Date occurs. The non-recurring charges and other charges are payable with the first Service Charge. Except as otherwise agreed, Utility shall submit a monthly invoice to Customer; and payment of all charges shall be due at the address shown on the invoice no later than 30 days after the invoice date ("Due Date"). Any amounts not paid within fifteen (15) days after the Due Date ("Delinquent Charges") will be subject to a late charge of 1.5% per month or the maximum lawful rate, whichever is lower ("Late Charge"). Any applicable surcharge, federal, state, local use, excise or sales tax or similar levy, chargeable to or against Utility because of the Service provided to Customer, shall be charged to and paid by Customer in addition to the Service Charge and other charges under this Agreement. Customer agrees to pay all costs, including reasonable attorney's fees, expended in collecting Delinquent Charges.
3. **SUSPENSION OR TERMINATION OF SERVICE:** Utility may suspend or terminate service (i) if Customer fails to pay all Delinquent Charges within 7 days after written notice of termination or (ii) if Customer fails, within 30 days after written notice, to comply with this Agreement or any applicable tariff.
4. **INTERRUPTION OF SERVICE; CREDIT:** Utility will not provide a credit allowance for interruption of service caused by the Customer's facilities, equipment, or systems. Utility will allow for interruptions in exchange telephone service of 24 hours or more not due to conduct of Customer an amount equal to the fixed monthly charges for exchange service multiplied by the ratio of the days of interruption to thirty days. When interruptions continue beyond 24 hours, credit allowance will be given in successive 24-hour multiples.
5. **LIMITATION OF LIABILITY; LIMITATION OF WARRANTY:** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL UTILITY BE LIABLE FOR ANY DAMAGES, EITHER DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, ACTUAL OR PUNITIVE, OR ANY LOST PROFITS OF ANY KIND, ARISING OUT OF MISTAKES, ACCIDENTS, ERRORS, OMISSIONS, INTERRUPTIONS, DELAYS, OR DEFECTS IN TRANSMISSION, (INCLUDING THOSE WHICH MAY BE REQUIRED FOR COMPLIANCE WITH RULES OR ORDERS OF REGULATORY OR JUDICIAL AUTHORITIES), ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE OBLIGATIONS OF UTILITY HEREUNDER. CUSTOMER AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF UTILITY'S PERFORMANCE HEREUNDER SHALL BE CREDIT FOR SERVICE INTERRUPTION AS PROVIDED IN SECTION 4, ABOVE, OR APPLICABLE TARIFF. UTILITY MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF ANY SERVICE, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED.
6. **CANCELLATION:** (A) If a Service Commencement Date does not occur within 90 days after the Requested Service Date, Customer may cancel this Agreement with respect to such Service without liability for any cancellation charge, by 30 days written notice to Utility. (B) Except as permitted in subsection (A), if Customer cancels any Service, or if Utility terminates any Service pursuant to Section 3 above, then Customer shall pay Utility a cancellation charge in the amount of 75% of the remaining Service Charge payable during the remainder of the Term. (C) Either party may cancel this Agreement without liability if Utility is prohibited from furnishing Service or if any material rate or term contained herein is substantially changed by final order of a court, administrative agency or other tribunal of competent jurisdiction.
7. **NON-TARIFFED SERVICES AND EQUIPMENT:** The provision by Utility and the purchase or lease by Customer of non-tariffed services and/or equipment in connection with this Agreement shall be subject to the terms and conditions of this Agreement except as superseded by the terms and conditions of any pertinent addenda attached hereto.
8. **FORCE MAJEURE:** If Utility's performance hereunder is impaired by any cause beyond Utility's reasonable control, including without limitation acts of God, fire, explosion, materially adverse weather condition, inability to obtain needed utilities or services, accidents, breakdown of equipment, machinery or facilities, radiation, compliance with applicable law or regulation, public emergency, civil strife, war or strike ("Force Majeure Condition"), then such performance shall be excused to the extent of such impairment. Utility shall resume performance with reasonable dispatch after cessation of the Force Majeure Condition. If Utility's performance is impaired by a force Majeure Condition for a period exceeding sixty-days (60), Customer may cancel the affected Service without liability for a cancellation charge.
9. **ADDITIONAL PROVISIONS:**
 - (A) Non-Waiver. The failure of either party to give notice of default or to enforce or insist upon compliance of any of the terms or conditions of this Agreement shall not constitute a waiver of any term or condition hereof; and the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance shall not constitute a waiver or extension of time with respect to any other matter, including future application of the same provision.
 - (B) Disputes – Arbitration. Except for disputes regarding Customer's failure to pay for Service as provided in this Agreement, if any dispute cannot be resolved by negotiation between the two parties, either party may by notice require that the dispute be submitted to binding arbitration by a single arbitrator, at a location reasonably selected by the party giving such notice, under the Commercial Arbitration Rules of the American Arbitration Association.
 - (C) Entire Agreement. This Agreement, including Addenda and matters incorporated herein by reference, contains the entire understanding of the parties, and supersedes any prior quotations, proposals, arrangements, or understandings relating to the subject matter hereof. No subsequent agreement between the parties concerning Service shall be effective unless contained in a writing signed by both parties.
 - (D) Assignment. Customer may not assign or transfer its rights or obligations under this Agreement without the prior written consent of Utility, which shall not be reasonably withheld.
 - (E) Notices. Required or permitted notices shall be in writing and delivered by registered or certified mail return receipt requested, postage prepaid, if to Customer, to a person identified as a "Service Contact" and if to Utility, to Contract Administrator, Utility Telephone, Inc., 7277 Pacific Avenue, Suite 4, Stockton, California, 95207, or as otherwise provided by proper notice hereunder, and the effective date of any notice under this Agreement shall be the date of receipt or refusal of delivery.
 - (F) Regulatory Jurisdiction. Provision by Utility of Service and other matters related to this Agreement are subject to applicable federal, state and local regulatory authority.

- (G) Severability. Each Service described in a Service Description is deemed a separate Service; and termination of any Service shall not affect any other Services.
- (H) Partial Invalidity. If any provision of this Agreement shall be held invalid or unenforceable under applicable law, the remainder shall not thereby be affected and shall be given full effect.
- (I) Confidentiality. Except with consent of the other party or as required by law or court order, neither party will disclose the existence of this Agreement or any information regarding its terms or the parties' performance hereunder ("Confidential Information") to any third party without prior written agreement.

Date _____ Initials _____