



## INTER-LOCAL AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT (the "Agreement") is made and entered into effective the 1<sup>st</sup> day of JULY, 2018 between LINCOLN COUNTY PUBLIC HOSPITAL DISTRICT 1 dba ODESSA MEMORIAL HEALTHCARE CENTER, a public hospital district organized in Washington State, ("OMHC"), and the JAMESTOWN S'KLALLAM TRIBE ECONOMIC DEVELOPMENT AUTHORITY, a political subdivision of a Federally recognized Indian Tribe, dba JAMESTOWN NETWORKS, OMHC and JNET are sometimes referred to in this Agreement as the "Parties."

### RECITALS

- A. OMHC wishes to obtain services ("Services") from JNET, as follows:
  - 1. Ethernet circuit (see Exhibit A – "Service Order Summary"),
  - 2. Internet Service (see Exhibit A – "Service Order Summary").
- 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 OMHC as set forth in this Agreement.
- C. JNET is willing to provide the service OMHC requires, referenced in A., above, for the consideration as set forth in Exhibit A.
- D. JNET has provided upgrade pricing for Internet and Ethernet services (see Exhibit A – "Service Order Summary"). Pricing will be valid at the existing locations referenced in Exhibit A for the duration of the service term.
- E. This Inter-local agreement replaces the Interlocal Agreement dated 10/1/2015, expiring on 9/30/2018.

### AGREEMENT

Now, therefore, CUSTOMER 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 CUSTOMER and JNET will undertake the LGN and Internet Services. The details are described in Exhibit A to this Agreement.

##### 1.1 CUSTOMER's Obligations:

- a. CUSTOMER hereby agrees to provide JNET, and its vendor NoaNet, access to CUSTOMER's personnel and facilities to complete the setup of LGN Service specified in the Exhibit A, which service may only be used for lawful purposes, for the compensation set forth in that exhibit.
- b. CUSTOMER agrees to pay JNET for the Service, 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**

The initial term ("Initial Term") of the Agreement shall be for a period of sixty (60) months from and after the Effective Date. The Effective Date shall be the date on which the Services first become available for use by CUSTOMER.

## **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 CUSTOMER 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: JAMESTOWN NETWORKS  
Address: 257 Business Park Loop | Sequim, WA 98382  
Name: Ben Neff  
Title: Operations Manager  
Telephone Number: 360.683.2025  
Facsimile Number: 360.683.9583  
Email address: [bnEFF@jamestowntribe.org](mailto:bnEFF@jamestowntribe.org)

Party: ODESSA MEMORIAL HEALTHCARE CENTER  
Address: PO Box 368, Odessa, WA 99159  
Name: Alberto Reyes  
Title: Maintenance Manager  
Telephone Number: 509.988.3173  
Facsimile Number: 509.982.2159  
Email address: [ReyesA2@omhc.org](mailto:ReyesA2@omhc.org)

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.  
Reserved
  - 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.  
Reserved



**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 one (1) year 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 11.

**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 Each Party shall identify the other as an additional insured under the general liability insurance required under this Agreement. 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 11, the insurance coverage and benefits required herein shall not be deemed to limit liability to either Party or any third party. In the event the minimum insurance limits specified in this Agreement are less than the maximum amount of insurance in effect at the time of claim or loss which arises from or is connected to the Agreement, each Party affirmatively agrees that all insurance limits available to it will be extended to the other Party as additional insured.



**8. INDEMNITY, HOLD HARMLESS AND DUTY TO DEFEND**

Subject to the limitation of liability provisions set forth in Section 11, 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 **CUSTOMER** 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. LIMITATION OF LIABILITY**

11.1 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.

11.2 SUBJECT TO SECTION 11.1, 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.

**12. 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 OMHC, c/o Annette Edwards at Odessa Memorial Healthcare Center, in Odessa, WA 99159;  
For JNET, c/o Ben Neff, Operations Manager, 257 Business Park Loop, 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.

**13. 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 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 **CUSTOMER** 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.

#### **14. TERMINATION**

14.1 Termination by Either Party. 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").

14.2 Termination by JNet. JNET may terminate this Agreement or any Service Order hereunder, or suspend any or all of the services included in the Services, with prior written notice, upon (a) failure of Customer to pay any amounts due as provided herein within thirty (30) days of invoice date; or (b) Customer's breach of any provision of this Agreement or any law, rule or regulation governing the Services; or (c) if Customer provides false information to JNET regarding the Customer's identity, creditworthiness, or its planned use of the services; or (d) if JNET deems it necessary to take any reasonable and lawful action to protect the property and rights of JNET, of NoaNet, and existing and potential customers of JNET's services. Besides termination, any and all other remedies available to the JNet, in law or equity, are expressly preserved.

#### **15. TERMINATION FOR CAUSE**

Either Party may terminate this Agreement for Cause. "Cause" shall mean a breach by the other party of any material provision of this Agreement, provided that written notice of the breach has been given to the breaching party, and the breach has not been cured within thirty (30) days after delivery of such notice. Besides termination, any and all other remedies available to the parties, in law or equity, are expressly preserved.

#### **16. EARLY TERMINATION CHARGES**

If (a) Customer terminates this Agreement or any Service Order hereunder for reasons other than Cause, as defined herein, or (b) JNET terminates this Agreement or any Service Order hereunder pursuant to Sections 14 or 15 of this Agreement, then Customer will pay, within thirty (30) days after such termination: (i) all accrued but unpaid charges incurred through the date of such termination, plus (ii) an amount equal to fifty percent (50%) of the "MRC" for the then current term (and any pro rata portion thereof for any partial then current term) remaining in the un-expired portion of the then current term on the date of such termination, plus (iii) a pro rata portion of any and all credits received by Customer. If Customer desires to cancel a Service Order prior to the Firm Order Confirmation the following conditions apply: (I) where an SOS is canceled by the Customer prior to the start of any design work or installation of facilities, no charge applies; (II) when the Services require special design work, and the Services are canceled after the design work has begun, JNET, for itself and/or for NoaNet, may collect charges equal to the cost incurred for the associated design work time and materials to date; and (III) if cancellation is requested after completion of an installation, it will be treated as an early termination of the Services and will be handled pursuant to the terms and conditions of Section 6 of this Agreement. In the event of early termination by either Party, Customer shall not be entitled to reimbursement of fees or charges already paid to JNET and shall not be entitled, thereafter, to receive the Services from JNET and/or NoaNet as specified in this Agreement.

#### **17. GOVERNING LAW**

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

#### **18. ATTORNEYS' FEES AND COSTS**

In the event of litigation regarding any of the terms of this Agreement, the substantially prevailing Party shall be entitled, in addition to other relief, to such reasonable attorneys' fees and costs as determined by the court.

#### **19. MUTUAL NEGOTIATION AND CONSTRUCTION**

19.1 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.

- 19.2 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.

**20. 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.

**21. 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.

**22. 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.

**23. TAXES**

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

**24. 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.

**25. 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 CUSTOMER 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 CUSTOMER for any purpose.

**26. CONFIDENTIALITY**

Each Party shall treat all information made available or disclosed to, or developed or obtained by, it as the result of or related to this Agreement ("Confidential Information") as confidential, and shall not disclose or use Confidential Information for the benefit of any person other than the disclosing Party; provided however, that the Party receiving the Confidential Information 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.

**27. 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.



**28. 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 OMHC, its Chief Financial Officer, or their designated representative.

**29. 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.

**30. COUNTERPARTS**

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

**31. LIMITED WAIVER OF SOVEREIGN IMMUNITY**

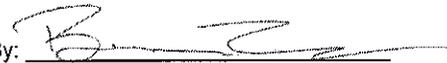
The parties respectively waive, relative to the enforcement of this Agreement only, by them against each other, any claims they may have to sovereign immunity.

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

For: LINCOLN COUNTY PUBLIC HOSPITAL DISTRICT 1  
dba ODESSA MEMORIAL HEALTHCARE CENTER

For: JAMESTOWN NETWORKS

By:   
Mo Sheldon, CEO

By:   
Ben Neff, Operations Manager

**List of Exhibits Attached:**  
Exhibit A - Service Order Summary



**EXHIBIT A  
Service Order Summary**

DATE: 4/20/2018  
 CUSTOMER: ODESSA MEMORIAL HEALTHCARE CENTER  
 APPLICATION: 100026301 | HCP 10410 REFERENCE: ILA-OMHC-2018-07-01

**Service Order Summary:**

QTY	DESCRIPTION	LOCATION	TERM	MRC	
1	10 MB INTERNET	OMHC - 502 E AMENDE DR - ODESSA	60 MONTHS	\$ 400.00	
1	10 MB ETHERNET	OMHC - 502 E AMENDE DR, ODESSA to INHS, SPOKANE	60 MONTHS	\$ 510.00	
				ESTIMATED 8% SALES TAX <sup>1</sup>	\$ 40.80
<b>TOTAL MRC</b>				<b>\$ 950.80</b>	

1	SETUP	DEVICE INSTALLATION AT 502 E AMENDE DR - ODESSA	NRC	\$ 540.00	
				ESTIMATED 8% SALES TAX <sup>1</sup>	\$ 43.20
<b>TOTAL NRC</b>				<b>\$ 583.20</b>	

<sup>1</sup> Internet Services are not subject to Washington State sales tax  
 MRC = Monthly Recurring Charge | NRC = Non-Recurring Charge

**Upgrade Pricing:**

Upgrade pricing for the locations listed above provided in the following tables.  
 Upgrade pricing will be valid at the existing locations for the duration of the service term.

INTERNET CAPACITY	MRC
50 MB INTERNET	\$ 475.00
100 MB INTERNET	\$ 650.00

ETHERNET CAPACITY	MRC
100 MBPS ETHERNET	\$805.00
1000 MBPS ETHERNET (GigE)	\$1,380.00

The Services provided in this ILA may be increased from time to time during the term through an Amendment document agreed to and signed by both Parties. This Service Order Summary is subject to the terms of the Inter-Local Agreement, which is incorporated herein by reference. All changes must be in writing. Any changes may result in a new installation date and additional charges. The above rates do not include any taxes, fees, or surcharges applicable to the Services.

Termination liability clauses are in effect in accordance with the terms agreed upon in the Inter-Local Agreement. Late payments subject to 1.5% late fee. In the event of early termination by Customer, Customer shall not be entitled to reimbursement of fees already paid to Jamestown Networks, shall not be entitled to receive services from Jamestown Networks as specified in the agreement.

For: **ODESSA MEMORIAL HEALTHCARE CENTER**

For: **JAMESTOWN NETWORKS**

By:   
 Mo Sheldon, CEO

By:   
 Ben Neff, Operations Manager