

WILLAMETTE VALLEY FIBER MASTER SERVICE
AGREEMENT TERMS & CONDITIONS

This is a legal document that should be read as a whole. It sets out the terms and conditions under which your high-speed internet and/or telephone services (collectively “Services”) are provided to you and may impact the way you use the services or the way in which you deal with Willamette Valley Fiber (WVF).

APPLICABLE TO ALL WVF SERVICES AND CUSTOMERS

1. BASIC AGREEMENT: In exchange for Services from WVF, customer agrees to the terms and conditions of this Master Service Agreement (Agreement) as modified from time to time. WVF reserves the right to revise this Agreement at any time without notice in its sole discretion. It is the customer’s obligation to review the current version of the Agreement. A current version of this Agreement is available at the WVF office and on the WVF website. A customer taking services from WVF shall be deemed to accept, acknowledge, and agree that the current version of this Agreement is binding on customer.

2. WVF POLICIES: Customer agrees to comply with all WVF policies, including the WVF Acceptable Use Policy for Data and Internet Products and Services, and understands that failure to comply with these policies shall be grounds to immediately suspend or terminate services. Customer agrees to use WVF Service for lawful purposes only.

3. TERM & RENEWAL: This Agreement as modified from time to time and the affected Service and all the terms and conditions herein shall continue on a month-to-month basis unless WVF and Customer agree in writing to a different term or unless the services are terminated by either party upon thirty (30) days prior written notice or until otherwise terminated pursuant to the provisions of Section 21 hereof.

4. SERVICE CHARGES: Customer shall pay to WVF: All invoiced amounts on or before the due date, which include WVF Recurring Charges, Usage Charges, Installation Charges, non-recurring charges related to the Service, franchise fees, all applicable excise, sales, use or other taxes, fees or allocations or charges applicable to the Services. Such fees and tax charges will be separately itemized on the WVF Invoices.

5. PAYMENT: WVF will bill Customer for Service each month in advance and in some cases, deposits will be required before Services shall be provided. In most cases, billing shall commence upon activation. Usage charges, if applicable, will be billed in arrears, and rounded up to the next whole cent. In the event WVF is unable to record actual usage for any part of a billing period, WVF shall be entitled to make a reasonable estimate of Customer’s usage services for that billing period. Customer may choose to execute an automatic withdrawal agreement with WVF, to authorize WVF to withdraw customer funds to pay invoices within twenty (20) days after the invoice date by automatically deducting the total amount due and owing from a checking account, debit account, or credit card. In the alternative, Customer shall send payments to the address specified on the invoice. WVF may, in addition to any other remedies available to it, impose a late payment charge of \$15.00 per month on any invoices not paid within 20 days of the date indicated on the invoice. Customer is solely responsible for any overdraft fees incurred when an automatic withdraw is rejected by the Customer’s financial institution for any reason. A \$25 Returned Payment Fee will be assessed by WVF and added to the invoiced amounts for each returned payment.

6. SERVICES & PAYMENTS ONLINE: Services may be ordered online, and payments may be made online at www.WVFFiber.com. The Customer may be provided with a login identity and secure password so that the Customer can manage its services or order additional services online. Customer shall keep its login and password secure to prevent unauthorized access to Customer’s information or account.

Customer understands and acknowledges that online orders for Services are legally binding on Customer.

Customer is responsible for payment for all Services provided by WVF to Customer, and the failure of Customer to receive any

invoice in whole or in part relieves Customer of the obligation to pay any obligation when due.

WVF may pursue in its own name or use a private collection agency to collect any debt arising out of WVF services provided to a customer. WVF reserves the right to add any private collection agency fees to the debt under ORS 697.105.

7. AGENCY AUTHORIZATION: This Agreement and any WVF Service Order (Service Order) authorizes WVF to act as agent for Customer as necessary, to provide the services described in the Service Order (Service), including but not limited to, ordering high speed internet, telecommunications and other services or facilities and increasing, adding to, terminating, decreasing, removing, or rearranging such Service or facility on Customer’s behalf.

8. WVF AND CUSTOMER RESPONSIBILITIES AT CUSTOMER’S PROPERTY: If a Customer fails to attend a scheduled appointment for inspection, installation, or service, and that inspection, installation, or service must be rescheduled, or if Customer fails to provide a safe work area or clear access for WVF personnel, then Customer shall be obligated to pay to WVF a \$25 cancelation and rescheduling fee to reimburse WVF for all costs associated with canceling, postponing, or rescheduling that inspection, installation, or service.

Customer shall reasonably provide installation instructions and other information as required by WVF for purposes of providing services and equipment under this Agreement. Customer shall provide safe and clear access for WVF technicians free from debris and obstacles, and the site and work area must be accessible, clean, and safe for WVF personnel. All animals must be restrained.

WVF personnel shall not be responsible for movement of any equipment or household furnishings or for doing work outside of a normal WVF installation, inspection, or service call. WVF personnel shall treat Customer property and possessions respectfully and carefully.

In the case of an unforeseen or unknown barrier to service, delivery of services from WVF may be curtailed, restricted or unavailable. Assessment and determination of barriers to service shall be made on a case by case basis in WVF’s sole discretion.

9. NO TAMPERING OR ACCESS TO WVF EQUIPMENT & FACILITIES: Except for reasonable access to WVF’s customer service office during regular business hours, Customer shall have no right of access to the fiber, equipment or facilities or any other real or personal property of WVF and shall refrain from any contact whatsoever with said facilities, equipment and/or other WVF property. Customer shall have no right to extend or manipulate WVF service, or to use WVF fiber, equipment or property for any unauthorized use, and any such extension, manipulation or unauthorized use shall be considered a Theft of Services under Section 32 of this MSA.

10. OWNERSHIP OF WORK PRODUCT: All original works of authorship, fixed in any tangible medium of expression, including any computer accessible medium, heretofore or hereafter created by WVF for Customer shall remain the property of WVF and may not be shared with any external party by Customer except upon such terms as may be agreed upon between the parties in writing.

11. EQUIPMENT & LOCATION: The Customer shall not allow or cause any facility or equipment of WVF or WVF providers to be rearranged, moved, modified, damaged, repaired, or relocated without WVF’s written consent. Customer shall be responsible for ensuring that the equipment, wiring, space, and associated facilities, conduit and rights-of-way are protected against fire, theft, vandalism, or other casualty and that the use thereof complies with applicable laws, rules, regulations, and contractual obligations. Customer will not create or allow any liens or other encumbrances to be placed on any such facilities or equipment of WVF or WVF Providers. If Customer relocates or changes the place of the Service provided under any Service Order, Customer will pay all additional installation and related charges associated with such relocation. All WVF equipment or WVF provider equipment shall be returned to WVF in good condition upon termination of this Agreement. Charges for equipment will

accrue until equipment is returned. Customer shall be charged for all damaged equipment.

WVF will replace or repair WVF equipment and facilities in its sole discretion. WVF will not provide replacement for defects or deficiencies in WVF Equipment or Service which are caused by:

- External causes including natural disaster, fire, accident, neglect, misuse, vandalism, water, lightning, power surge or spike;
- The use of any Equipment for other than its intended purpose;
- The use with or connection of any Equipment to items not approved by WVF;
- The performance of maintenance or attempted repair by persons other than WVF or as authorized by WVF;
- Changes made to the deliverables created by performance of the Service or to the operating environment;
- the relocation of Equipment by the Customer; or
- Any configuration or reconfiguration by the Customer of the Equipment.

12. PROMOTIONS: WVF may from time to time establish a promotion for new or existing customers. WVF reserves the right to end or modify a promotion at any time even when such right is not in the original language of the promotion on 30 days written notice. Without exception, if a Customer receiving a discounted promotional package is disconnected for non-payment, any discounts the customer has been receiving will no longer be available, even if customer reestablishes service.

13. CUSTOMER ORDERED INTERRUPTION OF SERVICE: Customer may choose to suspend one or more of their WVF Services on a temporary basis for 30 days or more. Suspension of services is charged at \$5 per month, per service. Should the Customer wish to reinstate services prior to the end of a three-month suspension period, each reconnected service will be subject to a \$5 Early Reconnect Fee. The Customer is responsible for arranging and confirming any suspension with WVF personnel before the date of suspension. Upon Customer’s return, a phone call or other contact is adequate to reinstate service and resume regular billing.

14. UNINTENTIONED INTERRUPTION OF SERVICE: Customer understands and acknowledges that broadband services, including phone, internet and cable are subject to periodic disruptions. WVF shall not be liable to Customer or any third party for any direct, indirect, or consequential damages or claims of damage attributable to an interruption, fluctuation, or outage. In the event of an interruption of Service, WVF will use reasonable efforts consistent with industry standards to restore service promptly. Whenever an interruption occurs, WVF shall have no responsibility or obligation to restore service unless and until Customer has notified WVF using oral/telephone, electronic mail, and/or written communications or unless WVF has knowledge of such condition. In the event of an interruption, Customer shall, immediately upon request, grant WVF personnel or agents access to Customer’s premises and all pertinent equipment therein and reasonably assist and cooperate with WVF in remedying the interruption.

WVF shall not be responsible for any actual, direct, indirect, incidental, consequential, or special damages whatsoever (including without limitation any damages claimed for loss of income, revenue, or profits or for loss of good will) arising out of any interruption, fluctuation, outage, or any other disturbance of service.

Customer shall be responsible for any damages to WVF’s equipment or facilities or damages from any interruption or interference with the Service caused by Customer’s equipment or if Customer’s equipment does not have all necessary regulatory approvals.

15. TERMINATION: WVF may terminate this Agreement, and/or any Service Order and Service to Customer, in whole or in part, or suspend the Service at any time upon: (a) Any failure of Customer to pay any undisputed amounts due hereunder – after the Customer has received written notice from WVF; (b) Any breach by customer of any provision of this Agreement as amended from time to time or any Service Order; (c) Any governmental prohibition or required alteration of the Service provided hereunder or any violation of applicable law, rule or regulation by Customer; and (d) Any violation of any other WVF policy, including those contained in WVF’s Acceptable Use Policy for Data and Internet Products and Services. No such termination shall relieve Customer of its obligations under this Agreement, or any Service Order, including, without limitation,

the obligation to make payments for the Service provided prior to termination. The rights and obligations of the parties shall survive any such termination or other cancellation or expiration of this Agreement or any Service Order:

Internet and Voice Services:

- In the event Customer cancels or terminates any Services, including internet or telephone services under this Agreement or any Service Order, Customer agrees to pay WVF all invoiced amounts for equipment and service (including all taxes, fees, installation, service, and other applicable charges) up to the date of termination.
- Customer may bring any equipment in good working order to the WVF office. Customer will be billed for any equipment that is not returned at full replacement value. If the Customer subsequently returns the equipment in good working condition, the Customer will be credited back the amount charged for the equipment, unless the account has been submitted to a private collection agency. Once a matter has been sent to a collection agency, the full replacement value of any equipment will be subject to collection by the private collection agency regardless of whether the equipment is eventually returned.

16. CREDIT & SECURITY DEPOSIT: WVF reserves the right in its sole discretion to require the Customer to pay in advance for any Services or require a security deposit.

If a Customer’s account has been sent to a private collections agency, the Customer is not eligible for new service unless:

- Customer pays any existing balance owed to WVF in full;
- Customer pays to WVF a \$100 security deposit per service to ensure payment on the account. If services are terminated, this deposit will be applied to the final balance, and any remainder will be refunded to the customer. Notwithstanding the security deposit, Customer shall be responsible for full payment of all amounts owing on the account.

17. DISPUTES: The Customer may dispute any amount invoiced by WVF. Except to the extent the Customer disputes a particular charge on an invoice and raises a valid billing dispute, the Customer agrees that WVF invoices for services rendered are valid, due, and payable according to their terms.

To raise a valid billing dispute, the Customer must do so before the due date for the WVF invoice in question. In the alternative, if the Customer has already paid a WVF regular service invoice, Customer must raise a valid billing dispute within 30 days of the due date indicated on the invoice.

The WVF General Manager shall determine if the customer made a valid billing dispute. Any amount due to customer shall be credited on the customer’s next invoice. Any amount due to WVF must be paid within ten (10) Business Days after the decision of the General Manager. If Customer disagrees with the determination of the General Manager, Customer may appeal that decision to the WVF board. In order to make such an appeal, Customer shall provide written notice of its appeal within 10 days of the General Manager’s decision and provide in writing the basis for the appeal. Customer may request a hearing in front of the WVF board or to have the matter decided without a hearing. The decision of the WVF board shall be final.

- 18. CONDITIONS OF SERVICE DELIVERY:** WVF will use reasonable efforts to meet the Customer’s requested delivery schedules for installation, Equipment and Service, but WVF reserves the right to refuse, cancel or delay shipment or installation of any Equipment or Service if:
- The Customer’s credit is impaired;
 - The Customer is in arrears in payments to WVF or fails to meet other credit or financial requirements reasonably required by WVF; or
 - The Customer has otherwise failed to perform its obligations under this Agreement.

WVF will deliver all Equipment and other components of the Service to the Customer according to the Service Schedule.

19. LIMITATIONS OF LIABILITY: Neither WVF nor Customer shall be liable to the other, or to any third party, for any indirect, incidental, consequential, or special damages whatsoever (including without limitation any damages claimed for loss of income, revenue, or profits or for loss of goodwill) arising from or related to this

Agreement. Customer shall indemnify, defend, and hold WVF harmless from and against any and all claims by Customer’s agents, employees or customers arising from or relating to WVF’s provision of Service to Customer under this Agreement. The Customer shall indemnify WVF against any loss (including liability, cost, expense, and attorneys’ fees on a full indemnity basis) or damage suffered by the Customer or WVF or a claim made by any person against the Customer or WVF:

- Relating to the use or attempted use of the Services or the Equipment (including unauthorized use); or
- Caused by the Customer’s acts, omissions, negligence, or breach of this Agreement

WVF’s sole responsibility to Customer for any damages claimed under this Agreement shall be limited to the amount of charges actually assessed against Customer by WVF for the specific time period of the incident(s) for which damages are claimed, and Customer’s sole remedy against WVF in the event of such claims shall be the award of billing credits on future invoices. Customer understands and acknowledges that WVF is a governmental entity that is protected by the Oregon Tort Claims Act.

In no event shall WVF be liable for losses, damages, or claims arising out of customer’s use, attempted used, or inability to access 911 or e911 service or other emergency call.

20. ENTIRE AGREEMENT: This Agreement as modified from time to time (including its addenda, if any), any Service Order, and all applicable Rates and Tariffs constitute the entire contract between the parties and supersedes all prior arrangements, negotiations, representations and proposals, written or oral, relative to the subject matter of this Agreement. In the event of any inconsistency between the terms of this Agreement, the Service Order and the WVF Tariffs, the terms of the WVF Tariffs shall prevail. In the event of any inconsistency between the terms of this Agreement and the Service Order, the Agreement shall prevail. The current Master Service Agreement is posted on www.wvalleyfiber.com.

21. ASSIGNMENT RIGHTS: This Agreement and any WVF services or equipment shall not be assigned or transferred by Customer to another party without the prior written consent of WVF.

22. FORCE MAJEURE: If the performance of the respective obligations of WVF or Customer under this Agreement shall be prevented or interfered with by reason of a Force Majeure, then the party shall not be liable to the other for its failure to perform such obligations and such failure shall not constitute a breach of this Agreement. “Force Majeure” as used herein shall include without limitation: fire, flood, earthquake, and other acts of God, explosion, strike or other labor dispute, riot or civil disturbance, war (whether declared or undeclared) or armed conflict, failure of common carrier or “carrier’s carrier,” interruption of power, municipal ordinance including any state or federal law, governmental order or regulation or order of any court of competent jurisdiction, or any other similar thing or occurrence not within the control of the party.

23. WAIVER OF JURY TRIAL: WVF and Customer each waive trial by jury in any action or proceeding brought by either of the parties against the other or on any counterclaim on any matters whatsoever arising out of, or in any way connected with, this Agreement or the relationship of WVF and Customer.

24. GOVERNING LAW: Except to the extent that federal law applies, the construction, interpretation and performance of this agreement shall be governed by the substantive law of the State of Oregon, excluding its choice of law rules. In the event either party has to resort to hiring an attorney to enforce their rights under this Agreement, the prevailing party is entitled to recover its reasonable attorneys’ fees. Any court proceeding shall be filed in the Polk County Circuit Court or the US District Court for the District of Oregon.

25. SEVERABILITY: Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect.

26. NOTICES: Any notices or demands which, under the terms of this Agreement or under any statute, must or may be given to WVF, shall be in writing or made by certified or registered mail, or by courier, addressed as follows:

**To: WVF, Attn: General Manager
988 SE Jefferson St, 97338**

Such notice or demands shall be deemed to have been given or made when received by WVF.

27. TARIFF AND RATES: Tariffs and rates for Services are approved by the WVF board. The tariffs will be non-discriminatory and will be posted on WVF’s website or available at the WVF office. WVF reserves the right to revise the tariffs at any time without notice in its sole discretion.

28. GOVERNMENT ACTION AGREEMENT: If WVF voluntarily or involuntarily as a result of government action cancels, in whole or in part, any services referenced herein, then effective on such cancellation, service will be provided thereafter in accordance with the WVF rates and policies which remain in effect as amended from time to time and which will be provided to Customer upon request.

29. PRIVACY POLICY: WVF will comply with any valid legal process, such as search warrants, court orders and subpoenas seeking customer and use information related to any services provided by WVF. As required by law, WVF will share customer and use information in order to assist in any investigation regarding illegal activities, including but not limited to fraud, any situation involving potential threats to the physical safety of any person, violations of any WVF policy, or as otherwise required by law.

30. CPNI: Customer acknowledges availability online of the WVF Customer Proprietary Network Information (CPNI) Notice and understands customer’s rights under Federal CPNI rules. Customer further understands that Customer consents to WVF’s use of CPNI as provided in the Federal CPNI rules unless Customer submits an opt-out form available upon request from WVF.

31. NO WARRANTIES: Except for any warranties expressly made in this agreement, WVF excludes all warranties, express or implied, including but not limited to any implied warranties of merchantability and fitness for a particular purpose. WVF does not authorize anyone to make a warranty of any kind on its behalf and customer should not rely on anyone making such statements.

32. THEFT OF SERVICES: WVF takes the theft of services seriously, because it raises the costs to other customers and threatens reliability of the WVF system. WVF reserves the right to pursue any and all legal remedies for incidents of theft of services, including recovery of lost profits and damages to WVF equipment as permitted by law. WVF may report all incidents or suspected incidents of theft of services to authorities.

CUSTOMER HAS FULL POWER AND AUTHORITY TO SIGN THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS:

Printed Account Name(s) of Account Holder(s)

Signature(s) of Account Holder(s)

Date Signed

Social Security or TIN#

Date of Birth

Phone Number