

**RuralNet Wireless,LLC  
Master Service Agreement**

This Master Service Agreement (this "Agreement") between RuralNet Wireless, LLC.. ("Company") and \_\_\_\_\_ ("Customer") is entered into and effective as of the later of the dates set forth on the signature page to this Agreement.

## 1. Overview .

1.1 General. This Agreement states the terms and conditions by which Company delivers and Customer accepts the IP Transit Services provided by Company. The specific services and/or products to be provided hereunder are identified in all Order Forms. Upon execution by both Customer and Company, each Order Form shall be automatically incorporated into this Agreement as a sequentially lettered Attachment commencing with Attachment A. If Customer purchases any equipment from Company (as indicated in any Order Form), then the terms and conditions set forth in Schedule B shall govern all such purchases. Any capitalized terms not defined herein shall have the meanings as set forth in Appendix A.

## 2. Delivery of Services; Terms; Fees.

2.1 General. By submitting an Order Form for any Services, Customer shall accept and pay for, and by executing an Order Form, Company shall provide and support, such Services during the Initial Term listed in the Order Form and for any Renewal Term. Accordingly, except as expressly provided in this Agreement, Company shall provide, and Customer shall pay for, each Service through its Initial Term and any subsequent Renewal Term.

### 2.2 Term.

(A) TERM COMMENCEMENT. THIS AGREEMENT SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL THE TERMINATION OF THE LAST ORDER FORM. THE TERM FOR EACH SERVICE WILL COMMENCE ON THE SERVICE ACTIVATION DATE AND SHALL CONTINUE FOR THE ENTIRE INITIAL TERM.

(B) Renewal Term. Each term of each Service will renew automatically for additional terms equal in length to the Initial Term (each a "Renewal Term") unless Customer notifies Company in writing not less than thirty (30) calendar days prior to the end of the Initial Term (or any subsequent Renewal Term, as applicable), that it wishes to terminate such Service. The termination of any individual Service will not affect Customer's obligations to accept and pay for all other contracted Services.

(C) EARLY TERMINATION. CUSTOMER ACKNOWLEDGES THAT ACTUAL DAMAGES RESULTING FROM AN EARLY TERMINATION OF THIS AGREEMENT OR ANY SERVICE FOR DEFAULT BY CUSTOMER ARE VERY DIFFICULT TO ESTIMATE. ACCORDINGLY, AND UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, IN THE EVENT OF ANY TERMINATION BY CUSTOMER FOR DEFAULT OR ANY OTHER REASON, CUSTOMER SHALL PAY COMPANY AS LIQUIDATED DAMAGES THE MONTHLY FEE OWED BY CUSTOMER FOR EACH SERVICE AT THE TIME OF SUCH TERMINATION MULTIPLIED BY THE TOTAL NUMBER OF MONTHS REMAINING IN THEN CURRENT TERM FOR EACH SUCH SERVICE, TOGETHER WITH ANY OTHER FEES (INCLUDING TELCO FEES) OF ALL THIRD PARTIES CONTRACTED BY THE COMPANY ON BEHALF OF CUSTOMER, AS SET FORTH IN SECTION 3.1 AND ANY OTHER DAMAGES FOR WHICH CUSTOMER MAY BE LIABLE TO COMPANY.

(D) LATE TERMINATION. CUSTOMER ACKNOWLEDGES THAT ITS FACILITIES THAT ARE SCHEDULED TO BE USED ELSEWHERE MAY NOT BE AVAILABLE TO ALLOW CUSTOMER TO REMAIN MONTH-TO-MONTH BEYOND ITS SCHEDULED TERMINATION OF SERVICE. ACCORDINGLY CUSTOMER REALIZES THAT THE ACTUAL COSTS TO COMPANY TO PROVIDE SUCH SERVICE BEYOND THE TERMINATION OF SERVICE IS SIGNIFICANTLY HIGHER, AND CUSTOMER THEREFORE AGREES THAT SHOULD IT USE THE SERVICE PAST THE INITIAL TERM OR SUBSEQUENT RENEWAL TERM AS APPLICABLE, CUSTOMER SHALL PAY THE THEN MONTHLY RATE MULTIPLIED BY THREE (3).

## 3. Fees and Payment Terms .

3.1 Fees and Expenses. Customer will pay all fees due in full according to the prices and terms listed in all Order Forms. Further, Customer shall pay Company for all fees or costs for services that Company procures on behalf of Customer and are listed on each Order Form. The prices listed in the Order Forms will remain in effect during the Initial Term indicated in the Order Forms and will continue thereafter.

3.2 Payment Terms. On the Service Activation Date for each Service, Company shall bill Customer for all non-recurring fees indicated in the Order Form, prorated monthly recurring fees for the actual turn up month and the monthly recurring fees for the first full month of the term. Company shall invoice Customer for the monthly recurring fees for all subsequent months on the first day of the month in which such Services were provided. All other fees for Services received and expenses incurred for Services during a month (e.g., professional services) will be invoiced at the beginning of the month following the month in which the Services were provided. These invoices shall reflect a 20% discount for payment within 30 days. All payments will be made in U.S. dollars without offset or deduction.

3.3 Late Payments. Any payment not received within thirty (30) calendar days of the date of the invoice will automatically have its ontime-payment-discount of 20% removed, and additionally accrue interest at a rate of one and one-half percent (1½%) per month, or the highest rate allowed by applicable law, whichever is lower. If Customer is delinquent in its payments, Company may, upon written notice to Customer, modify the payment terms to require full payment before the provision or continued use of all Services (both currently contracted and scheduled future

provisioned) and Company Supplied Equipment, or require other assurances to secure Customer's payment obligations hereunder. Customers more than 60 days past due are subject to immediate disconnection and shall constitute Early Termination on the part of the Customer as per 2.2(c).

3.4 Taxes. All fees charged for Services are exclusive of all taxes and similar fees now in force, enacted or imposed in the future on the transaction and/or the delivery of Services, all of which Customer will be responsible for and will pay in full, except for taxes solely based on Company's net income.

## 4. Confidential Information.

### 4.1 Confidential Information.

(a) Nondisclosure of Confidential Information. Each party acknowledges that it will have access to certain confidential information of the other party concerning the other party's business, plans, vendors, employees, customers, technology, products, and other information held in confidence by the other party (collectively, "Confidential Information"). Confidential Information will include all information in tangible or intangible form that is marked or designated as confidential or that, under the circumstances of its disclosure, should be considered confidential. Confidential Information will also include, but not be limited to, the terms and conditions of this Agreement. Each party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by, or to the limited extent required to achieve the purposes of, this Agreement, nor disclose to any third party (except as required by law or to such party's attorneys, accountants and other advisors as reasonably necessary), any Confidential Information of the other party. Each party will take reasonable precautions to protect the confidentiality of the Confidential Information of the other party that are at least as stringent as it takes to protect its own Confidential Information.

(b) Exceptions. Information will not be deemed Confidential Information if such information: (i) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; or (iv) is independently developed by the receiving party without use of or reference to the Confidential Information of the disclosing party. The receiving party may disclose Confidential Information pursuant to the requirements of a governmental agency or by operation of law, provided that it gives the disclosing party reasonable prior written notice sufficient to permit the disclosing party to contest such disclosure.

## 5. Company Representations and Warranties.

5.1 Authorities and Performance of Company. Company warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, (ii) the performance of its obligations and delivery of the Services will not violate any applicable U.S. laws or regulations or cause a breach of any agreements with any third parties, and (iii) it will perform the Services in a manner consistent with industry standards. (iv) Company warrants that it is not a telecommunications carrier as Company purchases Internet Bandwidth and other services from licensed carriers, and connects these to Customer's network. In the event of a breach of the warranties set forth in this Section 5.1, Customer's sole remedy is termination of this Agreement pursuant to Section 10 provided that Section 2.2(c) shall not apply to such termination.

5.2 Service Level Warranty. The Service Level Warranty is defined in the Schedule A for each Service. Except for the express warranties set forth in the Schedule A, the Services are provided exclusive on an "as is" basis, and Customer's use of the Services is at its sole risk. Company does not make, and hereby disclaims, any and all other express and implied warranties, including, but not limited to, warranties of merchantability, quality, performance, fitness for a particular purpose, noninfringement, title, and any warranties arising from a course of dealing, usage, or trade practice. Further, Company does not warrant that the Services will be uninterrupted, error-free, or completely secure.

5.3 Disclaimer of Third Party Actions. Company does not and cannot control the flow of data to or from the Company Network or within any portion of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Although Company will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Company cannot guarantee that such events will not occur. Accordingly, except to the extent of the express warranties set forth in any attached Schedule A, Company disclaims any and all liability resulting from, or related to, such events.

## 6. Customer Obligations.

### 6.1 Warranties of Customer.

(a) General. Customer represents and warrants that (i) it has the legal right and authority, and will continue to own or maintain the legal right and authority, during the term of this Agreement, use any Customer Equipment as contemplated under this Agreement; (ii) the performance of its obligations and use of the Services by Customer will not violate any applicable laws, regulations or the AUP or cause a breach of any

agreements with any third parties or unreasonably interfere with use of the services offered by the Company to third parties.

(b) Breach of Warranties. In the event of any breach of any of the foregoing warranties, in addition to any other remedies available at law or in equity, Company will have the right, in its sole reasonable discretion, to suspend immediately any of the Services if deemed reasonably necessary by Company to prevent harm to Company or its business. If practicable and depending on the nature of the breach, Company will provide notice and opportunity to cure. Once cured, Company will promptly restore the Services.

6.2 Compliance with Law and AUP. Customer shall use the Service(s) only for lawful purposes and in accordance with this Agreement. Customer will comply at all times with all applicable laws and regulations and the AUP, as updated by Company from time to time. The AUP is incorporated herein and made a part hereof by this reference. Company may change the AUP by posting such changes to the Company web site located at:

<http://www.ruralnetworkless.com/aup.html>. Customer agrees that it has received, read and understands the current version of the AUP. The AUP contains restrictions on Customer and Customer's users' online conduct (including, but not limited to, prohibitions against unsolicited commercial email). Customer shall comply with such restrictions and, in the event of a failure to comply, Customer will be subject to immediate suspension or termination of Services. Notwithstanding any suspension or termination of the Service due to violation of this Section 6.2, Customer shall continue to pay its committed monthly Service Charge and all other charges as set forth on all Order Forms. Customer will provide Company with twenty-four (24) hour contact information for notification of AUP violations, which notification shall be sent by sending an email to [support@ruralnetworkless.com](mailto:support@ruralnetworkless.com) (or other methods that may be provided by the Company) for the original and any subsequent changes to that contact. Customer acknowledges that Company exercises no control over the content of the information passing through Customer's Services and that it is the sole responsibility of Customer to ensure that the information it and its users transmit and receive complies with all applicable laws and regulations and the AUP.

6.3 Restrictions on Use of Services. Customer shall not, without the prior written consent of Company (which may be withheld in its sole discretion), resell the Services, in whole or in part, to any third parties.

#### 6.4 Company Supplied Equipment or Service

- a) Delivery and Term. On or prior to the Service Activation Date, if required, Company shall deliver to Customer, at the designated Customer Location, any contractually obligated Company Supplied Equipment. Customer shall have the right to use the Company Supplied Equipment for the Initial Term set forth in the Order Form and any additional period agreed to by Company as defined in this Agreement. Customer shall not remove or alter in any manner any Company Supplied Equipment without the prior written consent of Company. Customer will not remove, alter or destroy any labels on the Company Supplied Equipment stating that it is the property of Company and shall allow reasonable access to Company Supplied Equipment for Company employees and/or designated authorized agents. The Customer must provide prior written notice and the written approval from Company before moving any Company Supplied Equipment from the address listed on the applicable Order Form and Hand Receipt that accompanies the Company Supplied Equipment.
- b) Title. The Company Supplied Equipment shall always remain the sole property of Company. Customer shall have no right or interest in or to the Company Supplied Equipment except as expressly provided in this Agreement and the applicable Order Form and shall possess the Company Supplied Equipment subject and subordinate to the rights of Company. Customer will, at its own expense, keep the Company Supplied Equipment free and clear from any liens or encumbrances of any kind (except any caused by Company) and will indemnify and hold Company harmless from and against any loss or expense caused by Customer's failure to do so. Customer shall give Company immediate written notice of any attachment or judicial process affecting the Company Supplied Equipment or Company's ownership.
- c) Use, Maintenance and Repair. Customer will, at its own expense, keep the Company Supplied Equipment in good repair, appearance and condition, other than normal wear and tear. Customer shall use the Company Supplied Equipment in a commercially reasonable manner. Any repair of the Company Supplied Equipment caused by normal use and not due to negligence of the Customer will be the sole responsibility of Company. The Customer will be responsible for any reasonable assistance in this process (i.e. boxing equipment up and shipping it to Company or providing access to the equipment for Company or third party personnel).
- d) Upgrades and Additions. Customer may not affix or install any accessory, addition, upgrade, equipment or device on to the Company Supplied Equipment (other than electronic data) unless expressly approved in writing by Company.
- e) Customer warrants that Customer will provide always-current address information for billing and E911 services. Customer must keep this information current with Company, and accepts all liabilities and risks in the event of Customer's failure to do so. Customer acknowledges that Internet delivery of telecommunications service may, like cellular telephone service, not be available 100% of the time and shall keep a "hardline" or "landline" for telefacsimile, alarm monitoring and/or failsafe E911 usage.
- f) Loss or Damage. Customer shall reimburse Company, on a time and materials basis as documented in an invoice, for the entire cost to repair and/or replace Company Supplied Equipment in the event of (a) misuse, (b) failure to exercise reasonable care, (c) damage, (d) theft or (e) disaster.

6.5 Customer Equipment. Customer agrees that if, in the course of installing, maintaining, operating or repairing the Services, it is necessary for Company to access

the Customer Equipment or Customer Location, then the Customer will allow and assist the Company in obtaining access and or permission to do so.

## 7. Limitations of Liability.

7.1 Damage to Customer Equipment. Company is not liable for any damage to, or loss of, any Customer Equipment resulting from any cause other than from the willful misconduct of Company. Further, to the extent Company is liable for any damage to, or loss of, Customer Equipment, such liability will be limited solely to the then-current replacement value of the Customer Equipment, excluding lost data, software and firmware.

7.2 Consequential Damages Waiver. Except for a breach of Section 4.1 ("Confidential Information"), in no event will either party be liable or responsible to the other for any special, incidental, punitive, indirect, exemplary, or consequential damages, including, but not limited to, lost revenue, lost profits, replacement goods, loss of technology, rights or services, loss of data, or interruption or loss of use of service or equipment, even if advised of the possibility of such damages, whether arising under theory of contract, tort (including negligence), strict liability or otherwise.

7.3 Basis of the Bargain; Failure of Essential Purpose. The parties acknowledge that Company has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

## 8. Indemnification.

8.1 Indemnification. Each party will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees and costs) (collectively, "Losses") resulting from

any claim, suit, action, or proceeding (each, an "Action") brought by any third party against the other alleging (i) the infringement or misappropriation of any intellectual property right relating to the delivery or use of the Services (but excluding any infringement contributorily caused by the other party); (ii) bodily injury caused by the negligence or willful misconduct of the other party; and (iii) any violation of or failure to comply with the AUP. Further, Customer will indemnify, defend and hold Company, its affiliates and customers harmless from and against any and all Losses resulting from or arising out of any Action brought against Company, its affiliates or customers alleging any damage or destruction to the Customer Location, Company equipment or other customer equipment caused by Customer, or any of its agents, representatives, or designees.

8.2 Notice. Each party's indemnification obligations hereunder shall be subject to: (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.

## 9. Termination.

9.1 Termination for Cause. Either party may terminate this Agreement if: (i) the other party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) calendar days after receipt of written notice of the same, except in

the case of Customer's failure to pay fees, which must be cured within five (5) calendar days after receipt of written notice from Company; (ii) the other party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) calendar days of filing; or (iii) the other party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) calendar days of filing. If Customer terminates this Agreement for cause for any of the reasons set forth in this Section 9.1, then Section 2.2(c) shall not apply to such termination.

9.2 Effect of Termination. Upon the effective date of termination of this Agreement:

- (a) Company will immediately cease providing the Services; and
- (b) any and all payment obligations of Customer under this Agreement for Services provided through the date of termination will immediately become due. If Customer fails to pay such amounts on the date due, then Company shall impose the late fees set forth in Section 3.3; and
- (c) within thirty (30) calendar days of such termination, each party will return all Confidential Information of the other party in its possession and will not make or retain any copies of such Confidential Information, except as required to comply with any applicable legal or accounting record keeping requirement; and
- (d) Customer will remove, package and ship (shipping charges will be paid by (Company) (such removal and packaging to be undertaken in a commercially reasonable (manner) all Company Supplied Equipment back to Company within fifteen (15) calendar days of effective date of termination. If Customer fails to do so, Company will have the right to
- (e) charge the Customer and the Customer will pay the fair market value of the Company Supplied Equipment and
- (f) recover and take possession of such Equipment, and for this purpose may enter any premises of Customer where such

equipment is located during normal working hours to remove Company Supplied Equipment. Customer will promptly surrender the Company Supplied Equipment to Company in as good order and condition as originally delivered, reasonable wear and tear excepted.

9.3. Survival. The following provisions will survive any expiration or termination of the Agreement: Sections 2.2(c), 3, 4.1, 4.2, 5.4(d), 7, 8, 9, and 10.

**10. Miscellaneous Provisions.**

10.1 Force Majeure. Except for Customer's obligation to make payments to Company, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, terrorism, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or omissions of Company), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If Company is unable to provide Service(s) for a period of thirty (30) consecutive calendar days as a result of a continuing force majeure event, Customer may cancel the Services.

10.2 Marketing. Customer agrees that, during the term of this Agreement, Company may publicly refer to Customer, orally and in writing, as a customer of Company. Any other reference to Customer by Company requires the written consent of Customer. Customer must receive expressed written permission from Company prior to publicly referring to Company as an entity supplying services to Customer.

10.3 Government Regulations. Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

10.4 No Third Party Beneficiaries. Company and Customer agree that, except as otherwise expressly provided in this Agreement, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the customers of Customer.

10.5 Governing Law; Dispute Resolution. This Agreement is made under and will be governed by and construed in accordance with the laws of the State of Arizona and the County of Pima (except that body of law controlling conflicts of law) and specifically excluding from application to this Agreement that law known as the United Nations Convention on the International Sale of Goods. The parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims related to this Agreement. Failing such amicable settlement, any controversy, claim, or dispute arising under or relating to this Agreement, including the existence, validity, interpretation, performance, termination or breach thereof, shall finally be settled by arbitration in accordance with the Arbitration Rules (and if Customer is a non-U.S. entity, the International Arbitration Rules) of the American Arbitration Association ("AAA"). There will be three (3) arbitrators (the "Arbitration Tribunal"), the first of which will be appointed by the claimant in its notice of arbitration, the second of which will be appointed by the respondent within thirty (30) calendar days of the appointment of the first arbitrator and the third of which will be jointly appointed by the party-appointed arbitrators within thirty (30) calendar days thereafter. The language of the arbitration shall be English. The Arbitration Tribunal will not have the authority to award punitive damages to either party. Each party shall bear its own expenses, but the parties will

share equally the expenses of the Arbitration Tribunal and the AAA. This Agreement will be enforceable, and any arbitration award will be final, and judgment thereon may be entered in any court of competent jurisdiction. The arbitration will be held in Pima County, Arizona, USA. Notwithstanding the foregoing, claims for preliminary injunctive relief, other pre-judgment remedies, and claims for Customer's failure to pay for Services in accordance with this Agreement may be brought in a state or federal court in the United States with jurisdiction over the subject matter and parties.

10.6 Severability; Waiver. If any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, then the remaining provisions of this Agreement will remain in full force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

10.7 Assignment. Upon the prior written notice to Company, Customer may assign this Agreement in whole as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets provided the assignee's financial condition and credit rating is comparable to or better than that of Customer and (as would be reasonably determined) the proposed assignee is not one of the Companies major competitors. Customer may not otherwise assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of Company, and any attempted assignment or delegation without such consent will be void. Company may assign this Agreement in whole or part. Company also may delegate the performance of certain Services to third parties, including Company's wholly owned subsidiaries, provided Company controls the delivery of such Services to Customer and remains responsible to Customer for the delivery of such Services. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

10.8 Notice. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party as listed on the Order Form or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered, mailed, emailed, faxed or sent, whichever is earlier.

10.9 Relationship of Parties. Company and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Company and Customer. Except as specifically set forth in Section 3.1, neither Company nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

10.10 Entire Agreement; Counterparts; Originals. This Agreement, including all Appendices, Attachments, documents, Exhibits, and Schedules incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Any additional or different terms in any purchase order or other response by Customer shall be deemed objected to by Company without need of further notice of objection, and shall be of no effect or in any way binding upon Company. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, facsimile) is considered an original. This Agreement may be changed only by a written document signed by authorized representatives of Company and Customer in accordance with this Section 10.1

IN WITNESS WHEREOF, duly authorized representatives of Customer and Company have read and executed and delivered the foregoing and all documents incorporated therein, and agree and accept such terms effective as of the date first above written.

<b>RuralNet Wireless, LLC.</b>	
7229 N. Thornydale Road , Suite 117	
Tucson, AZ 85741	

<b>Signature:</b>	<b>Signature:</b>
<b>Printed Name:</b>	<b>NAME OF SIGNATOR&gt;</b>
<b>Title:</b>	<b>TITLE OF SIGNATOR&gt;</b>
<b>Date:</b>	<b>CONTRACT DATE&gt;</b>

If applicable, this Agreement includes the following documents:

- ? Attachment A (and any sequential lettered Attachment) - Order Forms
- ? Schedule A - IP Transit Service
- ? Schedule B - Equipment Purchase Terms and Conditions
- ? Appendix A – Definitions

**SCHEDULE A  
IP TRANSIT SERVICE**

1. "IP Transit Service" means the Internet connectivity service provided to the Customer for access to the Internet enabled by a Local Access Circuit, and/or a Cross Connect, which may or may not include Company Supplied Equipment. The connecting of the Customer Location with a Company POP is accomplished through either of the following methods.

"Local Access Circuit." Unless otherwise agreed in writing, the Company will select a Local Access Circuit Providers, order the Local Access Circuit(s), and coordinate the installation to the Customer Location's Point of Termination for any Services. The Customer will be responsible for any wiring required to extend a communication termination and/or demarcation at the Customer Location past the Point of Termination. If Customer chooses Onsite Installation, Company will use commercially reasonable efforts to extend the demarc within the Customer Location past the Point of Termination, but Customer understands that additional charges may apply for nonstandard activations. If the Company determines that a Local Access Circuit cannot reasonably be obtained for any reason, then either party may terminate this Agreement without liability to other party.

"Cross Connect." If the Customer chooses to not have the Company order the Local Access Circuit then the Company will provide the associated Internet access port(s) at a Company specified location and provide the Customer with a Connecting Facility Assignment (CFA). Customer shall be responsible for ordering the Local Access Circuit and connecting it to Company provided CFA including the central office cross connect to the CFA. The Company will use commercially reasonable efforts to assist in the coordination of the Local Access Circuit installation. Customer shall be solely responsible for all charges, maintenance and other issues associated with the Local Access Circuit. Customer will use best efforts to activate such Local Access Circuit(s) as soon as possible after the Effective Date, and in no event later than forty five (45) calendar days after the receipt of a signed Order Form. If the Company determines that a Local Access Circuit cannot reasonably be obtained for any reason, then either party may terminate this Agreement without liability to other party. Company does not guarantee the availability of a Cross Connect or make any installation commitments.

2. Service Level Warranty. If Customer experiences any of the service performance issues described in this Paragraph 2 as a result of Company's failure to provide IP Transit Service(s), then Company will, upon Customer's request in accordance with Paragraph 2.4, credit Customer's account as described below (the "Service Level Warranty"). Notwithstanding anything to the contrary in this Schedule A, the Service Level Warranty set forth herein shall only be available to Eligible Customers.

2.1. IP Transit Service Availability. Service Availability for IP Transit is defined as the ability of Customer to exchange IP packets with the Company Network via the Customer's router port. Service Availability is measured by sending ICMP "ping" bursts to the Customer router at regular intervals. The response of the Customer router to the ping burst confirms that the connection is still in place and the service is still available. The Company guarantees 99.9% Service Availability to its Customers. If a Customer site is unavailable as a result of a failure of any component of the Company Network (Service Interruption), Company will issue a credit based on the length of the outage. Service Interruptions caused by Company planned network maintenance activities, maintenance at the Customer premises, failure of Customer premises hardware, failure of Customer controlled actions and environment (for example power failure, temperature increases, firewall blocking, unplugging the Company Provided Equipment etc.), or failure of Local Access Circuits or Cross Connects are ineligible for availability guarantee compensation.

2.1.1. Service Availability Credits. Service Availability credits are determined in accordance with the following guidelines (a) any outage greater than thirty (30) minutes = one (1) day credit of Service Charges and (b) any outage continuing for greater than sixty (60) minutes = one (1) days credit of Service Charges per sixty (60) minutes period.

- 2.2. Network Latency. Network Latency is defined as the average time taken for an IP packet to traverse a pair of backbone Company POPs on the Company Network. The Company Network Latency Guarantee means that the average monthly network latency between North American Company POPs shall not to exceed eighty five (85) ms. In the event that guaranteed network latency metrics are not met during any one calendar-month period, Company will provide a credit equivalent to one (1) day of Service Charge.

- 2.3. Packet Loss. Packet loss is defined as the percentage of packets that are dropped between routers that are part of the Company Network. Company guarantees that the average packet loss will not exceed one percent (1%) during any calendar month. In the event that packet loss metrics are not met during any one-calendar month period, Company will provide a credit equivalent to one (1) day of Service Charge.

- 2.4. Calculation and Maximum Credit. One (1) day of Service Charges shall be equal to 1/30th of the committed monthly Port Charges of Customer. A maximum of seven (7) days of credit may be provided during any single month. At no time will the actual outage time be greater than the equivalent Service Availability Credit.

- 2.5. Service Credit Process.

2.5.1. Filing Period. Service Availability and/or Service Interruption claims must be submitted to Company within seven (7) calendar days of the occurrence of the event. Network Latency and Packet Loss claims must be submitted not later than thirty (30) calendar days after the last day of the month in which the failed metric occurred. Each claim must be filed by Customer's Administrative Contact and the claim must include the following information, (a) Customer name and site name, (b) contact's name and contact information, (c) date and beginning/end time of outage or failed metric, and (d) the specific Company support ticket number opened about the performance issue and brief description of the characteristics of the outage or failed metric.

2.5.2. Claim Process. Customer must submit the required information by electronic mail to [support@ruralnetwireless.com](mailto:support@ruralnetwireless.com). Company will acknowledge all claims within five (5) business days and will review all claims within ten (10) business days of receipt. Customer will be informed by electronic mail whether the appropriate service credit claim will be granted or rejected. If rejected, the notification will specify the basis for rejection. Approved Service Level Guarantee credits will be applied to the Customer's billing during the billing cycle following the month in which the claim was approved.

2.5.3. Policy Change. Company reserves the right to change, amend, or revise this policy at any time with or without notice to Customer.

- 2.6. The Service Level Warranty set forth in this Schedule A shall only apply to the IP Transit Services and does not apply to any other Services. This Schedule A states Customer's sole and exclusive remedy for any failure by Company to provide IP Transit Services.

**SCHEDULE B  
EQUIPMENT PURCHASE TERMS AND CONDITIONS**

1. SHIPPING AND HANDLING. All equipment purchased by Customer ("Equipment") is provided FOB vendor facility. Shipment will be made as specified by Customer and Customer is solely responsible for all expenses in connection with the delivery of the Equipment. The Equipment will be deemed accepted by Customer upon shipment to Customer. Promptly following receipt of the Equipment, Customer shall deliver the Hand Receipt to Company.
2. PURCHASE PRICE AND TAXES. Customer shall pay to Company the purchase price set forth in the applicable Order Form ("Purchase Price") for each item of Equipment. Customer hereby grants and Company reserves a purchase money security interest in the Equipment and the proceeds thereof as security for its obligations hereunder until payment of the full Purchase Price to Company. The Purchase Price is due and payable within thirty- (30) calendar days of shipment of the Equipment. Customer shall pay all taxes and other governmental charges assessed in connection with the sale, use or possession of the Equipment including, without limitation, any and all sales and/or use taxes and personal property taxes (other than taxes based solely on Company's net income).
3. TITLE. Customer shall acquire title to the Equipment upon full payment of the purchase prices set forth herein. Notwithstanding the foregoing, Company and any licensor of rights to Company shall retain title to and rights in the intellectual property (whether or not subject to patent or copyright) and content contained in the materials supplied under the terms of this Agreement.
4. SELECTION OF EQUIPMENT; MANUFACTURER WARRANTY. Customer acknowledges that it has selected the Equipment and disclaims any statements made by Company. Customer acknowledges and agrees that use and possession of the Equipment by Customer shall be subject to and controlled by the terms of any manufacturer's or, if appropriate, supplier's warranty, and Customer agrees to look solely to the manufacturer or, if appropriate, supplier with respect to all mechanical, service and other claims, and the right to enforce all warranties made by said manufacturer are hereby, to the extent Company has the right, assigned to Customer. THE FOREGOING WARRANTY IS THE EXCLUSIVE WARRANTY AND IS IN LIEU OF ANY REPRESENTATION AND ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY. COMPANY HAS NOT MADE NOR DOES MAKE ANY OTHER WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, QUALITY, PERFORMANCE OR NON-INFRINGEMENT. CUSTOMER PURCHASES THE EQUIPMENT SOLELY ON AN "AS IS" BASIS.
5. LIMITATION OF LIABILITY. Company's entire liability for any damages which may arise hereunder, for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including Company's negligence, or otherwise, shall be limited to the Purchase Price paid by Customer for the Equipment. IN NO EVENT WILL COMPANY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF BUSINESS OR PROSPECTIVE BUSINESS OPPORTUNITIES, PROFITS, SAVINGS, INFORMATION, USE OR OTHER COMMERCIAL OR ECONOMIC LOSS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. GOVERNING LAW; DISPUTE RESOLUTION. This Agreement is made under and will be governed by and construed in accordance with the laws of the State of Arizona and the County of Pima (except that body of law controlling conflicts of law) and specifically excluding from application to this Agreement that law known as the United Nations Convention on the International Sale of Goods. The parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims whatsoever related to this Agreement. Failing such amicable settlement, any controversy, claim, or dispute arising under or relating to this Agreement, including the existence, validity, interpretation, performance, termination or breach thereof, the parties to this Agreement hereby consent to the exclusive jurisdiction and venue in the state and federal courts located in Pima County, Arizona, USA.
7. MISCELLANEOUS. THE ABOVE TERMS AND CONDITIONS ARE THE ONLY TERMS AND CONDITIONS UPON WHICH COMPANY IS WILLING TO SELL THE EQUIPMENT AND SUPERSEDE ALL PREVIOUS AGREEMENTS, PROMISES OR REPRESENTATIONS, ORAL OR WRITTEN.

**APPENDIX A**

**DEFINITIONS**

1. "AUP" MEANS COMPANY'S ACCEPTABLE USE POLICY AS FOUND AT [HTTP://WWW.RURALNETWORKLESS.COM/AUP.HTML](http://www.ruralnetworkless.com/aup.html) GOVERNING CUSTOMER'S USE OF SERVICES, INCLUDING, BUT NOT LIMITED TO, ONLINE CONDUCT, AND THE OBLIGATIONS OF CUSTOMER AND ANY SUBORDINATED USERS.
2. "COMPANY NETWORK" MEANS THE TELECOMMUNICATIONS NETWORK AND THE LINKAGES BETWEEN ONE OF THE FOLLOWING, AS APPLICABLE, (I) THE CUSTOMER PORT ON THE COMPANY EQUIPMENT, THE COMPANY EQUIPMENT, ANY DIRECTLY CONNECTED NETWORK MAINTAINED BY ANY THIRD PARTY TELECOMMUNICATIONS SERVICE PROVIDER UTILIZED BY COMPANY; (II) THE CUSTOMER PORT ON THE EQUIPMENT MAINTAINED BY ANY THIRD PARTY TELECOMMUNICATIONS SERVICE PROVIDER UTILIZED BY THE COMPANY AND THEIR NETWORK; OR (III) THE COMPANY POP AND ANY DIRECTLY CONNECTED NETWORK MAINTAINED BY ANY THIRD PARTY TELECOMMUNICATIONS SERVICE PROVIDER UTILIZED BY THE COMPANY AND THEIR NETWORK. THE COMPANY NETWORK DOES NOT INCLUDE EQUIPMENT LOCATED AT CUSTOMER'S PREMISES (INCLUDING COMPANY SUPPLIED NETWORK) WHETHER OR NOT PROVIDED BY COMPANY, TELEPHONE CIRCUITS OR NETWORKS BETWEEN A COMPANY POP AND CUSTOMER'S LOCATION, INACTIVE POPS, OR ANY NETWORKS, NETWORK EQUIPMENT, OR TELEPHONE CIRCUITS OTHER THAN DESCRIBED ABOVE THAT IS NOT OWNED OR CONTROLLED BY COMPANY.
3. "Company Point of Presence," "Company POP," or "POP" means a single defined location within the Company Network used in the provision of the Services.
4. "Company Supplied Equipment" means the hardware, software and other tangible equipment and intangible computer code contained therein provided by Company for use by Customer as per the terms of this Agreement.
5. "Cross Connect" means a physical cable, wire, fiber optics or other such material that is used to connect a Customer Location with a Company POP when both are located in the same physical building or the extension of a Local Access Circuit within the Company POP from the Minimum Point of Entry to the Company equipment in the same physical building.
6. "Customer Equipment" means the Customer's computer hardware, not including stored data, and other tangible equipment.
7. "Customer Location" means the physical location designated by the Customer.
8. "Eligible Customer" means any Customer which has purchased IP Transit Service, but excludes any Customer (i) whose connection terminates at a Company POP which is inactive, (ii) whose connection terminates at a non-Company POP, (iii) who is blocking or who during the period in question has blocked Company from sending ICMP traffic or other traffic monitoring request to the Customer Equipment or Company Supplied Equipment, (iv) which has does not provide, or during the period in question, has not provided the necessary access to personnel and facilities of Customer to enable Company to perform comprehensive service troubleshooting, (v) whose account is or, during the period in question, was not in good financial standing with Company, (vi) whose account is or, during the period in question, was in violation of the AUP and/or (vii) who does not open a support ticket to report any specific service performance issue.
9. "Initial Term" means the minimum term for which Company will provide the Service to Customer, as indicated on the Order Form(s).
10. "Local Access Circuit" means a leased circuit from a third party for the purpose of connecting a Customer Location with a Company POP.
11. "Services" means the specific services provided by Company as described on the applicable Order Forms.
12. "Service Activation Date" means the later of: (i) the date on which the Company delivers the Services ready for use; or (ii) the date upon which the Customer has requested activation of the Services as specified on the applicable Order Forms.
13. "Service Charge" means the monthly Service fees charged by the Company for any Services excluding any one-time fees, Company Provided Equipment charges, Telco Fees, or other similar charges.
14. "Telco Fees" means the monthly fees for any Local Access Circuit, Cross Connect or other similar charges.