

## MASTER SERVICES AGREEMENT FOR ENTERPRISE SERVICES

This Master Services Agreement for Enterprise Services (this “**MSA**”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2016 (the “**Effective Date**”), by and between WAVE BUSINESS SOLUTIONS, LLC, a Washington limited liability company, on behalf of itself and its Affiliates (collectively, “**Provider**”), and Woodland Joint Unified School District, a California public school district (“**Customer**”). For purposes of this MSA, the term “**Affiliate**” shall mean any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first person or any of its subsidiaries. Each of Provider and Customer may be referred to in this MSA as a “**Party**” and together as the “**Parties**.”

### ARTICLE 1 – STRUCTURE OF AGREEMENT

1.1 Purpose of MSA; Documents Comprising Agreement. Provider and its Affiliates provide various facilities-based telecommunications services, including Ethernet transport, dedicated internet access, phone over fiber, dark fiber, and related services (collectively, the “**Services**”). This MSA is neither an agreement to purchase nor a commitment to provide Services. The purpose of this MSA is to provide the general terms, conditions and framework within which Customer and its Affiliates may from time to time purchase Services from Provider and its Affiliates, pursuant to one or more “**Service Orders**,” as described in Section 1.2 below. Each fully-executed Service Order shall be governed by and become part of this MSA, and this MSA together with all fully-executed Service Orders shall be collectively referred to as the “**Agreement**.” If one or more Service Level Agreements are attached to this MSA as Exhibits (the “**SLA**”), the SLA constitutes a part of this MSA.

1.2 Service Orders. The purchase of Services shall be accomplished only through the negotiation and full execution of a Service Order memorializing the terms and conditions pursuant to which Provider shall provide the desired Services to Customer. Service Orders shall clearly specify the following: (i) the type of Service at issue (e.g., Internet access, data transport, VoIP, dark fiber, etc.); (ii) the location(s) at which the Service is to be provided (each, a “**Service Site**”); (iii) the initial term of the Service Order (the “**Initial Service Term**”); (iv) the pricing for the Service, including (a) the monthly recurring charges (“**MRC**”) for the Service, and (b) any non-recurring charges (“**NRC**”) associated with installation of the Service; (v) the estimated installation date for the Service; and (vi) any other terms or conditions specific to the particular Service Order.

1.3 Order of Precedence. In the event of a conflict between the provisions of this MSA (including the SLA) and the provisions of any Service Order, the provisions of this MSA (including the SLA) shall control unless the Service Order at issue expressly states that the parties intend for the conflicting provision of the Service Order to control.

### ARTICLE 2 – TERM AND RENEWAL

2.1 Term of MSA. The initial term of this MSA (the “**Initial MSA Term**”) shall be for five (5) years, commencing on the Effective Date and expiring on the date that is one day prior to the fifth anniversary of the Effective Date (the “**Expiration Date**”). Notwithstanding the foregoing, so long as any one or more Service Orders entered into pursuant to this MSA remain in effect, this MSA shall not terminate with respect to said Service Orders but shall continue to govern same until the expiration or termination of said Service Orders.

2.2 Term of Service Orders. The term of each Service Order shall be as specified in the Service Order.

### ARTICLE 3 – INSTALLATION, TESTING AND ACCEPTANCE

3.1 Service Site; Demarcation Points; Equipment. Unless a Service Site is within Provider’s control, Customer shall provide Provider with access to the Service Site as and to the extent reasonably necessary for Provider to install, test, inspect and maintain the Service(s) ordered during the Service Term. Unless otherwise stated in a Service Order: (i) Provider shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “**Provider Equipment**”) necessary to connect Provider’s network facilities to the Customer demarcation point(s) at the Service Site (the “**Demarcation Point(s)**”); and (ii) Customer shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “**Customer Equipment**”) from the Demarcation Point(s) to Customer’s internal network. Unless a Service Site is within Provider’s control, Customer shall be responsible for maintaining appropriate HVAC, electrical power, and security at the Service Site. Title to the Provider Equipment shall at all times remain vested in Provider. Customer shall not re-arrange, disconnect, modify, tamper with, attempt to repair, or otherwise interfere with the Provider Equipment, nor shall Customer permit any third party to do so.

3.2 Testing, Acceptance and Service Commencement Date. Provider shall notify Customer when a Service has been installed and is ready for testing and use. Customer may, at Customer's option, participate in Provider's final testing of the Service. The Initial Service Term for the Service at issue shall commence on the date on which the Service has been installed, tested and is active and available for use by Customer (the "**Service Commencement Date**"). Customer shall have a period of five (5) business days after the Service Commencement Date in which Customer may notify Provider that the Service at issue is not functioning properly. If Customer notifies Provider of problems with a Service pursuant to this Section 3.2, Provider shall investigate and correct same and the Service Commencement Date shall be revised to be the first calendar day after the date on which Provider has corrected the problems. Unless Customer delivers notification of problems to Provider within the time period set forth above, Customer shall be deemed to have accepted the Service at issue and to have confirmed that the Service has been installed and is functioning properly as of the Service Commencement Date.

3.3 Fingerprinting. This Agreement is subject to the provisions of Education Code section 45125.1 and any subsequent amendments. Provider's employees are required to submit fingerprints to the Department of Justice where an employee may come into contact with students at any Customer school site. The Department of Justice will ascertain whether the employee has a pending criminal proceeding for a violent or serious felony, or has been convicted of a violent or serious felony as those terms are defined in Penal Code sections 667.5(c) and 1192.7(c), respectively. Provider shall not permit an employee to come into contact with students until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code section 45125.1. Provider shall provide Customer with a list of names of employees who may come into contact with students and must certify in writing to the Customer that none of its employees who may come into contact with students have been convicted of a felony as defined in Education Code section 45125.1. Customer may request the removal of an employee from a Customer school site at any time. Failure to comply with any of the provisions of this section may result in termination of this Agreement. These provisions shall not apply if Provider agrees to the continual supervision and monitoring of Provider employees and/or agents by designated Customer's employees when Provider employees and/or agents have or may have contact with Customer's pupils."

#### ARTICLE 4 – PAYMENT AND BILLING

4.1 Invoicing. All amounts owed by Customer to Provider under the Agreement shall be collectively referred to as "**Fees.**" Provider shall begin billing Customer for the MRC applicable to a Service as of the Service Commencement Date. Invoices shall be delivered monthly, and shall be paid by Customer within thirty (30) days of receipt. Fixed Fees shall be billed in advance and usage-based Fees shall be billed in arrears. Fixed fees for any partial month shall be pro-rated. For Services having an NRC, unless otherwise stated in the Service Order, Provider shall invoice Customer for the NRC upon full-execution of the Service Order. Except for amounts disputed in good faith by Customer pursuant to Section 4.2 below, past due amounts shall bear interest in the amount of 1.5% per month, or the highest amount allowed by law, whichever is lower.

4.2 Disputed Invoices. If Customer in good faith disputes any portion of a Provider invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Provider regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a "**Fee Dispute Notice**"). The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after Customer's delivery of the applicable Fee Dispute Notice. Fee disputes unresolved within that time period shall be resolved by the mediation and arbitration procedures set forth in Sections 11.2 and 11.3 below.

4.3 Applicable Taxes. All charges for Services set forth in Service Orders are exclusive of Applicable Taxes (as defined below). Except for taxes based on Provider's net income or taxes for which Customer possesses a valid exemption certificate, Customer shall be responsible for payment of all applicable taxes and regulatory fees, however designated, that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, fees, duties, charges or surcharges, that are imposed on, incident to, or based upon the provision, sale, or use of the Service(s) (collectively "**Applicable Taxes**"). The Applicable Taxes will be individually identified on invoices. If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Provider with a valid exemption certificate (in a form reasonably acceptable to Provider). Provider will give prospective effect to any valid exemption certificate provided in accordance with the preceding sentence.

## ARTICLE 5 – DEFAULT AND REMEDIES

5.1 Customer Default. Each of the following shall constitute a default by Customer under this Agreement (each a separate event of “**Default**”): (i) if Customer fails to pay any undisputed Fees when due, the failure of Customer to cure same within ten (10) days after receiving written notice from Provider regarding such failure to pay; (ii) if Customer fails to comply with any other material provision of this Agreement, the failure of Customer to cure same within thirty (30) days of receiving written notice from Provider regarding such non-compliance; or (iii) if Customer files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.2 Remedies for Customer Default. In the event of a Default by Customer under this Agreement, Provider may, at its option: (i) suspend any applicable Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer’s on-going obligation to pay Provider all Fees and other amounts due under the Agreement as if such suspension of Services had not taken place); (ii) terminate the applicable Service(s) and/or the applicable Service Order(s); (iii) after the occurrence of any two Customer Defaults in any twelve (12) month period, terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iv) pursue any other remedy available to Provider under this Agreement or applicable law. In the event of early termination for Customer Default pursuant to this Section 5.2, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

5.3 Provider Default. Each of the following shall constitute a Default by Provider under this Agreement: (i) if Provider fails to comply with any material provision of this Agreement, the failure by Provider to cure same within thirty (30) days of receiving written notice from Customer regarding such non-compliance; (ii) Provider files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days, or (iii) Chronic Outages, which means a series of three (3) or more service outages affecting the same Service on the same circuit during a given calendar month, each of which has an actual time to restore “TTR” in excess of Provider’s targeted MTTR, as more fully described in the SLA.

5.4 Remedies for Provider Default. In the event of a Default by Provider under this Agreement Customer may, at its option: (i) terminate the applicable Service(s) and/or the applicable Service Order(s); (ii) terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iii) pursue any other remedy available to Customer under this Agreement or applicable law. Early termination by customer shall be accomplished by providing termination notice to [disconnects@wavebroadband.com](mailto:disconnects@wavebroadband.com) and to the notice address specified in Article 13 below. In the event of early termination for Provider Default pursuant to this Section 5.4, Provider shall reimburse Customer for any pre-paid, unused monthly service Fees attributable to the terminated Service(s) and/or Service Order(s), and Customer shall have no further liability to Provider for the terminated Service(s) and/or Service Order(s). Early termination by Customer pursuant to this Section 5.4 shall not relieve Customer of its obligations to pay all Fees incurred prior to the early termination date.

## ARTICLE 6 – EARLY TERMINATION & PORTABILITY

6.1 Early Termination for Customer Convenience. Customer may, at any time during the Service Term for a Service, discontinue the Services and/or terminate the corresponding Service Order upon not less than thirty (30) days’ advance written notice to [disconnects@wavebroadband.com](mailto:disconnects@wavebroadband.com) and to the notice address specified in Article 13 below. Any early termination of a Service pursuant to this Section 6.1 shall be referred to as “**Termination for Customer Convenience.**” In the event of Termination for Customer Convenience, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

6.2 Early Termination for Default. As set forth in Article 5 above, either Party may elect to terminate this MSA and/or one or more Service Orders prior to the scheduled Expiration Date in the event of an uncured Default by the other Party.

6.3 Other Early Termination by Provider. At any time during the applicable Service Term, Provider may, upon reasonable advance notice to Customer, terminate any Service(s) or Service Order(s) if any of the following occur, each in the reasonable good faith business judgment of Provider: (i) Provider does not have all rights necessary to provide the Service(s); (ii) Provider is legally or contractually prohibited from providing the Services or is advised by counsel that termination of the Service(s) and/or Service

Order(s) is advisable given newly enacted or then-pending laws, regulations or ordinances, whether federal, state or local; (iii) delivery of the Service(s) becomes technically infeasible due to equipment changes and reconfigurations or other technical issues; or (iv) Provider reasonably determines that the use of the Service(s) by Customer is resulting or is likely to result in significant damage to Provider's network or property or create a significant risk of harm to Provider or its agents or employees.

6.4 **Termination Charge.** In the event of Termination for Customer Convenience pursuant to Section 6.1 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall pay a Termination Charge to Provider. The "**Termination Charge**" shall equal the sum of the following: (i) all unpaid amounts for Services actually provided prior to the termination date; (ii) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider.

6.5 **Portability; Substitution of Services.** At any time during the Service Term of a Service Order, Customer may elect to substitute new Services for then-existing Services. In such event, Provider will waive the Termination Charge associated with the termination of the then-existing Services as long as: (i) the Fees payable to Provider in connection with the substitute Services are equal to or greater than the Fees of the discontinued Services; (ii) Customer commits to retain the substitute Services for the remainder of the Service Term for the discontinued Services; (iii) Customer pays all applicable installation and other NRCs, if any, for provision of the substitute Services; and (iv) Customer reimburses Provider for all reasonable and documented engineering, installation and construction costs associated with the discontinued Services, calculated on a time and materials basis, that have not already been recovered by Provider by the time of the substitution.

## ARTICLE 7 – CONFIDENTIAL INFORMATION

7.1 **Definition of Confidential Information.** "**Confidential Information**" shall mean all information, including this Agreement, regarding the telecommunications needs of Customer and the Services that Provider offers under this Agreement which is disclosed by one Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), to the extent that such information is marked or identified as confidential or proprietary or would be reasonably deemed confidential or proprietary given the circumstances surrounding its disclosure. All written or oral pricing and contract proposals exchanged between the Parties shall be deemed Confidential Information, whether or not so designated. The fact that Customer is a customer of Provider shall not be deemed Confidential Information and may be freely disclosed by either Party. Information shall not be deemed Confidential Information if (i) it is independently developed by or for the Receiving Party, (ii) it is lawfully received by the Receiving Party free of any obligation to keep it confidential, (iii) it becomes generally available to the public other than by breach of this Agreement, or (iv) it was known to the Receiving Party prior to the Disclosing Party's disclosure of same. It is understood that Customer is subject to the California Public Records Act, (Gov. Code § 6250 et seq.) If a public record's request is made to view Provider's Confidential Information, Customer shall notify Provider of the request and the date that such records will be released to the requester unless Provider obtains a court order enjoining that disclosure. If Provider fails to obtain a court order enjoining that disclosure, Customer will release the requested information on the date specified.

7.2 **Obligations Regarding Confidential Information.** Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. The Receiving Party shall hold all Confidential Information in confidence. The Receiving Party: (a) shall use such Confidential Information only for the purposes of performing its obligations and/or enforcing its rights under this Agreement; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees or contractors that have a need to know for such purposes (with disclosure to contractors being limited to contractors that have signed a non-disclosure agreement to protect the Confidential Information of third parties); (d) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement or as required by law, by court order, by administrative order of an agency having jurisdiction, or in the enforcement of its rights under this Agreement; and (e) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information. In the event a Receiving Party is required to disclose Confidential Information of the Disclosing Party pursuant to law, court order or administrative order of an agency having jurisdiction, the Receiving Party will, if such notice is permitted by law, notify the Disclosing Party of the required disclosure with sufficient time for the Disclosing Party to seek judicial relief from the required disclosure, and reasonably cooperate with the Disclosing Party in any efforts the Disclosing Party may take to obtain protective measures in respect to the required disclosure. The Parties agree that breach of this Article 7 may cause irreparable injury for which monetary damages are not an adequate remedy; accordingly, each Party may seek injunctive relief and any other available equitable remedies to enforce

the provisions of this Article 7.

## ARTICLE 8 – LIMITATION OF LIABILITY

8.1 [RESERVED]

8.2 [RESERVED]

8.3 [RESERVED]

8.4 [RESERVED]

8.5 Assumption of Risk. PROVIDER HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED BY CUSTOMER THROUGH THE SERVICES, SERVICE INTERRUPTIONS ATTRIBUTABLE TO CUSTOMER'S NETWORK, ANY CUSTOMER EQUIPMENT FAILURES, OR ANY OTHER SUCH CAUSES, AND CUSTOMER USES THE SERVICES AT CUSTOMER'S OWN RISK. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY. CONFIDENTIALITY AND INTEGRITY OF INFORMATION CUSTOMER TRANSMITS OR RECEIVES USING ANY SERVICES.

## ARTICLE 9 – INDEMNIFICATION FOR THIRD PARTY CLAIMS

9.1 Indemnification by Provider. Provider shall indemnify, defend and hold Customer and its members, managers, officers, agents and employees (collectively, the "**Customer Indemnified Parties**") harmless from and against any and all claims, lawsuits or damages asserted against the Customer Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Provider's acts or omissions in exercising its rights or performing its obligations under this Agreement; (ii) Provider's noncompliance with or Default under this Agreement; and/or (iii) Provider's failure to comply with applicable law in connection with its performance under this Agreement.

9.2 Indemnification Procedures for Third-Party Claims. Should any third-party claim arise under this Article 9, the indemnified party shall promptly notify the indemnifying party of same in writing, and shall take such action as may be necessary to avoid default or other adverse consequences in connection with such claim. The indemnifying party shall have the right to select counsel and to control the defense and settlement of such claim; provided, however, that the indemnified party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in handling the claim, and provided further, that the indemnifying party shall not take any action in defense or settlement of the claim that would negatively impact the indemnified party without the consent of the indemnified party. The indemnified party shall reasonably cooperate with the indemnifying party in the defense of the third-party claim, including making its files and personnel reasonably available to the indemnifying party, all at the cost and expense of the indemnifying party.

## ARTICLE 10 – FORCE MAJEURE EVENTS

Neither Party shall be liable for any failure of performance hereunder (other than Customer's payment obligations under Article 4) due to causes beyond such Party's reasonable control including, but not limited to, acts of God, fire, explosion, vandalism, cable cut, flood, storm, or other similar natural disaster, terrorist acts, insurrection, riot, national emergency, war or other catastrophe, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority (each, a "**Force Majeure Event**"). The Party claiming relief under this Article shall notify the other Party of the occurrence or existence of the Force Majeure Event and of the cessation of such event. If the delay in performance caused by the Force Majeure Event exceeds thirty (30) days, either Party may terminate this Agreement or the applicable Service Order(s) immediately on written notice to the other Party, without incurring any liability in connection with such termination.

## ARTICLE 11 – DISPUTE RESOLUTION

11.1 General Provisions. Except for actions seeking a temporary restraining order or injunction, or suits to compel compliance with this dispute resolution process, the Parties agree to use the dispute resolution procedures set forth in this Article 11 with respect to any controversy or claim (each, a "**Dispute**") arising out of or relating to this Agreement. All discussions occurring and

documents exchanged pursuant to Sections 11.2 and 11.3 below are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation or mediation process.

11.2 Negotiations. Should any Dispute arise, either Party may give the other Party written notice of the Dispute (each, a “Dispute Notice”). The Parties shall use good faith efforts to resolve the Dispute through negotiation within thirty (30) days of the date on which the Dispute Notice is delivered. With respect to Fee disputes arising under Article 4, compliance with the negotiation procedures described in Section 4.2 shall be in lieu of the provisions of this Section 11.2. If the Parties do not resolve the Dispute within such thirty (30) day period, either of the Parties may submit the matter to non-binding mediation through a professional mediation service. Pending resolution of any Dispute, Company agrees not to cancel or disrupt customer’s use and access to the Services.

11.3 Mediation. If a Dispute is submitted to mediation, the Parties will cooperate in selecting a qualified mediator from a panel of neutral mediators having experience in the telecommunications and broadband internet industry. The Parties shall share equally in the costs of mediation. Any Dispute that cannot be resolved through mediation within sixty (60) days of submitting the Dispute to mediation shall be resolved by binding arbitration as provided in Section 11.4 below.

11.4 Binding Arbitration. Any arbitration hearing shall be before a single neutral arbitrator and shall be held in the Sacramento, California offices of JAMS, Inc., formerly known as Judicial Arbitration & Mediation Services, Inc.. The arbitration shall be administered pursuant to the rules and procedures of the American Arbitration Association. The parties shall equally share the fees of the arbitrator.

11.5 Governing Law. This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of California. Any judicial action arising in connection with this Agreement shall be in the Superior Court of the State of California in and for Yolo County, or in the Federal District Court for the Eastern District of California, as applicable.

#### ARTICLE 12 – ASSIGNMENT AND ASSUMPTION

Except as otherwise provided in this Article 12, neither Party shall assign, delegate or otherwise transfer this Agreement or its obligations under this Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the necessity of obtaining the other Party’s consent, assign its interest in and to the Agreement to: (i) any entity acquiring such Party, whether by merger or through purchase of substantially all the assets of such Party; (ii) a lender as an asset securing indebtedness; or (iii) an Affiliate of such Party; provided, that in the event of a transfer to an Affiliate, the transferring Party shall continue to remain liable for the obligations under the Agreement.

#### ARTICLE 13 – NOTICES

Unless otherwise provided elsewhere in this Agreement, any notice to be given to either Party under the Agreement will be in writing and directed to the addresses set forth below. Notices will be deemed received (i) the next business day, when sent by reliable, commercial overnight courier; (ii) three (3) business days after being sent by certified mail, postage prepaid and return receipt requested; (iii) when actually received, if sent by email during the business hours of 9:00 a.m. to 5:00 p.m. (recipient’s time). Notices received after 5:00 p.m. (recipient’s time) will be effective the next business day.

**If to Provider:**

Wave Business Solutions, LLC  
401 Parkplace Center, Suite 500  
Kirkland, WA 98033  
ATTN:  
Email:

**If to Customer:**

Lewis Wiley, Jr.  
Assistant Superintendent, Business Services  
Woodland Joint Unified School District  
435 Sixth Street  
Woodland, CA 95695  
Email: [Lewis.Wiley@wjusd.org](mailto:Lewis.Wiley@wjusd.org)

**With a Copy to:**

WaveDivision Holdings, LLC

**With a Copy to:**

Tina Burkhart

401 Parkplace Center, Suite 500  
Kirkland, WA 98033  
ATTN: Jim Penney  
Email: [jpenney@wavebroadband.com](mailto:jpenney@wavebroadband.com)

Director of Technology Services, Education Services  
435 Sixth Street  
Woodland, CA 95695  
Email: [Tina.Burkhart@wjusd.org](mailto:Tina.Burkhart@wjusd.org)

Either party may change its notice address by giving notice to the other party in accordance with this Article.

#### ARTICLE 14 – REPRESENTATIONS AND COVENANTS

Each Party represents and covenants to the other as follows: (i) the execution and delivery of the Agreement and the performance of its obligations hereunder have been duly authorized; (ii) the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms; (iii) to the best of its knowledge and belief, it is in material compliance with all laws, rules and regulations and court and governmental orders related to the operation of its business; and (iv) it shall comply with all applicable laws and regulations when exercising its rights and performing its obligations under the Agreement.

#### ARTICLE 15 – MISCELLANEOUS

**15.1 Entire Agreement; Interpretation.** This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each Party. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated 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 of the Parties.

**15.2 Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect.

**15.3 No Waiver.** No failure by either Party to enforce any rights hereunder will constitute a waiver of such rights. Nor shall a waiver by either Party of any particular breach or default constitute a waiver of any other breach or default or any similar future breach or default. Provider's acceptance of any payment under this Agreement will not constitute an accord or any other form of acknowledgement or satisfaction that the amount paid is in fact the correct amount, and acceptance of a payment will not release any claim by Provider for additional amounts due from Customer.

**15.4 Attorneys' Fees.** If any proceeding is brought by a Party to enforce or interpret any term or provision of the Agreement, the prevailing Party in such proceeding will be entitled to recover, in addition to all other relief as set forth in the Agreement, that Party's reasonable attorneys' and experts' fees and expenses.

**15.4 Relationship; No Third Party Beneficiaries.** The Agreement is a commercial contract between Provider and Customer and the relationship between the Parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal-agent, employer-employee or joint venture relationship between the Parties or any of their Affiliates, agents or employees for any purpose. This Agreement is for the sole benefit of Provider and Customer and is not intended to confer any rights on any other person; there are no third party beneficiaries of this Agreement.

**15.6 Exhibits.** The following Exhibits, which are attached to this Agreement, are incorporated herein and by this reference made a part of this Agreement:

EXHIBIT A - Service Level Agreement for Lit Fiber Services

**15.7 Computation of Time.** Except where expressly provided to the contrary, as used in this Agreement, the word "day" shall mean "calendar day," and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time periods specified in this Agreement. If the final date of any period of time set out in any provision of this Agreement falls upon a Saturday or a Sunday or a legal holiday, then in such event, the time of such period shall be extended to the next day that is not a Saturday, Sunday or legal holiday. As used in this Agreement, the term "business day" shall mean a day that is not a

Saturday, Sunday or a legal holiday.

15.8 Counterparts. This MSA and any Service Order entered into by the Parties pursuant to this MSA may be executed in multiple counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document.

The Parties are signing this MSA as of the Effective Date set forth in the preamble above.

**CUSTOMER:**

Woodland Joint Unified School District

\_\_\_\_\_

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PROVIDER:**

Wave Business Solutions, LLC, a Washington  
limited liability company

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_