

# MINET MASTER SERVICE AGREEMENT TERMS & CONDITIONS

## APPLICABLE TO ALL MINET SERVICES

1. In exchange for Service from MINET, Customer agrees to the terms and conditions of this Master Service Agreement (Agreement) as modified from time to time. MINET 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 Agreement. A current version of this Agreement shall be available at the MINET office and on the MINET website.
  2. **Warranties:** EXCEPT FOR ANY WARRANTIES EXPRESSLY MADE IN THIS AGREEMENT, MINET EXCLUDES ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. MINET DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND CUSTOMER SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS.
  3. If MINET voluntarily or involuntarily as a result of government action cancels, in whole or in part, any Tariff(s) referenced herein, then effective on such cancellation, service will be provided thereafter in accordance with MINET Tariff(s) which remain in effect as amended from time to time and which will be provided to Customer on request.
  4. Customer shall reasonably provide installation instructions and other information as required by MINET for purposes of providing services under this Agreement.
  5. **Agency Authorization:** This Agreement and the MINET Service Order (Service Order) authorizes MINET to act as agent for Customer as necessary, to provide the services described in the Service Order (Service), including but not limited to, ordering telecommunications and other services or facilities and increasing, adding to, terminating, decreasing, removing or rearranging such Service or facilities on Customer's behalf.
  6. **Limitation of Liability:** Neither MINET nor Customer shall be liable to the other, or to any third party, for any actual, 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 from or related to this Agreement. Customer will indemnify, defend and hold MINET harmless from and against any and all claims by Customer's agents, employees or customers arising from or relating to MINET's provision of Service to Customer under this Agreement. MINET'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 MINET for the specific time period of the incident(s) for which damages are claimed, and Customer's sole remedy against MINET in the event of such claims shall be the recovery of an appropriate billing credit in accordance with Section 23 of this Agreement. MINET is a governmental entity that is protected by the Oregon Tort Claims Act.  
  
In no event shall MINET be liable for losses, damages, or claims arising out of customer's use, attempted use, or inability to access 911 or e911 service or other emergency call.
  7. **FORCE MAJEURE:** If the performance of the respective obligations of MINET or Customer under this Agreement shall be prevented or interfered with by reason of a Force Majeure, then that 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, 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.
  8. **Access to Facilities:** Without the specific consent of MINET, Customer shall have no right of access to the facilities or any other real or personal property of MINET and shall refrain from any contact whatsoever with said facilities and/or other MINET property.
  9. **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 MINET for Customer shall remain the property of MINET 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.
  10. **Assignment Rights:** This Agreement shall not be assigned or transferred by Customer to another party without the written consent of MINET.
  11. **Waiver of Jury Trial:** MINET and Customer each waive trial by jury in any action or proceeding brought by either of the parties hereto against the other or on any counterclaim in respect thereof on any matters whatsoever arising out of, or in any way connected with, this Agreement or the relationship of MINET and Customer.
  12. **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.
  13. **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.
  14. **Notices:** Any notices or demands which, under the terms of this Agreement or under any statute, must or may be given to MINET, shall be in writing or made by certified or registered mail, or by courier, addressed as follows:  
  
**To: MINET**  
**Name: Phil Garrett**  
**Title: General Manager**  
**Address: 405 N Hogan Road, Monmouth, OR 97361**
- Such notice or demands shall be deemed to have been given or made when received by MINET.**
15. **Tariff:** Tariffs are rates that are subject to regulatory approval. The tariffs will be non-discriminatory and will be posted on MINET's website or available at the MINET office. MINET reserves the right to revise the tariffs at any time without notice in its sole discretion.
  16. **Term & Renewal:** This Agreement is modified from time to time and the affected Service and all the terms and conditions hereof shall continue on a month-to-month basis unless renewed for a different term or terminated by either party upon thirty (30) days prior written notice or until otherwise terminated pursuant to the provisions of Section 21 hereof.
  17. **Service Charges:** Customer shall pay to MINET all Monthly Recurring Charges, Usage Charges and Installation Charges set forth in the MSA and addenda and all non-recurring charges related to the Service plus all applicable excise, sales use or other taxes, fees, or allocations or charges applicable to the Service. Such fees, tax charges, etc. will be separately stated in MINET Invoices. Service Charges shall be due and payable commencing on the earlier of the Request for Service date specified on the quote or the date on which Customer Installation is complete. Service Charges for local access or other service or facilities arranged for or ordered by MINET on Customer's behalf shall become due on the Request for Service date.
  18. **Minimum Commitment:** The Minimum Commitment level indicated on the MSA represents the net minimum service volume that the Customer will utilize from MINET on a monthly basis.
  19. **Payment:** MINET will bill Customer for Service Charges each month in advance. Billing shall commence upon installation of service. Usage charges, if applicable, will be billed in arrears, and rounded up to the next whole cent. In the event MINET is unable to record usage for any part of a billing period, MINET shall be entitled to make a reasonable estimate of Customer's usage of services for that billing period. Customer will authorize MINET to pay all invoices within twenty (20) days after the invoice date by

automatically deducting the fees from a checking account, or shall send its payments to the address specified on the invoice. MINET may, in addition, to any other remedies available to it, impose a late payment charge of \$ 15.00 per month on any invoice not paid within such 20 day period. Failure of Customer to receive any invoice in no way relieves Customer of the obligation to pay for any rendered services or fulfill volume commitment obligations.

MINET may use a private collection agency to collect any debt arising out of MINET services provided to a customer. MINET reserves the right to add any private collection agency fees to the debt under ORS 697.105.

**20. Termination:** MINET may terminate this Agreement, or any Service Order, 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 notice from MINET, to be provided in writing; (b) Any breach by Customer of any material 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; and (d) Any violation of any other MINET policy, including those contained in MINET’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:

*(A) Internet and Cable TV Services:*

In the event Customer cancels or terminates Internet Services under this Agreement or any Service Order, Customer agrees to pay MINET a termination charge (as liquidated damages and not as a penalty) as follows: (1) All non-recurring charges specified in this Agreement or any Service Order, plus (2) All disconnection, early cancellation or termination charges reasonably incurred by MINET on Customer’s behalf.

Customer must bring the set top box back to the MINET office or will be billed for the equipment at the current tariff price. If the Customer returns the box in good working condition the Customer will be credited back the amount charged for the set top box.

*C (B) Voice Services:*

For voice services terminated, Customer agrees to pay (as liquidated damages and not as a penalty), for all prior usage. All termination charges shall be due and payable within thirty (30) days of the effective date of termination.

(C) Notwithstanding subsections A & B, Customer may upon written notice to MINET, terminate this Agreement prior to the expiration of the Initial Term or any subsequent Renewal Term, without any termination charges, in the event MINET has breached any material term or condition of this Agreement as modified from time to time and has failed to cure such breach within thirty (30) days after receipt of written notice from the Customer.

**21. Interruption of Service:** In the event of an interruption of Service, MINET will use reasonable efforts to restore service promptly. Whenever an interruption occurs, MINET shall have no liability or obligation unless and until Customer has notified MINET using oral / telephone, electronic mail, and / or written communications or unless MINET has knowledge of such condition. The duration of any interruption will be calculated from the time the report of the interruption is made to MINET. In the event of any interruption, Customer shall, immediately upon request, grant MINET personnel or agents access to Customers premises and all pertinent equipment therein and reasonably assist and cooperate with MINET in remedying the interruption.

If the interruption is not due to an act or omission of Customer:

(A) And, in the case of Fiber Optic Service, exceeds thirty (30) continuous minutes, a credit will be granted for each 30 minute period equal to one part in 1440 of the monthly payment due for each circuit (or portion thereof) so affected;

(B) Or in the case of Fiber Optic Service, exceeds sixty (60) continuous minutes, a credit will be granted for each 60-minute period

that Fiber Optic Service is interrupted, equal to one part in 720 of the monthly payment due for each circuit (or portion thereof) so affected.

Except as otherwise provided above, MINET 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 of service.

**22. Equipment & Location:** If facilities and / or equipment are a part of the Customer’s services provided under this Agreement, the Customer will not allow or cause any facility or equipment of MINET or MINET providers to be rearranged, moved, modified, damaged, repaired, or relocated without MINET’s 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 MINET or MINET 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 MINET equipment or MINET provider equipment shall be returned to MINET 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.

**23. MINET Policies:** Customer agrees to comply with all MINET policies, including the MINET Acceptable Use Policy for Data and Internet Products and Services.

**24. Privacy Policy:** MINET will comply with valid legal process, such as search warrants, court orders and subpoenas seeking personal information. MINET will share information in order 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 MINET policy, or as otherwise required by law.

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

**26. Entire Agreement:** This Agreement as modified from time to time (including its addenda, if any), the Service Order and all Applicable 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 MINET Tariffs, the terms of the MINET Tariffs shall prevail. In the event of any inconsistency between the terms of this Agreement and the Service Order, the terms of this Agreement shall prevail.

\_\_\_\_\_  
Printed Name of Account Holder

\_\_\_\_\_  
Signature of Account Holder

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Last 4 Digits of Social Security #