

MASTER SERVICE AGREEMENT

THIS MASTER SERVICE AGREEMENT ("AGREEMENT") is entered into this ____ day of _____, _____ ("Effective Date") by and between Turnkey SDI, LLC d/b/a South Dakota Internet ("Supplier") and _____ ("Customer"). Supplier and Customer are referred to herein individually as a "Party" and collectively as the "Parties".

ARTICLE 1. DEFINITIONS

"Acceptable Use Policy" or "AUP" shall have the meaning set forth in Section 9 of the Service Schedule.

"Acceptance Letter" shall mean a written communication from Supplier to Customer informing Customer of Supplier's acceptance of the Customer Order.

"Affiliate" shall mean an entity that now or in the future, directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement. For purposes of the foregoing, "control" shall mean the ownership of (i) greater than ten (10%) of the voting power to elect the directors of an entity, or (ii) greater than ten (10%) of the ownership interest in an entity.

"Agreement Term" shall have the meaning set forth in Section 5.1(A).

"Applicable Taxes" shall have the meaning set forth in Section 3.4(A).

"Cancellation Charge" shall mean the charge payable by Customer for cancellation of the Service pursuant to Section 3.7(A) below, as further described in the attached Service Schedule.

"Customer Order" shall mean a request for Service submitted by Customer in the form designated by Supplier.

"Customer Premises" shall mean any location or locations off of the Supplier Network selected by Customer or its End Users to which Service will be delivered.

"Customer Requested Date" shall mean the date inserted by Customer into the Customer Order when Service is requested to be delivered by Supplier. Notwithstanding anything in this Agreement or any Customer Order to the contrary, Supplier shall not be obligated to deliver Service by the Customer Requested Date or any other date unless and until confirmed in writing by Supplier through the delivery to Customer of the Acceptance Letter.

"End Users" shall mean any person or entity deriving use of the Services through the Customer including but not limited to the Customer, and Affiliate of the Customer or a customer of the Customer.

"Facilities" shall mean any property owned, licensed or leased by Supplier or any of its Affiliates and used to deliver Service, including terminal and other equipment, conduit, fiber optic cable, optics, wires, lines, ports, routers, switches, channel service units, data service units, cabinets, racks, private rooms and the like.

"Force Majeure Event" shall mean any event or circumstance or combination of events or circumstances that is beyond the reasonable control of the party sought to be held liable.

"Governmental Authority" shall mean any federal, state, regional, county, city, municipal, local, territorial, prefecture, or tribal government, whether foreign or domestic, or any department, agency, bureau, or other administrative or regulatory body obtaining authority from any of the foregoing, including, without limitation, courts, public utilities and communication authorities.

"Month" shall mean a period beginning at 12:00 AM in the Central Time Zone of the United States on the first day of the calendar month and ending at 12:00 AM in the Central Time Zone of the United States on the first day of the next calendar month.

"Notice of Completion" shall mean a written notice from Supplier that the Service has been installed and tested by Supplier and is functioning properly in accordance with the Service Delivery Requirement.

"Scheduled Maintenance" shall mean any preventative, routine or scheduled maintenance that is performed on a Service, Supplier's Facilities, the Supplier Network or any component thereof, that is reasonably likely to affect the Service, for which Supplier shall provide at least ten (10) days' notice of timing and scope to Customer.

“Service” shall mean any Supplier service described in the attached Service Schedule and identified on a particular line item of a Customer Order.

“Service Charge” shall mean charges for Service as generally described in the attached Service Schedule.

“Service Commencement Date” shall mean the first to occur of (i) the date set forth in any Notice of Completion, unless Customer notifies Supplier that the Service is not functioning properly as provided in Section 3.1 (or, if two or more Services are designated as “bundled” in any Customer Order, the date set forth in the Notice of Completion for all such Services); and (ii) the date Customer begins using the Service other than for testing purposes pursuant to Section 3.1.

“Service Delivery Requirement” shall mean the testing standard or other specification for the delivery of a Service as described in the attached Service Schedule.

“Service Levels” shall mean the specific remedies Supplier provides regarding installation and performance of Service as set forth in the attached Service Schedule.

“Service Schedule” shall mean the form attached to this Agreement as “Exhibit A” and shall be incorporated into this Agreement by reference.

“Service Term” shall mean the duration of time (measured starting on the Service Commencement Date) for which Service is ordered, as specified in the Customer Order. At the end of the Service Term, the Service shall automatically renew on a month-to-month basis until terminated by either Party on thirty (30) days’ notice.

“Supplier Network” shall mean the telecommunications network consisting of fibers and optical and transmission equipment which is owned and/or leased and operated and maintained by Supplier and its Affiliates.

“Termination Charge” shall mean the charge payable by Customer for termination of the Service pursuant to Section 3.7(B) below, as further described in the attached Service Schedule.

ARTICLE 2. DELIVERY OF SERVICE

2.1 Submission of Customer Order(s). To order any Service, Customer shall submit a Customer Order requesting Service. The Customer Order and its backup detail must include a description of the Service, the Service Charges for Service, the applicable Service Term and the Customer Requested Date.

2.2 Acceptance by Supplier. Upon receipt of a Customer Order, if Supplier determines (in its sole discretion) to accept the Customer Order, Supplier will deliver an Acceptance Letter for the requested Service (or some portion of the Services). Supplier will become obligated to deliver ordered Service only if Supplier has delivered an Acceptance Letter for the Service.

2.3 Customer Premises. Customer shall allow Supplier access to the Customer Premises to the extent necessary (as reasonably determined by Supplier) for the installation, inspection and Scheduled Maintenance or emergency maintenance of Facilities relating to the Service. In the event of an emergency, Customer shall, upon notice from Supplier, allow access to the Customer Premises as soon as is reasonably practicable under the circumstances. Customer will be responsible for providing and maintaining, at its own expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Facilities on the Customer Premises. In the event that Customer fails to do so, Customer shall reimburse Supplier for the actual cost of repairing or replacing any Facilities damaged or destroyed as a result of Customer’s failure. Customer will provide a safe place to work and comply with all laws and regulations regarding the working conditions on the Customer Premises.

2.4 Supplier Facilities. Except as otherwise agreed, title to all Facilities shall remain with Supplier. Supplier will provide and maintain the Facilities in good working order. Customer shall not, and shall not permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities, without the prior written consent of Supplier. The Facilities shall not be used for any purpose other than that for which Supplier provides

them. Customer shall not take any action that causes the imposition of any lien or encumbrance on the Facilities. In no event will Supplier be liable to Customer or any other person for interruption of Service or for any other loss, cost or damage caused by or related to improper use or maintenance of the Facilities through Customer in violation of this Agreement, and Customer shall reimburse Supplier for any damages as a result thereof. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Customer Order) to allow Supplier to remove the Facilities from the Customer Premises:

(A) after termination, expiration or cancellation of the Service Term of any Service in connection with which the Facilities were used; or

(B) for repair, replacement or otherwise as Supplier may determine is necessary or desirable, but Supplier will use reasonable efforts to minimize disruptions to the Service caused thereby.

2.5 Customer-Provided Equipment. If requested by Customer, Supplier may, at its option, install certain Customer-provided communications equipment. Unless otherwise agreed by Supplier in writing, Supplier will not thereafter be responsible for the operation or maintenance of such Customer-provided equipment. Customer shall be solely responsible for the compliance of its own equipment with applicable standards and for obtaining any necessary approvals or authorizations prior to its use. Supplier will not be responsible for the transmission or reception of signals by Customer-provided equipment. Supplier shall have full control over the configuration of the Supplier Network used in providing the Service and shall be entitled to alter the configuration.

2.6 Representations and Warranties of Customer. Customer represents and warrants that (i) it has the legal right and authority, and will maintain the legal right and authority during the Agreement Term, to use the Services as contemplated hereunder; (ii) the performance of Customer's obligations under this Agreement and use of Services will not violate any applicable law, rule or regulation or any applicable manufacturers' specifications or otherwise unreasonably interfere with Supplier's customers'

use of the Services or Supplier Network, and (iii) Customer is authorized and has completed all required corporate actions necessary to execute this Agreement and applicable Customer Order(s).

2.7 Representations and Warranties of Supplier.

Supplier represents and warrants that (i) it has the legal right and authority, and will maintain the legal right and authority during the Agreement Term, to install, use and resell the Services as contemplated hereunder; (ii) the performance of Supplier's obligations under this Agreement and use of Services will not violate any applicable law, rule or regulation or any applicable manufacturers' specifications or otherwise unreasonably interfere with Supplier's customers' use of the Services or Supplier Network, and (iii) Supplier is authorized and has completed all required corporate actions necessary to execute this Agreement and applicable Acceptance Letter(s).

ARTICLE 3. BILLING AND PAYMENT

3.1 Commencement of Billing. Upon installation and testing of the Service, Supplier will deliver to Customer a Notice of Completion. Upon receipt of the Notice of Completion, Customer shall have a period of seventy two (72) hours to confirm that the Service has been installed and is properly functioning in accordance with the applicable Service Delivery Requirements. Unless Customer delivers written notice to Supplier within such seventy two (72) hour period that the Service is not operating in accordance with the Service Delivery Requirements, Customer will be deemed to have accepted the Service and billing for all recurring charges shall commence on the applicable Service Commencement Date. In the event that Customer notifies Supplier within the time period stated above that the Service is not operating in accordance with the Service Delivery Requirements, then Supplier shall correct any deficiencies in the Service and deliver a new Notice of Completion to Customer, after which the process stated herein shall repeated.

3.2 Service Charges.

(A) The types of Service Charges for each Service are generally described in the attached Service Schedule.

(B) in addition to the Service Charges described in the attached Service Schedule, in the event any Service requires Supplier to install additional infrastructure, cabling, electronics or other materials in the provision of the Service or for any other reason, then Supplier may invoice Customer for additional charges.

3.3 Payment of Invoices. Invoices for Services shall be delivered to and payable by Customer in accordance with the attached Service Schedule. All invoices are due thirty (30) days after the date of invoice, unless otherwise provided in the attached Service Schedule or the relevant Customer Order. All payments shall be due and payable in the U.S. Dollars, except as specified on a particular invoice. Past due amounts accrue interest at a rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full. Customer shall make all payments by check or wire transfer of immediately available funds pursuant to the payment instructions on such invoice.

3.4 Taxes and Fees.

(A) All charges for Service are net of Applicable Taxes (as defined below). Except for taxes based on Supplier's net income, Customer will be responsible for all applicable taxes that arise in any jurisdiction, including, without limitation, value added (VAT), goods and services (GST), consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes, fees, duties, charges or surcharges, however designated, imposed on, incident to, or based upon the provision, sale or use of the Service (collectively "**Applicable Taxes**"). If Customer is or was required by law to make any deduction or withholding from any payment due hereunder to Supplier, then, notwithstanding anything to the contrary contained herein, the gross amount payable by Customer to Supplier shall be increased so that after any such deduction or withholding for Applicable Taxes, the net amount received by Supplier will not be less than Supplier would have received had no such deduction or withholding been required. If any taxing or Governmental Authority asserts that Customer should have made a deduction or withholding for or on account of any Applicable Taxes with respect to all or a portion of

any payments made hereunder, or that Supplier should have collected certain Applicable Taxes from Customer which Supplier did not collect, Customer hereby agrees to indemnify Supplier for such Applicable Taxes and to hold Supplier harmless on an after-tax basis from and against any and all Applicable Taxes, interest or penalties levied or asserted in connection therewith. To the extent that Customer is or believes it is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Supplier with a valid exemption certificate provided in accordance with the foregoing sentence to the extent it applies to any Service billed by Supplier to Customer only for the period following Supplier's receipt of such exemption certificate.

(B) Customer shall reimburse Supplier for any regulatory fees charged to Supplier by any Governmental Authority or agency, including but not limited to, the U.S. Federal Communications Commission, for Customer's use of Service provided hereunder. In the event that any regulatory fees are imposed on Supplier in respect of Service provided hereunder (including, but not limited to, Interstate Telephone Service Provider regulatory fees and Universal Service Fund Contributions), Supplier shall provide Customer with an invoice for such regulatory fees along with supporting documentation and Customer shall pay such invoice within thirty (30) days of the date of such invoice.

3.5 Regulatory and Legal Changes. In the event of any change in applicable law, regulation, decision, rule or order that materially increases the costs or other terms or delivery of Service, Supplier and Customer will negotiate regarding the rates to be charged to Customer to reflect such increase in cost and, in the event that the Parties are unable to reach agreement respecting new rates with thirty (30) days after Supplier's delivery of written notice requesting renegotiation, then (a) Supplier may pass such increased costs through to Customer, and (b) if Supplier elects to pass such increased costs through to Customer, Customer may terminate the affected Service without further liability, except for liabilities incurred prior to termination, by delivering written notice of termination no later than thirty (30) days after the effective date of the rate increase.

3.6 **Disputed Invoices.** If Customer reasonably disputes any portion of a Supplier invoice, Customer must pay the undisputed portion of the invoice and submit written notice of the claim (in a form reasonably requested by Supplier) for the disputed amount. All claims must be submitted to Supplier in writing within ninety (90) days from the date of the invoice for such Services. Customer waives the right to dispute any charges not disputed within such ninety (90) day period. In the event that the dispute is resolved against Customer, Customer shall pay such amounts within the following invoice cycle with interest at the rate referenced in Section 3.3.

3.7 **Cancellation and Termination Charges.**

(A) Customer may cancel a Service following Supplier's acceptance of the applicable Customer Order and prior to the Service Commencement Date upon prior written notice to Supplier (in a form reasonably requested by Supplier). In the event that Customer does so cancel, or in the event that the delivery of such Service is cancelled by Supplier prior to delivery of a Notice of Completion due to a failure of Customer to comply with the terms of this Agreement or any Customer Order, Customer shall pay Supplier a Cancellation Charge as specified in the attached Service Schedule. Customer's right to cancel any particular Service under this Section 3.7(A) shall automatically expire and shall no longer apply upon Supplier's delivery to Customer of a Notice of Completion for such Service.

(B) In addition to Customer's right of cancellation under Section 3.7(A) above, Customer may, at any time after the Notice of Completion has been delivered and prior to the expiration of the Service Term, terminate Service upon thirty (30) days' prior written notice to Supplier. In the event that Customer does so terminate, or in the event that the delivery of Service is terminated by Supplier during such period due to a failure of Customer to comply with the terms of this Agreement or any Customer Order, Customer shall pay Supplier a Termination Charge as specified in the attached Service Schedule.

3.8 **Fraudulent Use of Services.** Customer is responsible for all Service Charges attributable to Customer incurred with respect to Service, even if incurred as the result of fraudulent or unauthorized

use of Service; except Customer shall not be responsible for fraudulent or unauthorized use by Supplier or its Affiliates or employees.

ARTICLE 4: RESALE AND USE OF SERVICES

4.1 **Resale of Services.** Customer shall not have any right to market and/or re-brand the Services purchased by it as its own product and services, and/or to resell or sublicense the Services to End Users unless it has all required legal and/or regulatory licenses and consents from all relevant Governmental Authorities. The Customer shall strictly comply with all the legal and/or regulatory licenses and consents from all relevant Governmental Authorities with respect to the resale of Services. The Customer shall be solely responsible and liable for any misuse of Services in respect of the Customer's resale of Services and shall indemnify and hold harmless Supplier against any and all claims or proceedings from such resale or sublicense of Services by the Customer. In case of resale or sublicense of Services, the Customer shall not (i) refer to Supplier in any marketing or service literature except with Supplier's prior written consent; or (ii) act or purport to act on behalf of Supplier; or (iii) be relieved of its obligations under any applicable Customer Order or this Agreement.

4.2 **Customer's Obligation.** In the event Customer resells or sublicenses the Services to an End User, it shall do so only under the conditions that (i) any and all such End User's acts and omissions (including any failure by the End User to comply with any applicable law rule or regulation in the jurisdiction in which it uses or resells the Services) shall be attributable to Customer for the purposes of this Agreement; and (ii) any resale or sublicense by Customer of the Services shall not relieve Customer of its obligations under any applicable Customer Order or this Agreement.

ARTICLE 5. TERM AND TERMINATION

5.1 **Term.**

(A) This Agreement shall become effective on the Effective Date and shall continue for the later to occur of (i) the date that is two (2) years after the Effective Date or (ii) the expiration date of the longest remaining Service Term ordered under a

Customer Order ("Agreement Term"), unless earlier terminated as provided herein or extended as provided in Section 5.1(B). At the end of the initial Agreement Term, the Agreement Term shall automatically renew on a Month-to-Month basis until terminated by either Party on thirty (30) days notice.

(B) Except as otherwise set forth herein, Supplier shall deliver the Service for the entire duration of the Service Term, and Customer shall pay all Service Charges for delivery thereof through the end of the Service Term. To the extent that the Service Term for any Service extends beyond the Agreement Term, then this Agreement shall remain in full force and effect for such Service until the expiration or termination of such Service Term.

5.2 **Defaults.** If (i) a Party makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief; (ii) an involuntary petition in bankruptcy or other insolvency protection against a Party is filed and not dismissed within sixty (60) days; or (iii) a Party fails to observe and perform any material term of this Agreement and such failure continues for a period of thirty (30) days after written notice from the other Party; then the other Party may: (A) terminate this Agreement and/or any Customer Order, in whole or in part, in which event such Party shall have no further duties or obligations thereunder, and/or (B) subject to Section 6.1, pursue any remedies such Party may have under this Agreement, at law or in equity.

ARTICLE 6. LIABILITIES AND INDEMNIFICATION

6.1 **No Special Damages.** NOTWITHSTANDING ANY OTHER PROVISION HEREOF, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF CUSTOMERS, LOSS OF CUSTOMERS, LOSS OF DATA, INTERFERENCE WITH BUSINESS OR THE COST OF PURCHASING REPLACEMENT SERVICES)

ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR ANY CUSTOMER ORDER, WHETHER OR NOT CAUSED BY THE ACTS OR OMISSIONS OR NEGLIGENCE OF ITS EMPLOYEES OR AGENTS, AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY OR LIKLIHOOD OF SUCH LOSSES.

6.2 **Intentionally Omitted.**

6.4 **Indemnification.**

(A) Subject to Section 6.1, each Party shall indemnify the other Party from any claims by third parties (including any Governmental Authority or End User) and expenses including legal fees and court costs respecting (i) damage to tangible property, personal injury or death caused by such Party's negligence or willful misconduct or (ii) a breach by such Party of Section 2.6 and 2.7, respectively. The Customer shall indemnify the Supplier from any claims by third parties (including any Governmental Authority or End User) and expenses including legal fees and court costs respecting a breach by the Customer of Section 4.2(i) (in the event of any End User being in breach of any applicable law, rule or regulation) or otherwise arising from Services resold or otherwise provided by Customer.

(B) Each Party agrees to promptly provide each other with notice of any claim which may result in an indemnification obligation hereunder. The indemnifying party may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of the indemnified party, which consent shall not be unreasonably withheld or delayed.

ARTICLE 7. SERVICE LEVELS

7.1 **Service Interruptions and Delivery.** To report issues related to Service performance, Customer may contact Supplier at the telephone number or email address provided by Supplier to Customer from time to time. In order for Supplier to investigate any reported issues, Customer agrees to provide Supplier with supporting information as reasonably requested by Supplier, which may include (as applicable), without limitation, circuit ID,

circuit end-point(s), IP address(es), originating phone number and terminating phone number. In the event of a failure to deliver Service in accordance with the Service Levels, Customer's sole remedies are contained in the Service Levels applicable (if any) to the affected Service, as described in the attached Service Schedule.

ARTICLE 8. GENERAL TERMS

8.1 **Force Majeure.** Neither party shall be liable, nor shall any other remedy be extended, for any failure of performance or equipment due to a Force Majeure Event. The foregoing shall apply on if such causes arise after Effective Date, are beyond the reasonable control of the party so affected and arise without such part's fault or negligence.

8.2 **Assignment.** Neither Customer nor Supplier may assign its rights and obligations under this Agreement or any Customer Order without the express prior written consent of the other Party. This Agreement and all obligations hereunder shall apply to any permitted transferees or assignees. Notwithstanding any assignment by Customer, Customer shall remain liable for the payment of all charges due under each Customer Order.

8.3 Affiliates and Contractors.

(A) Service may be provided to Customer pursuant to this Agreement by an Affiliate or contractor of Supplier. Customer shall comply with reasonable requirements of such Affiliate or contractor as communicated to Customer by Supplier that do not materially increase Customer's costs. Any Service provided by an Affiliate or contractor of Supplier shall not relieve Supplier from its obligations set forth in this Agreement.

(B) The parties acknowledge and agree that Customer's Affiliates may purchase Service under this Agreement; provided, however, any such Customer Affiliate purchasing Service hereunder agrees that such Service is provided pursuant to and governed by the terms and conditions of this Agreement. Customer shall be jointly and severally liable for all claims and liabilities arising under this Agreement related to Service ordered by any Customer Affiliate, and any event of default under this Agreement by any Customer Affiliate shall also

be deemed an event of default by Customer. Any reference to Customer in this Agreement with respect to Service ordered by a Customer Affiliate shall also be deemed a reference to the applicable Customer Affiliate.

(C) Notwithstanding anything in this Agreement to the contrary, either party may provide a copy of this Agreement to its Affiliate or such other party's Affiliate for purposes of this Section 8.3, without notice to, or consent of, the other party.

8.4 **Notices.** Notices hereunder shall be in writing and sufficient and received if delivered in person, or when sent via facsimile, pre-paid certified mail (return receipt requested) (for United States correspondence), or electronic mail, addressed as follows:

IF TO SUPPLIER:

Name: Mike D. Storjohann

Address: 4002 W 8th St

City/State: Yankton, SD 57078

Email: mike.storjohann@sdakotainternet.com

IF TO CUSTOMER:

Name: _____

Address: _____

City/State: _____

Email: _____

Or at such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. All such notices shall be deemed to have given on (i) the date delivered if delivered personally, by express courier, or by pre-paid certified mail, or (ii) the date of transmission if delivered by facsimile or electronic mail (or the business day after transmission on a weekend or legal holiday). Notwithstanding the foregoing, any notices delivered by Supplier to Customer in the normal course of providing Service hereunder shall be deemed properly given if

delivered via any of the methods described above or via electronic mail to the email address listed on any Customer Order.

8.5 Application of Tariffs. Supplier may elect or be required to file with the appropriate regulatory agency tariffs respecting the delivery of certain Service. In the event that such tariffs are filed respecting Service ordered by Customer, then (to the extent such provisions are not inconsistent with the terms of a Customer Order) the terms set forth in the applicable tariff shall govern Supplier's delivery of, and Customer's consumption or use of, such Service.

8.6 Data Protection. During the performance of this Agreement, it may be necessary for Supplier to transfer, process and store billing and utilization data and other data necessary for Supplier's operation of its network and for the performance of its obligations under this Agreement. Customer hereby consents to Supplier's (i) transfer, storage and processing of such data; and (ii) use of such data for its own internal purposes and as allowed by law. This data will not be disclosed to third parties.

8.7 Contents of Communications. Supplier shall not have liability or responsibility for the content of any communications transmitted via the Service and Customer shall defend, indemnify and hold Supplier harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's or its End Users' use of Service.

8.8 Content of the Internet. Supplier provides only access to the Internet. Supplier does not operate or control the information, services, opinions or other content. Customer agrees that it shall make no claim whatsoever against Supplier relating to the content of the Internet or respecting any information, product, service or software ordered through or provided by the virtue of the Internet. Supplier reserves the right to take such measures as may be reasonably necessary, in Supplier's sole discretion, to ensure security and continuity of service on the Supplier Network, including but not limited to identification and blocking or filtering of

Internet traffic sources which Supplier deems to pose a security or operational risk or a violation of its AUP. In addition, Customer understands that Supplier does not own or control other third party networks outside of Supplier Network, and Supplier is not responsible or liable for any filtering or access restrictions imposed by such networks or for the performance (or non-performance) within such networks or within interconnection points between the Supplier Network and other third party networks.

8.9 Marks and Publicity. Neither Party shall have the right to use the other Party's or its Affiliates' trademarks, service marks or trade names or to otherwise refer to the other party in any marketing, promotional advertising materials or activities, except as may be agreed in advance in writing by the Parties. Neither Party shall issue any press releases relating to any contractual relationship between Supplier and Customer, except as may be required by law or agreed between the Parties in writing.

8.10 Non-Disclosure. Any information or documentation disclosed between the Parties during the performance of this Agreement shall be subject to the terms and conditions of the applicable nondisclosure or confidentiality agreement then in effect between the Parties.

8.11 Disclosure of Customer Information. Supplier reserves the right to provide any customer or potential customer bound by a nondisclosure agreement access to a list of Supplier's customers and a description of Service purchased by such customers. Customer consents to such disclosure, including the listing of Customer's name and Service purchased by Customer, provided that financial terms relating to the purchase shall not be disclosed.

8.12 **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of South Dakota, without regard to its choice of law rules. Each of the parties hereby consents to the non-exclusive jurisdiction and venue of the federal and state courts in the State of South Dakota in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

8.13 **Entire Agreement.** This Agreement, including the Service Schedule attached hereto and Customer Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the Parties with respect to the Service and supersedes all prior agreements relating to the Service, which are of no further force and effect.

8.14 **Order of Precedence.** In the event of any conflict between this Agreement and the terms and conditions of the attached Service Schedule and/or a Customer Order, the order of precedence is as follows: (1) the Customer Order, (2) the Service Schedule, and (3) this Agreement.

8.15 **Survival.** The provisions of this Article 8 and Articles 3, 4, 6 and 7 and any other provisions of this Agreement that by their nature are meant to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

8.16 **Relationship of the Parties.** The relationship between Customer and Supplier shall be as independent contractors and shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, without limitation, for federal income tax purposes.

8.17 **Severability; Waiver.** In the event any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such offending provision(s) shall be stricken and the remainder of this Agreement shall remain legal, valid and binding. The failure by either Party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor to operate so as to bar the

exercise or enforcement of any such or other right on any later occasion.

8.18 **Third Party Beneficiaries.** This Agreement shall be binding upon, inure solely to the benefit of and be enforceable by each party hereto and their respective successors and assigns hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

8.19 **Counterparts.** This Agreement may be executed in on or more counterparts (including by means of facsimile or electronic .pdf submission), all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have entered into
this Agreement as of the Effective Date written
above.

TURNKEY SDI, L.L.C. ("Supplier")

By _____
Mike D. Storjohann

CEO/Partner, Turnkey SDI, L.L.C.
d/b/a South Dakota Internet

_____ ("Customer")

Signature _____

Printed _____

Title _____

**EXHIBIT A: DEDICATED INTERNET,
DARK FIBER, ETHERNET ACCESS, AND
MANAGED WIFI SERVICE SCHEDULE**

1. **Applicability**. This Service Schedule is applicable to Customer orders for Dedicated Internet Access Service ("**DIA**"), Ethernet Access Service ("**Ethernet Service**"), and Managed WiFi ("**Managed WiFi**").

2. **Definitions**. Any capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Agreement.

"Back-Up Port" shall mean any Service port other than the Primary Port that is configured to send/receive traffic only in the event that the applicable Primary Port becomes unavailable to send or receive traffic. The Back-Up Port must be identified as such in the Customer Order and provisioned on a Supplier router or switch (within the same Supplier POP) that is separate from the Primary Port.

"Excused Outage" shall mean any outage, unavailability, delay or other degradation of Service related to, associated with or caused by (i) Scheduled Maintenance, (ii) Customer actions or inactions, (iii) Customer provided power or equipment, (iv) a Force Majeure Event, or (v) any third party, excluding any third party directly involved in the operation and maintenance of the Supplier Network but including, without limitation, Customer's End Users, third party network providers (including those providing Off-Net Circuits), traffic exchange points controlled by third parties, or any power, equipment or services provided by third parties.

"Fixed Data Rate" shall mean a recurring charge for any Service that is based upon a fixed data rate committed by Customer and set forth in the Customer Order (expressed in Megabits per second (Mbps)).

"MRC" shall mean the monthly recurring charge set forth in the Customer Order applicable to the relevant service.

"NRC" shall mean the non-recurring, per-port installation charge set forth in the Customer Order applicable to the relevant Service.

"Off-Net Circuit" shall mean a connection between the Customer Premises and the Supplier Network that is provisioned by Supplier through a third party provider for use by Customer. Off-Net Circuits may include local or long-haul TDM private lines, Ethernet private lines, local or long-haul 2.5 Gbps and 10 Gbps wavelengths, or dark fiber extensions, as further described in the Customer Order.

"On-Net" shall mean Service that both originates from and terminates to a location that is on the Supplier Network.

"Primary Port" shall mean any Service port that is configured to send/receive Customer's Service traffic during normal network operations, as identified in the applicable Customer Order.

"Protected Service" shall mean any Service architected using standard network protection methods for full path redundancy through the Turnkey SDI, L.L.C. network, path redundancy to the customer location, and configured with both a Primary Port and Back-Up Port.

"Receive Traffic" shall mean traffic from any original point that is received by Customer on the Supplier Network.

"Send Traffic" shall mean traffic from any origination point that is sent by Customer onto the Supplier Network.

"Service(s)" shall mean any Supplier service described in this Service Schedule and identified on a particular line item of a Customer Order.

"Service Unavailability" or **"Unavailable"** shall mean that the Primary Port is unable to send or receive traffic; and for Protected Service, that both the Primary Port and the Backup Port are unable to send or receive traffic.

"Service Unavailability Time" shall mean the total amount of time of Service Unavailability during a Month for the applicable Service.

"Standard Service" shall mean any Service configured with a single Primary Port and no Backup Port. Standard Service is architected as a linear circuit and does not offer protected paths through the Turnkey SDI, L.L.C network.

"Supplier POP" shall mean data center space owned or leased by Supplier or any of its Affiliates for the purpose of, among other things, locating and collocating communications equipment and to which the Supplier Network is directly connected.

"Survivable Service" shall mean any Service configured with a single Primary Port and no Backup Port. Survivable Service is architected using standard network protection methods for full path redundancy through the Turnkey SDI, L.L.C network.

3. Service Description.

- a) DIA Service is an IP transit service (including dedicated IP access port(s)) providing access to the Supplier Network and the global Internet. DIA Service is available through Ethernet (fractional 10/100 Mbps through full-port 10 gigabit) interfaces.
- b) Dark Fiber is a service where Supplier is providing fiber optic strands to be used in any way by the Customer. Dark Fiber is not available in all areas.
- c) Ethernet Service is a point-to-point or multi-point service designed to interconnect physically separated local area networks (LANs) or Wide Area Networks (WANs) by providing access to the Supplier Network and the global Internet. Ethernet Service is available through Ethernet (Fast Ethernet, Gigabit Ethernet, and 10 Gigabit Ethernet) interfaces.
- d) Managed WiFi is a service designed to install, configure, provision and monitor a customer WiFi network.

4. Service Delivery Requirement. Supplier will conduct an end-to-end system performance test of the Service and the Notice of Completion shall include the results of a Bit Error Rate test conducted demonstrating error free transmission during a sixty (60) minute test period.

On Dark Fiber services, light level and OTDR testing will be performed prior to delivery. Test results are available on request.

5. Service Charges. Customer will be billed on a Fixed Data Rate.

- a) Fixed Rate Charges. Fixed Data Rate charges consist of two (2) components: (a) NRC; and (b) Fixed Rate MRC which includes Off-Net Circuit Charges (if any.) The Fixed Data Rate charges shall be set forth in the Customer Order.
- b) IP Address Charges. In the event Supplier provisions an IP address for Customer in order to provide the Service, the IP address charges shall be set forth in the Customer Order.

6. Invoicing and Payment.

- a) Fixed Data Rate MRC is invoiced monthly in advance, and is due and payable within thirty (30) days after the date of the invoice.
- b) NRC shall be invoiced with the first monthly MRC invoice and is due and payable within thirty (30) days after the date of the invoice.
- c) IP address charges shall be invoiced at the frequency identified in the relevant Customer Order, and shall be due and payable within thirty (30) days after the date of the invoice.
- d) Managed WiFi charges shall be invoiced at the frequency identified in the relevant Customer Order, and shall be due and payable within thirty (30) days after the date of the invoice.

7. IP Addresses. In the event that Supplier assigns to Customer an IP address as part of the provisioning of Service, such IP address(es) shall (upon Supplier's request and to the extent permitted by law) revert to Supplier after termination of the applicable Customer Order for any reason whatsoever, and Customer shall cease using such address. At any time after such termination, Supplier may re-assign such address to another user.

8. Domain Names. In the event that Supplier obtains for Customer a domain name as part of the DIA Service, Customer shall be the sole owner of such domain name. Customer shall be solely responsible for:

- a) paying any fees (including renewal fees) relating thereto;

- b) complying with any legal, technical, administrative, billing or other requirements imposed by the relevant domain name registration authority;
- c) modifying such domain name in the event Customer changes service providers; and
- d) all third party claims (including claims for intellectual property infringement) relating thereto, and Customer shall indemnify and hold Supplier harmless from all such claims and expenses (including legal fees and court costs) related thereto.

9. **Acceptable Use Policy.** Customer acknowledges it has reviewed the Supplier's Acceptable Use Policy ("**Acceptable Use Policy**" or "**AUP**") located at <http://sdakotainternet/aup.com>. Said AUP, which may be amended by Supplier from time to time, is incorporated by reference herein.

10. **Cancellation and Termination Charges.**

- a) In the event the Service is cancelled pursuant to Section 3.7(A) of the Agreement, Customer shall pay Supplier a Cancellation Charge equal to the sum of:
 - (i) any reasonably documented third party expenses relating to the construction or installation of the Service, including but not limited to non-recurring or aid to construction charges shown on the applicable Customer Order;
 - (ii) any previously waived NRCs for the cancelled Service; and
 - (iii) one (1) month's MRC for the cancelled Service if written notice of cancellation is received by Supplier more than five (5) business days prior to the Service Commencement Date.
- b) In the event the Service is terminated pursuant to Section 3.7(B) of the Agreement, Customer shall pay Supplier a Termination Charge equal to the sum of:

- (i) all unpaid amounts for Service provided through the date of termination; and
- (ii) 100 percent of all remaining monthly recurring charges for the first year of the applicable Service Term and 50% of all subsequent monthly recurring charges for the remainder of applicable Service Term

- c) The parties acknowledge that the Cancellation or Termination Charges set forth in this Section 10 are a genuine estimate of the actual damages that Supplier will suffer and are not a penalty.

11. **Portability Option.** In the event Customer terminates any Service hereunder prior to the end of the applicable Service Term and such termination is not due to Supplier's failure to maintain Service in accordance with this Agreement, Customer will not be required to pay the Cancellation Charge provided that Customer orders new Service(s) ("Replacement Order(s)") from Supplier of equal or greater monthly recurring charges for an equal or greater term as the terminated Service within sixty (60) days of the termination of the Service. In such cases, if Supplier actually incurs charges in provisioning the Replacement Order, Customer shall pay the reasonable charges Supplier actually incurred in the form of a nonrecurring charge that will appear on Customer's first invoice for the Replacement Order.

12. **Service Levels.** Supplier's Service is backed by the following Service Levels:

- a) **Installation Service Level.** Supplier will exercise commercially reasonable efforts to install any Service on or before the Service Commencement Date specified for the Service.
The Installation Service Level set forth in Section 11(a) shall not apply to (a) delays in delivery caused by an Excused Outage, (b) delays resulting from Off-Net Circuits, (c) delays in delivery caused by Customer Orders that contain incorrect information supplied by Customer or Customer Orders that are altered at Customer's request after submission and acceptance by Supplier, and (d) any Service where Supplier (or a third party contractor engaged by Supplier) is constructing Facilities in or to the Customer

Premises necessary for delivery of such Service, provided Customer was made aware of or otherwise knew such Facilities were required to be constructed.

- b) **Availability Service Level.** At the end of each Month, Supplier shall calculate the total Service Unavailability Time. The Availability Service Levels set forth in this Section 12(b) shall not apply to Service Unavailability caused by (a) an Excused Outage, or (b) Off-Net Circuits, or (c) circumstances beyond the reasonable control of Turnkey SDI.

(i). The Availability Service Level for Private Line Service is 99.5% for Standard Private Line Service, 99.95% for Survivable Private Line Service, and 99.99% for Protected Private Line Service.

(ii). The Availability Service Level for DIA Service is 99.5% for Standard DIA Service, 99.95% for Survivable DIA Service, and 99.99% for Protected DIA Service.

(iii). The Availability Service Level for Ethernet Service is 99.5% for Standard Ethernet Service, 99.95% for Survivable Ethernet Service, and 99.99% for Protected Ethernet Service

(iv). Customer may be entitled to an outage credit based upon the monthly Service Unavailability Time experienced by the affected On-Net service. The amount of credit shall be calculated according to the following schedules:

Ethernet, Standard Ethernet, and DIA Service

Unavailability per Interruption (hrs:mins:secs)	Service Level Credit (% Credit of Monthly Service Charge Applicable to the Interrupted Service)
00:00:01 – 02:00:00	0%
02:00:01 - 8:00:00	25%
08:00:01-16:00:00	50%
16:00:01-24:00:00	75%
24:00:01 or greater	100% (maximum credit per month per applicable service)