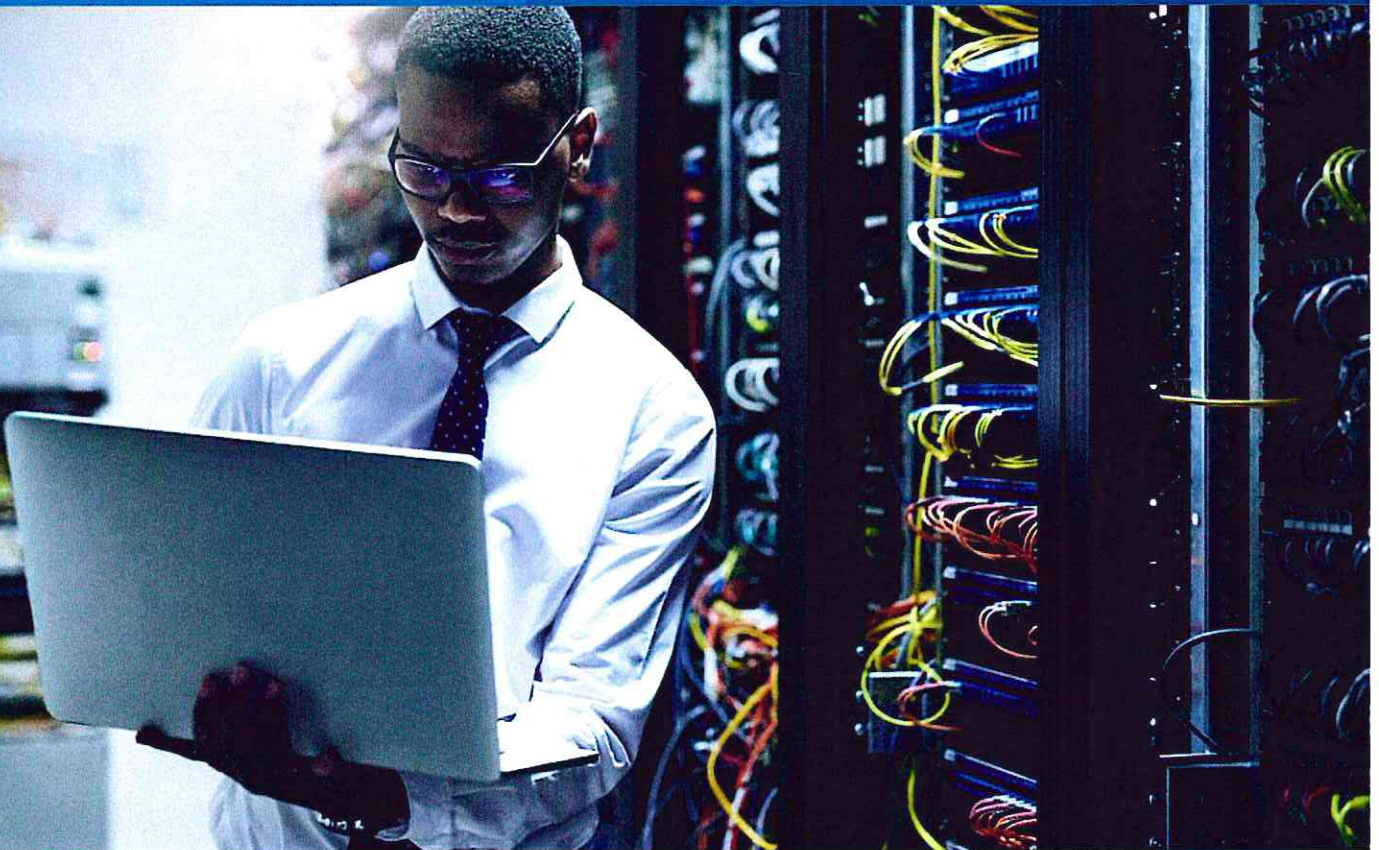


# Spectrum Enterprise

Ethernet Services RFP # 2019-101 Proposal  
for 470# 190003661

Presented to:  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037  
bagron7@gmail.com

Presented BY:  
Mr. Bill Hoblin  
GovEd & Healthcare Account Executive  
5797 Eastside Rd | Redding, CA 96001  
530-215-4930 M  
Bill.Hoblin@charter.com



01-03-19P12:28 RCVD

**Spectrum**  
ENTERPRISE



January 3rd, 2018

Ms. Bev Agron  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037  
[bagron7@gmail.com](mailto:bagron7@gmail.com)

Dear Ms. Agron:

Charter Communications™\* (Spectrum) is pleased to submit the enclosed proposal in response to your Request for Proposal (RFP). Our response demonstrates Spectrum's ability to provide network solutions that will enable Morgan Hill Unified School District to meet its technology needs.

Spectrum is committed to providing Morgan Hill Unified School District with broadband services necessary to meet its current and future technology needs. Spectrum provides advanced broadband services to more than one million business customers across 41 states, and we are one of the largest Ethernet providers in the country and the largest provider in the major US cities we serve.

Partnering with Spectrum provides the foundation to open opportunity, drive innovation, and deliver exceptional experiences. Spectrum's advanced technology and product innovations address customer's growing demands for increased bandwidth, scalability, reliability, and mobility. Spectrum is committed to delivering industry-leading client service and support.

Thank you for the opportunity to submit this response to your RFP. We look forward to the opportunity to review our proposal with you in detail and to implement the recommendations we are making.

Please do not hesitate to call if you have further questions or if there is anything else you need at this time. I look forward to speaking with you soon!

Sincerely,

*Bill Hoblin*  
GovEd & Healthcare Account Executive

---

\* Spectrum Enterprise is the commercial brand of Charter Communications, Inc. The legal entity proposing hereunder is Charter Communications Operating, LLC, a subsidiary of Charter Communications, Inc.

## **LEGAL DISCLAIMER and SUMMARY**

This proposal shall not be considered an acceptance of any offer by Morgan Hill Unified School District or otherwise create a binding contract between Morgan Hill Unified School District and Spectrum. This proposal is submitted with the express understanding that the specific, comprehensive terms under which Spectrum and Morgan Hill Unified School District may enter into a binding contract are understood to be subject to negotiation between the parties hereafter. The terms of this proposal are confidential and should not be disclosed directly or indirectly to any third party, except as may be required by law.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.



**SCOPE OF WORK**

- A. Morgan Hill Unified School District (**hereinafter referred to as “District” or “MHUSD”**) is soliciting RFP responses and quotes, including applicable installation and monthly recurring services costs, for leased lit fiber point-to-point connections between all schools and non-instructional facilities within District.

See Spectrum’s proposed pricing within this response.

- B. District is seeking reliable lit fiber point-to-point transport E-Rate eligible Telecommunications Services (hereinafter referred to as “WAN” services) for 15 remote sites to District’s hub.

Spectrum understands.

- C. District is seeking WAN services for a total of 15 sites with 1 Gbps lit fiber point-to-point connecting each location to one of the two following hub sites: 1) Britton Middle School (Britton), 80 W. Central, Morgan Hill, CA 95037 (**Option A**) or 2) Morgan Hill Unified District Office (MHUSD DO), 15600 Concord Circle, Morgan Hill, CA 95037 (**Option B**).

Spectrum understands.

- D. All WAN connections will be 1 Gbps. District is also requesting **alternative pricing for 10 Gbps** for the connection between DO and Britton (**Option C**).

Spectrum understands.

- E. All equipment included in proposal will be owned and maintained by awarded service provider, with no option for transfer of ownership to lessee.

**EQUIPMENT.**

- (a) Equipment Responsibilities and Safeguards. Spectrum shall use commercially reasonable efforts to maintain and secure the Spectrum Equipment used by Spectrum to provide Services to Customer. Except as otherwise provided in this Service Agreement or any Service Order(s), Customer shall be responsible for the maintenance or repair of any cable, electronics, structures, equipment or materials owned or provided by Customer. Customer shall not, and shall not cause any third party to, move, modify, disturb, alter, remove, relocate to another Service Location, install software not provided by Spectrum, or otherwise tamper with any portion of the Spectrum Equipment without the prior consent of Spectrum. Customer shall be responsible for loss or damage to the Spectrum Equipment while at Customer’s or an End User’s facilities. Customer shall also ensure that all Spectrum Equipment at Customer’s and End Users’ Service Location(s) remains free and clear of all liens and encumbrances.

- (b) Customer Security Responsibilities. Customer shall be responsible for all access to and use of the Service, including whether or not Customer has knowledge of or authorizes such access or use. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service, and Spectrum Equipment. Customer shall secure and maintain any and all Customer Equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, “PBXs”), where applicable, and any applications accessible through use of Customer Equipment, and shall be solely responsible for any conduct through and any charges incurred on Customer’s Service account, regardless of whether such activity or charges are authorized by Customer management or involve fraudulent activity until such time as Customer informs Spectrum of any fraudulent or unauthorized access. Without limiting Customer’s responsibilities, Spectrum has the right to implement reasonable measures to track, manage, and secure the connection between any Customer Equipment or applications used by Customer, End Users, or any third party who accesses the

Customer Equipment and the Spectrum Network, including without limitation authentication or other security access procedures. Spectrum may suspend any affected Services if Spectrum discovers or becomes aware of any breach or compromise of the security of any Customer Equipment, Service, Service Location, Spectrum Equipment, or connection to the Spectrum Network.

- (c) Equipment Return, Retrieval, Repair and Replacement. Immediately upon termination of this Service Agreement or Service Order(s) ("Termination"): (i) at the discretion of Spectrum, Customer shall return, or allow Spectrum to retrieve, the Spectrum Equipment in the condition in which the Spectrum Equipment was received, subject to ordinary wear and tear; and (ii) promptly cease all use of and return, if applicable, to Spectrum any software or software services provided by Spectrum ("Software"). Failure of Customer to return or allow Spectrum to retrieve the Spectrum Equipment within fifteen (15) days after Services are terminated will result in a charge to Customer's account equal to either Spectrum's applicable unreturned equipment charge or the retail cost of replacement of the unreturned Spectrum Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Spectrum Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material or workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of Spectrum Equipment.

- F. District will be seeking proposals on a **separate** RFP for a point-to-point connection between Santa Clara County Office of Education, 1290 Ridder Street, San Jose, CA 95131 and one of the two hub sites (**Option A or Option B**) named above. *See RFP #2019-102 for details.*

Spectrum understands.

- G. The existing Internet Service Provider (ISP) is Santa Clara County Office of Education, 1290 Ridder Street, San Jose, CA, and is not a part of this RFP process. District does NOT intend to change nor are they seeking proposals to change District's current ISP.

Spectrum understands.

## 2. RFP QUESTIONS AND E-RATE SPECIAL CONDITIONS

- A. Questions regarding this RFP should be emailed to Bev Agron, [agronb@mhusd.org](mailto:agronb@mhusd.org) with subject: "**ERATE RFP# 2019-101 WAN Services**". Questions must be submitted no later than November 28, 2018, 5:00 p.m., PST.

Spectrum understands.

- B. Prices to remain firm through SLD approval, execution, and duration of proposed contract. In the event of a price decrease for service, decrease shall be passed on to District and documented with new price sheet sent to District Technology Services Office, 15600 Concord Circle, Morgan Hill, CA 95037.

The Monthly Recurring Charge will remain firm throughout the initial Order Term of the Agreement. Non-Recurring Charges (NRCs) and Monthly Recurring Charges (MRCs) are exclusive of taxes, fees and surcharges. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer. Customer shall be invoiced charges in accordance with Commercial Terms of Service attached.

- C. This RFP and associated E-Rate Form 470 will be posted on USAC E-Rate system portal and can be viewed via USAC website: <https://data.usac.org/publicreports/Forms/Form470Rfp/Index> and District website: <https://goo.gl/84C7ne>. Any additions, corrections, or Frequently Asked Questions will be addressed in the

form of addenda posted to the same. It is prospective proposer's responsibility to check USAC website for any RFP updates, Q & A or Addenda. Go to <http://www.usac.org/sl/> for instructions on viewing Form 470s and related documents.

Spectrum understands.

### 3. DUE DATE AND PROPOSAL FORMAT REQUIREMENTS

A. RFP responses are due at MHUSD Administrative Office, 15600 Concord Circle, Morgan Hill, CA 95037 for date and time stamping at or before 5:00 p.m., December 13, 2018.

Spectrum understands.

One (1) original proposal, one (1) copy, and one digital copy (PDF format on flash drive preferred) must be submitted by Respondents in a sealed envelope, clearly marked "**E-RATE RFP 2019-101**" and delivered to **Morgan Hill Unified School District, Administrative Office, Attn: Jim Carrillo, 15600 Concord Circle, Morgan Hill, CA 95037. Faxed or emailed RFP responses will not be accepted.** Allow at least 2 days for delivery of USPS Priority and Express Mail. All RFPs must be received and time/date stamped in the **MHUSD Administrative Office** by the above due date and time. Sole responsibility rests with RFP responders to ensure their RFP responses are received on time at the stated location. Any RFP responses received at MHSUD DO after due date and time will be returned unopened to responder. No exceptions will be allowed. A **supplemental** soft copy of proposal documents may be sent via email as an attachment, in lieu of USB flash or SD drive, but the hard copy requirements described above **must be followed.**

Spectrum understands.

B. RFP responses must be in 8-1/2 x 11-inch format and total RFP response materials, including sample contract, should not exceed 40 pages in total.

Spectrum understands.

C. Provide pricing for 3-year term contract for all services described in Appendix C. Proposal must offer voluntary contract extensions. Contract extensions must be stated in awarded contract and must be offered for two additional one-year extensions. Proposer must state how contract extension options are to be exercised by District.

Spectrum's Order Term provision is as follows:

ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

**ALL COSTS INCLUDED:** All costs for a complete, operational WAN network, as defined in Appendix C (List of Services to be Proposed and Pricing Matrix), must be entered on Attachment 1 and included in RFP

proposal responses. The contract awarded as a result of this solicitation shall be a fixed price contract for which the offered price will include all costs, including but not limited to: labor, material, equipment, services, software, hardware, travel, shipping, and any administrative costs related to the pricing of services defined by this RFP. Selected Service Provider shall deliver, install, and complete an integrated system.

The Monthly Recurring Charge will remain firm throughout the initial Order Term of the Agreement. Non-Recurring Charges (NRCs) and Monthly Recurring Charges (MRCs) are exclusive of taxes, fees and surcharges. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer. Customer shall be invoiced charges in accordance with Commercial Terms of Service attached.

E. The following documentation is required in RFP Proposal Responses:

- 1) Address all items in RFP Scope of Work (RFP: Section 1).
- 2) Address all requirements as specified in RFP Proposal Format Requirements (RFP: Section 3).
- 3) Signed copies of RFP addenda, if applicable.
- 4) Any costs for terminating contract must be clearly specified in the proposal.

See Section 13 (Default, Suspension of Services and Termination) in Commercial Terms of Service attached.

- 5) RFP proposals should include a copy of a sample contract in their proposal.
- 6) Completed and signed Submittal pages (Appendix D: RFP Response Form & Appendix E: Letter of Intent).
- 7) RFP responders shall complete and submit pricing as shown on Appendix C. A spreadsheet formatted the same as Appendix C, named "Attachment 1\_WAN RFP YR 2019", is uploaded to E-Rate system portal and District website. Respondents shall include pricing for all requested options in Attachment 1 (complete all 3 worksheets within Attachment 1) and submit with RFP response.
- 8) Quote on each item separately.
- 9) Prices should be stated based on quantities/units specified on Appendix C (List of Services to be Proposed and Pricing Matrix).
- 10) Proposal response must state how contract extension options are to be exercised by District.

ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

- 11) RFP respondents may attach additional pertinent information they deem important to selection, implementation, and overall success of the project.
- 12) Indicate if pricing reflects individual "port/demarc" charges, or if amount quoted is for the entire point-to-point circuit.



13) Show applicable discounts separately, if applicable.

14) Proposals should include the following components as applicable:

- a) If there are Installation and/or Curb-to-Demarc or build-out costs, District requires these costs be amortized into monthly recurring charges.
- b) Enter cost details on Installation and/or Curb-to-MPOE or build-out charges on Appendix C (or equivalent spreadsheet).
- c) Any special construction charges for a specific site must be itemized and quoted separately from non-recurring charges or recurring charges. If there are charges for special construction, responder must include in response: 1) Total project route feet; 2) Average cost per foot of outside plant; 3) Total number of strands being placed; and 4) Number of E-Rate eligible strands.

Spectrum will work with the district to amortize any NRCs over the term of the agreement. Spectrum's Service Locations provision is as follows:

**1. SERVICE LOCATION ACCESS AND INSTALLATION.**

a) Access. Spectrum requires reasonable access to each Service Location at any time throughout the Term as necessary for Spectrum to provide the Services and to review, install, inspect, maintain, repair, or remove any Spectrum-provided cabling, modems, related splitters, routers or other equipment ("Spectrum Equipment") used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Spectrum permission to enter the Service Location(s) in order for Spectrum to fulfill its obligations and exercise its rights under the Service Agreement. If a Service Location is not owned or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum may decline Customer's request for Services, or terminate or amend the affected Service Order with respect to the Service Location that Spectrum cannot access, without any liability to Customer.

b) Installation Review. Spectrum may perform an installation review of each Service Location prior to installation of the Services to determine serviceability or the need to extend Spectrum's facilities, fiber optic cable, electronics, or other equipment (collectively, the "Network") to provide the Services at the Service Location. If during the installation review, Spectrum determines that additional work is required to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges (as defined below) in excess of the amounts previously specified in a quote or Service Order. Upon request, Customer shall provide Spectrum with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps, prior to the installation review.

c) Site Preparation. Customer shall be responsible for necessary preparations at the Service Location(s) for delivery and installation of Spectrum Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture and furnishings as necessary to access the Spectrum Equipment or Services. In addition, Customer shall provide Spectrum with floor space, rack space, other space and clean power as is reasonably necessary for the installation and operation of Spectrum Equipment at the Service Location(s). Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer. Any

failure or refusal by Customer to be ready to receive Services does not release Customer from its obligation to pay Service Charges for any Service that is otherwise available for Customer's use.

d) Installation. Spectrum will schedule one or more installation visits with Customer. At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional Service Charges based on Spectrum's actual incurred labor, material or other costs for such non-routine installation or maintenance. Customer's authorized representative must be present during installation.

If Spectrum is unable to install the Service as a result of (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum not being able to obtain access to equipment at the Service Location as necessary for installation of the Service, then Customer shall pay Spectrum a Service Charge at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional Service Charge for each subsequent trip necessary to perform the Service installation. In addition, if Spectrum's installation of the Service is delayed as a result of Customer's actions or inactions as set forth above or if Customer is otherwise refusing or not ready to receive Services, then Spectrum will notify Customer that Spectrum is ready to finalize installation of the Services (the "Ready Notice") and may begin invoicing Service Charges as set forth in Section 7 upon the earlier of the Billing Start Date or sixty (60) days after the date of the Ready Notice.

If during the course of installation Spectrum determines additional work is necessary to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to terminate the applicable Service Order. Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entities when authorized by Customer to allow connection of a Service Location to the Network.

Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer- provided or End User equipment (collectively, "Customer Equipment"), unless otherwise set forth in an Attachment or agreed in writing between the Parties, and shall conform its Customer Equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum.

Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship. If the installation and maintenance of Services at the Service Locations is or becomes, in Spectrum's sole opinion, hazardous or dangerous to Spectrum's employees or Network, the public, or property, including without limitation due to the presence of asbestos or other hazardous materials, Spectrum may refuse to install and maintain such Service or stop providing Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or

dangerous. Customer shall bear any additional costs incurred by Spectrum arising from any such hazardous or dangerous conditions.

- F. Each proposal shall conform and be responsive to District RFP specifications. Proposals shall include complete specifications and rates for all services requested.
- G. The contract(s) resulting from this RFP may be required to be approved by the District's Governing Board. No minimum amount of work is guaranteed.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.

- H. The District reserves the right to reject any and all RFP responses for any reason whatsoever. The District may waive informalities or irregularities in proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other RFP responses. The issuance of this RFP and receipt of responses does not commit the District to award a contract. The District expressly reserves the right to postpone RFP response opening for its own convenience, to accept or reject any or all responses (in whole or portions) received to this RFP, to negotiate with more than one responder concurrently, or to cancel all or part of this RFP.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.

- I. MHUSD reserves the right, in its sole discretion, to determine the criteria and process whereby RFPs are evaluated and awarded.

#### 4. REQUIREMENTS FOR WAN SERVICES

- A. District is requesting proposals for RFP responders to provide reliable WAN services to connect all District locations to one of the two following hub sites: 1) **Option A**-Britton or 2) **Option B**-MHUSD DO, without oversubscription. All District locations are listed on Appendix A.
- B. All WAN connections will be 1 Gbps. District is also requesting **alternative pricing for 10 Gbps** for the connection between DO and Britton (**Option C**).
- C. Indicate any and all options available or proposed.
- D. Unless otherwise agreed upon, contract start date is anticipated to be July 1, 2019.

So long as Customer properly performs all necessary site preparation and provides Spectrum with all required consents, Spectrum shall endeavor to meet the Customer's desired installation date. However, due to time constraints which are required for construction, designs, permits and various other factors, Spectrum will only commit to an estimated timeframe for delivery of Service. Spectrum's implementation goal is typically 90-120 days, however, upon award, a more accurate estimation will be provided once a project team has been assigned.

- E. Host site (Option A or Option B, as defined above) connections must be able to support consolidated remote site services (15 remote sites, minimum 1 Gbps per site).  
All sites listed must have option to upgrade and/or downgrade bandwidth incrementally, as needed, during the term of the contract.

Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

Any downgrade in Service will be subject to a termination charge in accordance with Section 13 (e) (Termination Charges) of Commercial Terms of Service attached. All equipment/services costs must be new and included and identified separately.

**G. Manufacturer must warrant all parts and equipment.**

See Section 14(a) Disclaimer of Warranty in Commercial Terms of Service attached.

**H. Vendor must be a certified reseller of parts and equipment.**

**I. Prices to remain firm through SLD approval, execution, and duration of proposed contract.**

The Monthly Recurring Charge will remain firm throughout the initial Order Term of the Agreement. Non-Recurring Charges (NRCs) and Monthly Recurring Charges (MRCs) are exclusive of taxes, fees and surcharges. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer. Customer shall be invoiced charges in accordance with Commercial Terms of Service attached.

**5. REQUIRED SERVICE PROVIDER INFORMATION**

**A. Length of time business has provided this type of service.**

Charter Communications Operating, LLC is a Delaware, Limited Liability Company, formed on February 10, 1999.

**B. Service Level Agreement (SLA) for proposal submitted.**

See Spectrum's Service Level Agreement attached.

**C. An implementation timeline proposal for WAN services to be installed by July 1, 2019.**

Spectrum shall endeavor to meet the July 1, turn-up date for Universal Service Administrative Company (USAC) funding. However, due to time constraints which are required for construction, designs, permits, and various other factors, Spectrum may not be able to meet the USAC funding date. Therefore, Spectrum encourages new customers to file for funding at the earliest availability within USAC's guidelines and obtain a Funding Commitment Decision Letter, to allow Spectrum as much time as possible to meet the July 1, turn-up date. Additionally, it may be in the best interest

Spectrum's new customers to file through USAC for temporary funding for their current provider for a period sufficient to cover Spectrum's implementation timeline. Spectrum's implementation goal is 90 to 120 days, however, upon award, a more accurate estimate will be provided once a project team has been assigned.

So long as Customer properly performs all necessary site preparation and provides Spectrum with all required consents, Spectrum shall endeavor to meet the Customer's desired installation date. However, due to time constraints which are required for construction, designs, permits and various other factors, Spectrum will only commit to an estimated timeframe for delivery of Service. Spectrum's implementation goal is typically 90-120 days, however, upon award, a more accurate estimation will be provided once a project team has been assigned. Spectrum shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date due to delays resulting from normal installation procedures or events beyond Spectrum's control.

**D. Indicate how charges will be incurred as services are implemented.**

Customer shall be invoiced charges in accordance with Commercial Terms of Service attached.

**STANDARD PAYMENT TERMS.**

Customer shall pay recurring and non-recurring charges, taxes, and fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement (collectively, "Service Charges").

- (a) Charges. Spectrum invoices for monthly recurring charges specific to the Service(s) ("MRCs"), plus applicable taxes, fees, and surcharges, in advance on a monthly basis. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the Billing Start Date or as specified in the Service Order. All other charges, including usage-based charges (e.g., phone usage, pay-per view charges), will be invoiced monthly in arrears. Service Charges are payable within thirty (30) days after the date appearing on the invoice. If Spectrum fails to present a Service Charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such Service Charges when invoiced in accordance with these payment terms. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer.
- (b) Taxes, Surcharges, and Fees. Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation. Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges).

Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

- (c) Change Requests. Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).
- (d) Site Visits and Repairs. If Spectrum visits a Service Location to either inspect the Services or respond to a service request, and Spectrum reasonably determines that the cause of the service issue is not due to a problem arising from Spectrum's Network or Spectrum Equipment, but rather is due to Customer misuse, abuse, or modification of the Services, Customer Equipment or facilities, or due to similar acts by a third party not under Spectrum's control or direction, then Spectrum may invoice Customer at Spectrum's then-prevailing commercial rates for an on-site visit, plus any charges for Spectrum Equipment repair or replacement as a result of Customer or third party damage that may be necessary.
- (e) Invoicing Disputes; Late and Collection Fees. Customer must provide notice to Spectrum of any disputed charges within sixty (60) days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Undisputed amounts not paid within thirty (30) days of the invoice date shall be past due and subject to a late fee up to the lesser of 1.5% of the MRC per month or the maximum amount permitted by law. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services. Spectrum may charge a reasonable service fee for all returned checks and bank card, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.
- (f) Credit Verification. Spectrum shall have the right to verify Customer's credit standing at any time. Additionally, Spectrum may at any time require Customer to make a deposit and/or advance payment. The deposit requested will be in cash, the equivalent of cash, or a bank, credit card or account debit authorization and does not relieve Customer of the responsibility for the prompt payment of invoices when due. Spectrum may deduct amounts from the deposit, bill any bank or credit card provided, or utilize any other means of payment available to Spectrum, for past due amounts.



(g) Bundled Pricing. If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:

- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon Termination by Customer, for any reason other than a Spectrum Default, of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time of Termination. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.

Spectrum's contract will include the following clause:

**E-RATE FUNDING CONTINGENCY.** Customer may submit this Service Order and the Agreement to the Schools and Libraries Division of the Universal Service Administrative Company, (i.e., the entity appointed by the Federal Communications Commission to administer the Universal Service Program with respect to Schools and Libraries ("E-rate") funding) as part of any application seeking a federal subsidy or funding.

Customer is responsible for notifying Spectrum of its election of either the Service Provider Invoice ("SPI") or Billed Entity Applicant Reimbursement ("BEAR") discount method by May 15th prior to the applicable funding year. Customer must complete and return an "E-rate Discount Election Form" to Spectrum prior to such date, or Customer will be deemed to have chosen the BEAR discount method for the funding year.

Upon Spectrum's receipt of appropriate notice that Customer is an approved E-rate program participant for a Service, Spectrum will invoice Customer for the Service in accordance with E-rate guidelines and/or rules. If Spectrum invoices Customer for a Service pursuant to any E-rate program rates, discounts or credits in advance of receiving such notice and Customer's request for E-rate program funding is denied, limited or reduced, Spectrum will invoice Customer and Customer will pay the difference between such invoiced amount(s) and the actual amount of the charges for the Service as described in this Service Order. Notwithstanding anything herein to the contrary, Customer's obligations under this Service Order shall remain in full force and effect in the event Customer withdraws or is removed from the E-rate program, receives E-rate program funding that is less than Customer's requested funding amount, or is denied E-rate program funding for any Service described in this Service Order. For the avoidance of doubt, Customer is solely responsible for all charges for Services, as described in this Service Order, that were installed prior to the E-rate program funding year start date.

Spectrum will provide discounts via the Service Provider Invoice (SPI) Form 474 as long as the customer has been funded through the E-rate program, in which case discounts will be applied to the billing account via credit adjustments. District may also choose to file a form 472, the Billed Entity Applicant Reimbursement (BEAR) Form. Spectrum will only invoice Universal Service Administration Company (USAC) via SPI Form 474 once funding has been committed and the applicant has filed the form 486 and Receipt of Service Confirmation Form with USAC.

Upon award, Spectrum will make recommendations to District to assist with the applicable paperwork.

**California Teleconnect Fund Contingency.** If state funding for the California Teleconnect Fund ("CTF") is exhausted, or if Customer fails to qualify for CTF discounts, Customer will be back-billed for CTF discounts advanced by Spectrum. Furthermore, if Customer fails to receive E-rate discounts from the Universal Service Administrative Company ("USAC"), Customer will be back-billed for all such discounts advanced by Spectrum. Customer is required to comply with all federal

E-rate and CTF rules. Spectrum reserves the right to suspend both CTF and E-rate discounts to Customer in the event that Customer (i) fails to abide by all federal E-rate and CTF rules, or (ii) withdraws its request for E-rate and/or CTF.

E. RFP respondents must include three reference sites using your services three years or more. References from a School, Library or a County Office of Education in California are preferred. Include the following:

- Client name
- Contact name, email and telephone number
- Date of contract
- Project Description
- Service Installed

Shasta Union High School District  
2200 Eureka Way  
Redding, CA 96001  
Mr. Elijah Van Slyke – (530) 356-7551 [evanslyke@suhsd.net](mailto:evanslyke@suhsd.net)  
Project Start Date: 5/1/2013  
Project Completion Date: 7/15/2013  
Ethernet upgrades and Transport service to SCOE

Gateway Unified School District  
4411 Mountain Lakes Blvd.  
Redding, CA 96003  
Mr. Scott Sorrells – (530) 245-7591 [ssorrells@gwusd.org](mailto:ssorrells@gwusd.org)  
Project Start Date: 4/1/2011  
Project Completion Date: 8/18/2011  
1 Gig Ethernet services to 8 GUSD locations

Shasta County Office of Education  
1644 Magnolia Ave.  
Redding, CA 96001  
Mr. James Alspach – (530) 225-0200 [jalspach@shastacoe.org](mailto:jalspach@shastacoe.org)

## 6. VENDOR/SERVICE PROVIDER REQUIREMENTS

RFP respondents must meet or exceed minimum qualification requirements.

All submitted proposals must provide at a minimum, all requested information in the proposal document. **Any portion not included will be cause for elimination from the quote process.** The information should be organized as indicated in the proposal requirements. The District reserves the right to eliminate from further consideration any response, which is deemed to be substantially or materially unresponsive to the RFP.

All information submitted is to be considered public knowledge and will be subject to The Public Records Act or any other applicable laws.

A. Service Providers are required to be in full compliance with all current requirements and future requirements issued by the SLD throughout the contractual period of any contract entered into as a result of this RFP.

Spectrum represents that it will perform its duties in accordance with the Service Agreement between the parties. Spectrum agrees to comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement.

- B. Service Providers are responsible for providing a **valid SPIN** (Service Provider Identification Number). More information about obtaining a SPIN may be found at this website at <http://www.usac.org/sl/>.

Charter Communications Operating, LLC SPIN is 143050436.

- C. Service Providers are responsible for providing a **valid Federal Communications Commission (FCC) Registration Number (FRN)** at the time RFP response is submitted. More information about obtaining an FRN may be found at this web <https://apps.fcc.gov/>

Charter Communications Operating, LLC FRN is 0002526580.

- D. Service Providers are responsible for providing **evidence of FCC Green Light Status** at the time proposal is submitted. Any potential RFP proposer found to be in Red Light Status will be disqualified from participation in the RFP proposal process and will be considered non-responsive. Information about FCC Red and Green Light Status may be found at <https://apps.fcc.gov/>.



## Red Light Display System (RLDS)

### Red Light Display System

[FCC](#) | [Fees](#) | Red Light Display System

[< FCC Site Map](#)

Logged in as FRN: Charter Communications Operating, LLC (0002526580) [\[Log Out\]](#)

[Back](#) | [Print](#) | [Help](#)

8/27/2018 3:41 PM

### Current Status of FRN 0002526580

#### STATUS: Green

You have no delinquent bills which would restrict you from doing business with the FCC.

The Red Light Display System checks all FRNs associated with the same Taxpayer Identification Number (TIN). A green light means that there are no outstanding delinquent non-tax debts restricting business with the Commission by any FRN associated with requestor's TIN. The Red Light Display System was last updated on 08/27/2018 at 6:33 AM; it is updated once each business day at about 7 a.m., ET.

- E. Products and services must be delivered before billing can commence. At no time, may Service Provider invoice before July 1 of the funding year.

Spectrum shall endeavor to meet the July 1, turn-up date for Universal Service Administrative Company (USAC) funding. However, due to time constraints which are required for construction, designs, permits, and various other factors, Spectrum may not be able to meet the USAC funding date. Therefore, Spectrum encourages new customers to file for funding at the earliest availability within USAC's guidelines and obtain a Funding Commitment Decision Letter, to allow Spectrum as much time as possible to meet the July 1, turn-up date.

Additionally, it may be in the best interest of Spectrum's new customers to file through USAC for temporary funding for their current provider for a period sufficient to cover Spectrum's

implementation timeline. Spectrum's implementation goal is 90 to 120 days, however, upon award, a more accurate estimate will be provided once a project team has been assigned.

**ORDER TERM.** The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

- F. Goods and services provided shall be clearly designated as "E-rate Eligible". Ineligible goods and services shall be clearly called out as 100% ineligible or shall be cost allocated to show the percentage of eligible costs per SLD guidelines.

Spectrum understands.

- G. Within one (1) week of award, awarded Service Provider must provide District a bill of materials using a completed USAC **"Bulk Upload Template"** (formerly known as "Item 21"), [https://www.usac.org/sl/applicants/step03/form-471.aspx/#bulk upload templates](https://www.usac.org/sl/applicants/step03/form-471.aspx/#bulk%20upload%20templates). Subsequent schedules of values and invoices for each site must match Bulk Upload Template or subsequent service substitutions. A summary sheet must also be provided to provide the cumulative dollar amount for all sites and associated costs.

Upon award, Spectrum will make recommendations to Morgan Hill USD to assist with the applicable paperwork.

- H. Proposer must confirm on Appendix D they are currently participating in the California Teleconnect Program (CTF).

California Teleconnect Fund Contingency. If state funding for the California Teleconnect Fund ("CTF") is exhausted, or if Customer fails to qualify for CTF discounts, Customer will be back-billed for CTF discounts advanced by Spectrum. Furthermore, if Customer fails to receive E-rate discounts from the Universal Service Administrative Company ("USAC"), Customer will be back-billed for all such discounts advanced by Spectrum. Customer is required to comply with all federal E-rate and CTF rules. Spectrum reserves the right to suspend both CTF and E-rate discounts to Customer in the event that Customer (i) fails to abide by all federal E-rate and CTF rules, or (ii) withdraws its request for E-rate and/or CTF.

- I. In the event of questions during an E-rate pre-commitment review, post-commitment review and/or audit inquiry, awarded Service Provider is expected to reply within three (3) days to questions associated with its proposal.

Spectrum understands and will comply.

## 7. VENDOR / SERVICE PROVIDER ACKNOWLEDGEMENTS

- A. Service Provider acknowledges that no change in products and/or services specified in this document will be allowed without prior written approval from District and a USAC service substitution approval, with the exception of Global Service Substitutions.

Spectrum has the right, but not the obligation, to upgrade, modify, and enhance the Spectrum Network and the Service and take any action that Spectrum deems appropriate to protect or improve the Service and its facilities.

Change Requests. Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

Service Provider acknowledges its offer is the Lowest Corresponding Price (LCP) pursuant to § 54.511(b). Should it not be the LCP, Service Provider must disclose conditions leading to the applicant being charged in excess of the LCP. Further details regarding LCP may be obtained at USAC's website: <http://www.usac.org/sl>.

Spectrum complies with all LCP rules.

- C. This offer is in full compliance with USAC's Free Services Advisory. There are no free services offered that would predicate an artificial discount and preclude the applicant from paying its proportionate non-discounted share of costs. Service Provider agrees to provide substantiating documentation to support this assertion should applicant, USAC, or the FCC request it.

Spectrum understands and complies.

### D. Starting Services/Advance Installation Compliance:

The annual E-rate Funding Year begins on July 1 and expires on June 30 of each calendar year. Regardless of contract "Effective Date", E-Rate eligible goods and/or services requested in this RFP shall be delivered no earlier than the start of the 2019 funding year (July 1, 2019). If Category 1 services (Telecommunication Services and Internet access) will begin on or shortly after July 1 of a funding year, Service Provider, in some cases, may need to undertake some construction and installation work prior to the beginning of that funding year. Within the limitations indicated below, the infrastructure costs of a service provider can be deemed to be delivered at the same time that associated Category 1 services begin. That is, if services begin on July 1, then delivery of Service Provider infrastructure necessary for those services can be considered as also delivered on July 1.

Spectrum shall endeavor to meet the July 1, turn-up date for Universal Service Administrative Company (USAC) funding. However, due to time constraints which are required for construction,

designs, permits, and various other factors, Spectrum may not be able to meet the USAC funding date. Therefore, Spectrum encourages new customers to file for funding at the earliest availability within USAC's guidelines and obtain a Funding Commitment Decision Letter, to allow Spectrum as much time as possible to meet the July 1, turn-up date. Additionally, it may be in the best interest of Spectrum's new customers to file through USAC for temporary funding for their current provider for a period sufficient to cover Spectrum's implementation timeline. Spectrum's implementation goal is 90 to 120 days, however, upon award, a more accurate estimate will be provided once a project team has been assigned.

**ORDER TERM.** The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

#### **E. Early Funding Conditions Acknowledgement:**

There are four conditions that must be met for USAC to provide support in a funding year for Category 1 infrastructure costs incurred prior to that funding year.

- 1) Initiation of installation cannot take place before selection of the service provider pursuant to a posted Form 470 and in any event no earlier than six months prior to July 1 of the funding year.
- 2) The Category 1 service must depend on the installation of the infrastructure.
- 3) The underlying Category 1 service cannot have a service start date prior to July 1 of the funding year.
- 4) No invoices can be submitted to USAC for reimbursement prior to July 1 of the funding year.

More details are available at <http://www.usac.org/sl/>

So long as Customer properly performs all necessary site preparation and provides Spectrum with all required consents, Spectrum shall endeavor to meet the Customer's desired installation date. However, due to time constraints which are required for construction, designs, permits and various other factors, Spectrum will only commit to an estimated timeframe for delivery of Service. Spectrum's implementation goal is typically 90-120 days, however, upon award, a more accurate estimation will be provided once a project team has been assigned. Spectrum shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date due to delays resulting from normal installation procedures or events beyond Spectrum's control.

**ORDER TERM.** The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.



- 1) Service Provider agrees to bill and receive a portion of the payment for the provisions of goods and services described herein directly from USAC via Form 474 Service Provider Invoice (SPI). The District will only be responsible for paying its non-discounted share of costs and does not intend to use BEAR process (Form 472). The maximum percentage District will be liable for is the pre-discount amount minus the funded amount as requested on FCC Form 471 Cost Calculation Section for applicable service and any identified ineligible costs. Upon successful receipt or posting of a Funding Commitment Decision Letter from the SLD and submission and certification of Form 486, District shall pay only the discounted amount beginning with the billing cycle immediately following said approval.
- 2) All Service Provider invoicing to USAC must be completed within 120 days from the last day of service. Should Service Provider fail to invoice USAC in a timely manner, District will only be responsible for paying its non-discounted share.

Spectrum will provide discounts via the Service Provider Invoice (SPI) Form 474 as long as the customer has been funded through the E-rate program, in which case discounts will be applied to the billing account via credit adjustments. District may also choose to file a form 472, the Billed Entity Applicant Reimbursement (BEAR) Form. Spectrum will only invoice Universal Service Administration Company (USAC) via SPI Form 474 once funding has been committed and the applicant has filed the form 486 and Receipt of Service Confirmation Form with USAC.

Upon award, Spectrum will make recommendations to District to assist with the applicable paperwork.

#### Procurement of Additional Goods and Services: Coterminous Expiration:

During the term of any Agreement resulting from this RFP, District may elect to procure additional or like goods and/or services offered by Respondent. Such services shall be negotiated and obtained via an official amendment to the resulting Agreement and may be subject to approval by the District's Governing Board. All terms, conditions, warranties, obligations, maintenance and support of said goods or services shall have a coterminous expiration date with the original date of the Agreement, unless otherwise agreed to by the District. The District shall not enter into a separate Agreement for said goods or services. Respondents must state in their proposal that they acknowledge, accept and agree with coterminous expiration conditions.

**SERVICE AGREEMENT TERM.** The Service Agreement shall be effective upon the earlier to occur of (a) the latest date of the signatures of the Parties; or (b) Spectrum's commencement of performance (the "Effective Date"). The Service Agreement shall remain in effect until the expiration or proper termination of the final existing Service Order entered into under this Service Agreement (the "Term").

**SERVICES.** Customer shall request Services hereunder by submitting orders in a manner required by Spectrum. Upon Spectrum's acceptance of a Service Order, as indicated either by: (a) Spectrum's written acceptance, (b) by Spectrum's delivery of the Services, or (c) commencement of installation, such Service Order shall be deemed incorporated into the Service Agreement. Spectrum shall provide the Services to Customer at the Service address(es) specified in the applicable Service Order ("Service Location(s)").

**ORDER TERM.** The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the

applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

#### H. FCC/SLD Auditability:

The E-Rate program requires all records be retained for at least ten (10) years from the last date of service provided on a particular funding request. Respondent hereby agrees to retain all books, records, and other documents relative to any Agreement resulting from this RFP for ten (10) years after final payment. The District, its authorized agents, and/or auditors reserves the right to perform or have performed an audit of the records of the Respondent and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.

To the extent required by applicable law, Spectrum shall keep complete and accurate documents, information and records concerning the Services provided to Customer in accordance with Spectrum's policy. As allowed by applicable law, Customer may audit such documents, information and records for the previous 12-month period not more than one time per year and Customer's audit rights shall be limited to documents, information and records pertaining to Services provided to Customer and not with respect to other customers. Audits undertaken by Customer shall be limited to Spectrum's operations only, and Spectrums confidential financial information, network systems, books, records and accounts shall not be made available for audit. Spectrum may require Customer's auditors to sign a reasonable non-disclosure agreement. All audits shall be at Customer's expense.

## 8. PROPOSAL EVALUATION

Each response will be reviewed prior to the selection process for completeness and adherence to format. A response will be considered complete if all requested sections are included and properly completed. Vendors may also provide any and all recommendations for consideration such as installation, maintenance, support and design relevant to the total solution of the District's technology needs. The successful RFP respondent will be chosen based upon best value.

### EVALUATION CRITERIA

FACTOR	Weight
Price of eligible goods and services including installation costs, and/or Curb-to-MPOE or Build-out charges etc.	30%
Prior experience with District	10%
Local vendor with local staff and repair personnel based within San Francisco Greater Bay Area/Santa Clara County	15%
Client references and/or citations from prior installations where equal services were provided for projects of similar size and complexity	15%
Accuracy, completeness, and responsiveness to RFP requirements	15%
Other cost factors (including price of ineligible goods and services, costs of changing providers, etc.)	15%

## RFP SCHEDULE

Solicit RFP Responses	November 8, 2018
RFP question deadline	November 28, 2018
RFP question response	December 3, 2018
RFP closing	December 13, 2018 5:00 p.m., PST (no public RFP response opening)
Service Provider Award	Before 471 filing date (to be announced)
Purchase Orders	Contingent on E-Rate award and District funding

Spectrum understands.

## 10. SPECIFIC INSTRUCTIONS & INFORMATION TO RFP RESPONDERS

- A. **TAXES AND INSURANCE:** All insurance that may be required shall be included in all RFP response quotations. The District is not exempt from California state sales and use taxes. The District is exempt from paying Federal Excise Taxes. California sales tax shall be included in RFP response quotations as a separate line item.

Pricing is not inclusive of applicable taxes, fees and surcharges. Spectrum cannot estimate all possible taxes, surcharges and fees, as taxability and regulatory classifications vary by customer and service location. Please review Spectrum's taxes, surcharges and fees provision below."

Spectrum's Taxes, Surcharges, and Fees provision is as follows:

Non-Recurring Charges (NRCs) and Monthly Recurring Costs (MRCs) are exclusive of taxes, fees and surcharges.

Taxes, Surcharges, and Fees. Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, and including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation. Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its

services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes, and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

- B. **SIGNATURE:** The proposal must be signed in the name of the RFP respondent and must bear the signature of the person or persons duly authorized to sign the proposal. In case a proposal is submitted by a corporation, it must be signed in the name of such corporation by a duly authorized officer or agent thereof.

Spectrum understands.

- C. **MODIFICATIONS:** Changes in or additions to the proposal form, alternative proposals, or any modifications of the proposal form which is not specifically called for in the contract documents may result in the District's rejection of the proposal as not being responsive to the invitation to proposal. No oral or telephonic (facsimile machine, FAX, inclusive) modifications of any proposal submitted will be considered.

Spectrum understands.

- D. **EXAMINATION OF CONTRACT DOCUMENTS:** RFP respondents shall thoroughly examine and be familiar with the Drawings and Specifications. The failure or omission of any respondent to receive or examine any contract documents, forms, instruments, addenda or other documents or to visit the site and acquaint himself with existing conditions there shall in no way relieve any respondent from obligations with respect to his proposal or the contract. The submission of a proposal shall be taken as "Prima Facie" evidence of compliance with this section.

Spectrum's proposal is submitted with the understanding that the specific, comprehensive terms under which Spectrum and Morgan Hill Unified School District may enter into a binding contract are understood to be subject to negotiation between the parties hereafter. If during the course of installation Spectrum determines additional work is necessary to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to terminate the applicable Service Order. Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entitles when authorized by Customer to allow connection of a Service Location to the Network.

**ERROR IN PROPOSAL:** Any claim by respondent of error in his proposal must be made before proposals are opened, or the claim shall be deemed waived. Any respondent may withdraw his proposal at any time between hour of proposal submittal and RFP response deadline.

Spectrum understands.

- F. WITHDRAWAL OF PROPOSAL:** Any respondent may withdraw his proposal by written request. All proposals received by the District shall remain subject to acceptance for a period of ninety (90) calendar days after the date of the proposal opening.

Spectrum understands.

- G. AWARD OF CONTRACT LIMITATION:** No proposal will be accepted from or contract awarded to any party or firm in arrears to the District, or who is a defaulter as surety, contractor or otherwise.

Spectrum understands.

- H. EVIDENCE OF RESPONSIBILITY:** Upon the request of the District, a respondent whose proposal is under consideration for the award of Contract shall submit promptly to the District satisfactory evidence showing the respondent's financial resources, his experience and organization available for the performance of the contract.

Financial Stability: Spectrum Enterprise also means financial stability. Spectrum Enterprise has the financial resources and the strategic commitment to maintain and grow its network and support services in step with our customers' growing needs. Charter Communications current Earnings Release and other relevant financial results are available at <http://ir.charter.com/phoenix.zhtml?c=112298&p=irol-earnings>.

- I. ACCEPTANCE OR REJECTION OF PROPOSALS:** The Board of Education reserves the right to reject any and all proposals, or any or all items of any proposal, or waive any irregularity of any proposal.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.

- J. THE CONTRACT:** The respondent to whom the award is made shall be required to enter into a written contract with the District. These RFP specifications and respondent's proposal will be attached to, and become a part of, the final contract documents.

Spectrum's proposal assumes final agreement terms and conditions will be subject to its standard Commercial Terms of Service attached. All agreed upon terms and conditions within this RFP shall be incorporated in the Service Agreement hereafter.

- K. PREVAILING LAW:** In the event of any conflicts or ambiguities between these specifications and state or federal laws, regulations or rules, then the latter shall prevail.

Spectrum understands.

**FEDERAL OR STATE REGULATIONS.** The RFP Respondent's proposal and any contract entered into are subject to all applicable statutes of the United States and the State of California and all applicable regulations and orders of the Federal or State governments now in effect or which shall be in effect during the period of such contract.

As between the Parties, Spectrum shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Spectrum's operation and provision of the Services as contemplated in the Service Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Service Agreement. Unless specified otherwise in the Service Agreement, each Party shall give all notices, pay all fees and comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement. The Service Agreement is subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which Spectrum provides the Services.

**M. ASSIGNMENT PROHIBITED.** No contract awarded under this proposal shall be assigned without the approval of the MHUSD Board of Education.

No Assignment or Transfer. Customer may, upon prior written notice to Spectrum, assign this Service Agreement and the associated Service Order(s) to affiliates controlling, controlled by, or under common control with Customer, or to its successor-in-interest following a merger or sale of substantially all of its assets to a non-affiliated entity; provided that Customer has paid Spectrum all amounts due and owing for all Services provided by Spectrum pursuant to this Services Agreement at the time Customer provides such notice of assignment. Spectrum may assign its rights and obligations under this Service Agreement, in whole or in part, and any Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s) without the prior approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of Spectrum in the Service Agreement may accrue to, or be fulfilled by, any affiliate, as well as by Spectrum or its subcontractors.

**N. DELIVERY.** All items shall be delivered in quantities specified in the contract F.O.B., at the points within the District as specified in the contract. Deliveries in advance of time specified in contract shall not be accepted unless Respondent has obtained prior approval from the District. Unless otherwise specified, if an item is not delivered as specified in the contract or if the Respondent delivers an item which does not conform to the Specifications, the District may, at its option, annul and set aside the contract, either in whole or in part, and may enter into a new contract in accordance with law for furnishing such item. Any additional cost or expense incurred by the District in the making of such contract or any additional cost of supplying an item by reason of the failure of the Respondent, as described in this paragraph, shall be paid by the Respondent or his surety.

So long as Customer properly performs all necessary site preparation and provides Spectrum with all required consents, Spectrum shall endeavor to meet the Customer's desired installation date. However, due to time constraints which are required for construction, designs, permits and various other factors, Spectrum will only commit to an estimated timeframe for delivery of Service. Spectrum's implementation goal is typically 90-120 days, however, upon award, a more accurate estimation will be provided once a project team has been assigned. Spectrum shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date due to delays resulting from normal installation procedures or events beyond Spectrum's control.



ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), or the parties will have the option to renew or two additional one-year extensions unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

Spectrum shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date.

Any applicable remedies available to the District due to Spectrum's default shall be in accordance with the Commercial Terms of Service attached and Spectrum's Service Level Agreement.

O. **INABILITY TO PERFORM.** In the event Respondent is prevented from making delivery or otherwise performing on time as specified in the contract by fire, flood, earthquake, labor or transportation problems, war, acts of government, or any other similar cause commonly known as an act of God, which is not the fault of the Respondent, the Respondent shall not be required to deliver or perform, subject to the following requirements:

- 1) Respondent shall send written notice to the District of the Respondent's inability to perform in accordance with the contract. The notice shall contain all facts which show the condition which prevents performance. The Respondent shall send such notice as soon as possible but in no event later than the fifth (5th) day following the date of issuance of a purchase order by the District or no later than the date specified in the contract for delivery or other performance, whichever is applicable.
- 2) District may cancel the contract or purchase order, entirely or in part.
- 3) Respondent shall not make any delivery or otherwise attempt to perform under the contract except on the basis of issuance by District of a new purchase order or other written instruction.

Force Majeure. Notwithstanding anything to the contrary in the Service Agreement, neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, weather, fire, flood, natural causes, mechanical or power failures, fiber cuts, governmental acts or any order, law or ordinance in any way restricting the operation of the Services (each a "Force Majeure Event"). Changes in economic, business, or competitive conditions shall not be considered a Force Majeure Event. Termination rights shall be in accordance with the Commercial Terms of Service attached.

P. **WARRANTY-PRODUCT.** Seller warrants that all articles furnished shall be free from all defects of material and workmanship, that all articles shall be fit and sufficient for the purposes intended, and shall save, keep, bear harmless and fully indemnify the District and any of its officers, employees or agents from all damages, or claims for damages, costs or expenses in law or equity that may at any time arise from Buyers normal use.

Spectrum's Disclaimer of Warranty; Limitation of Liability provisions are as follows:

DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY.

a) **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND SPECTRUM EQUIPMENT, AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF CUSTOMER'S EQUIPMENT AND CUSTOMER'S NETWORK. SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, SPECTRUM EQUIPMENT, AND ANY SPECTRUM MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH, OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S EQUIPMENT OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

b) **LIMITATION OF LIABILITY.** WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF

SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE ORDER SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE ORDER IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM. SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES, OR SERVICES.

- Q. **EQUAL OPPORTUNITY EMPLOYMENT.** RFP Respondent, in submitting his proposal certifies they are an Equal Opportunity Employer, and certifies they are in compliance with the Civil Rights Act of 1964, the State Fair Employment Practice Act, and all other applicable Federal and State laws and regulations relating to equal opportunity employment, including Executive Order No. 11246 of September 24, 1965.

Spectrum understands and will comply.

- R. **GOVERNING LAW AND VENUE:** In the event of litigation, the RFP proposal documents and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court located in Santa Clara County.

Governing Law; Claims Limitation; Waiver of Jury Trial. The law of the state of California shall govern the construction, interpretation, and performance of this Service Agreement, except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). Any legal action brought under or in connection with the subject matter of the Service Agreement shall be brought only in the federal district court of California or, if such court would not have jurisdiction over the matter, then only in a California State court sitting in Santa Clara County. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Service Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Service Agreement in the Federal or state courts sitting in Santa Clara County, California, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Service Agreement must be initiated not later than one (1) year after the claim arose. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.

- S. **CONTACT WITH BOARD OF EDUCATION:** No business entity, including any agent of such entity, shall directly or indirectly contact any board member immediately before or during the RFP process of any project on which the business entity intends to or has submitted a RFP response. Any RFP respondent violating this policy shall be deemed disqualified from the RFP process. Should such contact come to light after RFP is awarded, and entity was deemed the successful Respondent, Board reserves the right to cancel any contract awarded.

Spectrum understands.

- T. **ARBITRATION:** All claims of \$375,000 or less which arise between RFP Respondent and the District shall be subject to the settlement and arbitration provisions set forth in the public Contract Code Sections 20104 through 20104.8, which provisions are incorporated hereby by this reference.

**ARBITRATION.** This Service Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" paragraph below, Spectrum and Customer agree to arbitrate disputes and claims arising out of or relating to this Service Agreement, the Services, the Spectrum Equipment, Network, or marketing of the Services. Notwithstanding the foregoing, either Party may bring an individual action on any matter or subject in small claims court. The arbitrator of any dispute or claim brought under or in connection with this Service Agreement shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No claim subject to arbitration under this Service Agreement may be combined with a claim subject to resolution before a court of law. THIS SERVICE AGREEMENT MEMORIALIZES A TRANSACTION IN INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THESE ARBITRATION PROVISIONS.

(a) A Party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "Notice of Intent to Arbitrate" ("Notice"). The Notice to Spectrum should be addressed to: VP and Associate General Counsel, Litigation, Charter Communications, 12405 Powerscourt Drive, St. Louis, MO 63131 ("Arbitration Notice Address"). The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. If the Parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or Spectrum may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Service Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Service Agreement, and the arbitration shall be administered by the AAA. The AAA Rules and fee information are available at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by writing to the Arbitration Notice Address.

(b) EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER APPLICABLE LAW. If the arbitrator's award exceeds \$75,000, either Party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the AAA Rules, by filing a written notice of appeal within thirty (30) days after the date of entry of the arbitration award. The appealing Party must provide the other Party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within one hundred twenty (120) days of the date of the appealing Party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the Federal Arbitration Act. The Parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by AAA rules. Unless Spectrum and Customer agree otherwise in writing, all hearings conducted as part of the arbitration shall take place in Santa Clara County, California.

(c) CUSTOMER AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SPECTRUM ARE WAIVING THE RIGHT TO A TRIAL BY JUDGE OR JURY. CUSTOMER AND SPECTRUM AGREE THAT CLAIMS MAY ONLY BE BROUGHT IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Furthermore, unless both Customer and Spectrum agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding. If this specific paragraph is found to be unenforceable, then the entirety of these arbitration provisions shall be null and void and rendered of no further effect with respect to the specific claim at issue.

(d) Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY JURY. For purposes of the foregoing sentence only, in the event such waiver is found to be unenforceable, it shall be severed from this Service Agreement, rendered null and void and of no further effect without affecting the rest of the arbitration provisions set forth herein.

(e) EXCLUSIONS. CUSTOMER AND SPECTRUM AGREE THAT THE FOLLOWING CLAIMS OR DISPUTES SHALL NOT BE SUBJECT TO ARBITRATION:

- i. ANY INDIVIDUAL ACTION BROUGHT BY CUSTOMER OR BY SPECTRUM ON ANY MATTER OR SUBJECT THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING SMALL CLAIMS.
- ii. ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS.
- iii. ANY DISPUTE RELATED TO OR ARISING FROM ALLEGATIONS ASSOCIATED WITH UNAUTHORIZED USE OR RECEIPT OF SERVICE.

U. E-RATE PARTICIPATION: The District is participating in the Federal Universal Service Discount Program for Schools and Libraries (E-Rate), offered by the Federal Communications Commission (FCC), via the Schools and Libraries Division (SLD). The proposal and contract negotiated implementing this proposal, are conditional and subject to full E-Rate funding by the SLD. The District reserves the right to cancel or in any manner reduce the scope of this procurement in the event the SLD does not completely fund the request for funding submitted referencing this proposal.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.

E-rate funding Contingency: Customer may submit this Service Order and the Services Agreement to the Schools and Libraries Division of the Universal Service Administrative Company, (i.e., the entity appointed by the Federal Communications Commission to administer the Universal Service Program with respect to Schools and Libraries ("E-Rate") funding) as part of any application seeking a federal subsidy or funding.

Customer is responsible for notifying Spectrum of its election of either the Service Provider Invoice ("SPI") or Billed Entity Applicant Reimbursement ("BEAR") discount method by May 15<sup>th</sup> prior to the applicable funding year. Customer must complete and return an "E-Rate Discount Election Form" to Spectrum prior to such date, or Customer will be deemed to have chosen the BEAR discount method for the funding year.

Upon Spectrum's receipt of appropriate notice that Customer is an approved E-Rate program participant for a Service, Spectrum will invoice Customer for the Service in accordance with E-Rate guidelines and/or rules. If Spectrum invoices Customer for a Service pursuant to any E-Rate program rates, discounts or credits in advance of receiving such notice and Customer's request for E-Rate program funding is denied, limited or reduced, Spectrum will invoice Customer and Customer will pay the difference between such invoiced amount(s) and the actual amount of the Service Charges, as described in this Service Order. Notwithstanding anything herein to the contrary, Customer's obligations under this Service Order shall remain in full force and effect in the event Customer withdraws or is removed from the E-Rate program, receives E-Rate program funding that is less than Customer's requested funding amount, or is denied E-Rate program funding for any Service described in this Service Order. For the avoidance of doubt, Customer is solely responsible for all Service Charges, as described in this Service Order, that were installed prior to the E-Rate program funding year start date.

- V. **RIGHT TO TERMINATE:** District reserves the right to terminate this Request for Proposal and all documents associated with the Request for Proposal, including but not limited to a Letter of Intent, in its sole discretion at any time, with or without cause, upon written notice to the other party. In the event of termination, notice shall be deemed served on the date of mailing and shall be effective immediately. The District shall not be responsible for any costs to Respondent/Contractor prior to termination.

Please review Spectrum's DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION language herein.

- W. **PUBLIC WORKS CONTRACTOR REGISTRATION REQUIREMENTS (SB 854):** Public works, in general, means construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds. All contractors and subcontractors in the State of CA are required to meet minimum qualifications and register (and annually renew) online. Details concerning these requirements, found in Labor Code Section 1773.3, applies to all public works projects. Go to <https://www.dir.ca.gov> for details on SB 854 program requirements.

Spectrum understands and will comply.

- X. **RFP PROTEST.** Any RFP award protest by any RFP Responder must be submitted in writing to the District Technology Services Office, 15600 Concord Circle, Morgan Hill, CA 95037 before 5:00 p.m. (per District clock) of the third (3<sup>rd</sup>) business day following proposal award.
- 1) Protest must contain a complete statement of any and all basis for protest.
  - 2) Protest must refer to specific portions of all documents that form basis of the protest.
  - 3) Party filing the protest must have actually submitted an RFP Response.
  - 4) An RFP respondent may not rely on the RFP protest submitted by another RFP respondent but must timely pursue his or her own protest.
  - 5) Protest must include name, address and telephone number of person(s) representing protesting party.
  - 6) Party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest.



Such parties shall include all other RFP proposers who appear to have a reasonable prospect of receiving an award, depending upon outcome of protest.

- 7) RFP respondent whose RFP proposal has been protested may submit a written response to the protest. Such response shall be submitted to the District no later than 5:00 p.m., no later than three (3) working days after the deadline for submission of the RFP award protest, as set forth above, and shall include all supporting documentation. Such response shall also be transmitted concurrently to the protesting RFP respondent and to all other respondents who appear to have a reasonable prospect of receiving and award, depending upon the outcome of the protest.
- 8) The procedure and time limits set forth in this paragraph are mandatory and are each respondent's sole and exclusive remedy, in the event of RFP award protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the RFP award protest, including filing a Government Code Claim or legal proceedings.
- 9) A "business day", for purposes of this section, means a weekday during which the District's office is open and conducting business.

Spectrum understands.

## APPENDIX C: LIST OF SERVICES TO BE PROPOSED & PRICING MATRIX

1. Requested service is a 1 Gbps point-to-point fiber connection between User Network Interface (UNI) at District Data Center, either: **Option A - Britton Middle School, 80 W. Central, Morgan Hill 95037 or Option B - MHUSD District Office, 15600 Concord Circle, Morgan Hill CA 95037** to UNI(s) located at each site listed on Appendix A Site Schedule. A point-to-point circuit from District Data Center to itself is not necessary.
2. Connections shall be a minimum of 1 Gbps from each site.
3. Include alternative **pricing for 10 Gbps** for connection between DO and Britton (**Option C**).
4. List pricing for all requested options in Attachment 1\_WAN RFP YR 2019 (complete all 3 worksheets within Attachment 1) and submit with RFP response.
5. Vendors must identify and include in their RFP responses **any and all E-rate eligible and ineligible costs**. Ineligible costs should be clearly identified and listed separately from eligible costs.
6. Pricing requests for all sites: monthly recurring charges for a 3-year contract, with options for two additional one-year extensions. If the Monthly recurring charges change during the contract extension term, the new pricing must be stated in proposal and resulting contract.

The Monthly Recurring Charge will remain firm throughout the initial Order Term of the Agreement. Non-Recurring Charges (NRCs) and Monthly Recurring Charges (MRCs) are exclusive of taxes, fees, and surcharges. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer. Customer shall be invoiced charges in accordance with Commercial Terms of Service attached.

Pricing is not inclusive of applicable taxes, fees, and surcharges. Spectrum cannot estimate all possible taxes, surcharges, and fees, as taxability and regulatory classifications vary by customer and service location. Please review Spectrum's taxes, surcharges, and fees provision below."

**Option A: WAN Connections terminating at Britton Middle School – Pricing for all Sites:**

OPTION A - Hub location Britton Middle School				Bandwidth	Monthly Eligible Recurring Cost		One-time Eligible Installation Costs	Additional Costs, as Applicable*
Item	Site Address	Site Address	City	Bandwidth	Three (3) year Term Contract Pricing - Monthly Recurring Charges (1 Gbps)	Monthly Recurring Taxes & Surcharges (1 Gbps)	One-time Installation Costs	Additional Costs, as Applicable*
1	Morgan Hill Unified District Office	15600 Concord Circle	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
2	Ana Sobrato High School	401 Burnett Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
3	Barrett Elementary School	895 Barrett Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
4	Central Continuation High School	85 Tilton Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
5	El Toro Elementary School	455 E. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
6	Jackson Academy	2700 Fountain Oaks Dr.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
7	Live Oak High School	1505 E. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
8	Los Paseos Elementary	121 Avenida Grande	San Jose	1 Gbps	\$1,311.00	\$	\$0.00	\$
9	Martin Murphy Middle School	141 Avenida Espana	San Jose	1 Gbps	\$1,311.00	\$	\$0.00	\$
10	Morgan Hill Adult/Migrant Office	17960 Monterey Road	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
	Nordstrom Elementary School	1425 E. Dume Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
	PA Walsh Elementary	353 W. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
13	Paradise Valley Elementary	14000 La Crosse Dr.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
14	San Martin Elementary	100 North St.	San Martin	1 Gbps	\$650.00	\$	\$0.00	\$
15	Transportation	105 Edes St.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
16	Britton Middle School	80 W Central	Morgan Hill	10 Gbps	\$959.00	\$	\$0.00	\$
17	Britton Middle School	80 W Central	Morgan Hill	10 Gbps	\$959.00	\$	\$0.00	\$
Total					\$12,990.00	\$0.00	\$0.00	\$0.00

These prices will remain in effect throughout the initial Service Period, subject to the following contingencies:

- ▶ final engineering, design and site visits; complete Terms & Conditions as provided in our Commercial Terms of Service;
- ▶ Non-recurring Charges ("NRC") and Monthly Recurring Charges ("MRC") are exclusive of taxes, fees and surcharges; and
- ▶ Pricing is provided only for the sites shown in the Pricing Proposal. Pricing for additional sites added during the term shall be determined upon Spectrum's receipt of site information for the new service location, evaluation of the requested services, performance of surveys, and other site information that may be required, subject to the terms and conditions of Spectrum's Commercial Terms of Service.

## APPENDIX C: LIST OF SERVICES TO BE PROPOSED & PRICING MATRIX

### Option B: WAN Connections terminating at MHUSD DO– Pricing for all Sites:

OPTION B - Hub location Morgan Hill Unified District Office				Bandwidth	Monthly Eligible Recurring Charges		One-time Eligible Installation Charges	Additional Costs, as Applicable*
Item	Site Address	Site Address	City	Bandwidth	Three (3) year Term Contract Pricing - Monthly Recurring Charges (1 Gbps)	Monthly Recurring Taxes & Surcharges (1 Gbps)	One-time Installation Costs	Additional Costs, as Applicable *
1	Britton Middle School	80 W. Central Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
2	Ana Sobrato High School	401 Burnett Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
3	Barrett Elementary School	895 Barrett Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
4	Central Continuation High	85 Tilton Avenue	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
5	El Toro Elementary School	455 E. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
6	Jackson Academy	2700 Fountain Oaks Dr	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
7	Live Oak High School	1505 E. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
8	Los Paseos Elementary	121 Avenida Grande	San Jose	1 Gbps	\$1,311.00	\$	\$0.00	\$
9	Martin Murphy Middle	141 Avenida Espana	San Jose	1 Gbps	\$1,311.00	\$	\$0.00	\$
10	Morgan Hill Adult/Migrant Office	17960 Monterey Road	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
11	Nordstrom Elementary School	1425 E. Dunne Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
12	PA Walsh Elementary	353 W. Main Ave.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
13	Paradise Valley Elementary	14000 La Crosse Dr.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
14	Transportation	105 Edes St.	Morgan Hill	1 Gbps	\$650.00	\$	\$0.00	\$
15	San Martin Elementary	100 North St.	San Martin	1 Gbps	\$650.00	\$	\$0.00	\$
16	District Office	15600 Concord Cir	Morgan Hill	10 Gbps	\$959.00	\$	\$0.00	\$
17	District Office	15600 Concord Cir	Morgan Hill	10 Gbps	\$959.00	\$	\$0.00	\$
Total					\$12,990.00	\$0.00	\$0.00	\$0.00

These prices will remain in effect throughout the initial Service Period, subject to the following contingencies:

- ▶ final engineering, design and site visits; complete Terms & Conditions as provided in our Commercial Terms of Service;
- ▶ Non-recurring Charges ("NRC") and Monthly Recurring Charges ("MRC") are exclusive of taxes, fees and surcharges; and
- ▶ Pricing is provided only for the sites shown in the Pricing Proposal. Pricing for additional sites added during the term shall be determined upon Spectrum's receipt of site information for the new service location, evaluation of the requested services, performance of surveys, and other site information that may be required, subject to the terms and conditions of Spectrum's Commercial Terms of Service.

## APPENDIX C: LIST OF SERVICES TO BE PROPOSED & PRICING MATRIX

**Option C: WAN connection, 10 Gbps, between Britton Middle School and MHUSD DO (all other Sites 1 Gbps as shown in pricing tables above) Pricing:**

OPTION C - 10 Gbps WAN Connection between Britton MS and MHUSD DO (all other WAN connections will be 1 Gbps)			Bandwidth	Monthly Eligible Recurring Charges		One-time Eligible Installation Charges	Additional Costs, as Applicable *
Item	Site Address	Site Address	Bandwidth	Three (3) year Term Contract Pricing - Monthly Recurring Charges	Monthly Recurring Taxes & Surcharges	One-time Eligible Cost	Additional Costs, as Applicable*
1	Britton Middle School	80 W. Central Avenue	10 Gbps	\$959.00	\$	\$0.00	\$
2	Ana Sobrato High School	401 Burnett Avenue	1 Gbps	\$650.00	\$	\$0.00	\$
3	Barrett Elementary School	895 Barrett Avenue	1 Gbps	\$650.00	\$	\$0.00	\$
4	Central Continuation High School	85 Tilton Avenue	1 Gbps	\$650.00	\$	\$0.00	\$
5	El Toro Elementary School	455 E. Main Ave.	1 Gbps	\$650.00	\$	\$0.00	\$
6	Jackson Academy	2700 Fountain Oaks Dr.	1 Gbps	\$650.00	\$	\$0.00	\$
7	Live Oak High School	1505 E. Main Ave.	1 Gbps	\$650.00	\$	\$0.00	\$
8	Los Paseos Elementary	121 Avenida Grande	1 Gbps	\$1,311.00	\$	\$0.00	\$
9	Martin Murphy Middle School	141 Avenida Espana	1 Gbps	\$1,311.00	\$	\$0.00	\$
10	Morgan Hill Adult/Migrant Office	17960 Monterey Road	1 Gbps	\$650.00	\$	\$0.00	\$
11	Nordstrom Elementary School	1425 E. Dunne Ave.	1 Gbps	\$650.00	\$	\$0.00	\$
12	PA Walsh Elementary	353 W. Main Ave.	1 Gbps	\$650.00	\$	\$0.00	\$
13	Paradise Valley Elementary	14000 La Crosse Dr.	1 Gbps	\$650.00	\$	\$0.00	\$
14	San Martin Elementary	100 North St.	1 Gbps	\$650.00	\$	\$0.00	\$
15	Transportation	105 Edes St.	1 Gbps	\$650.00	\$	\$0.00	\$
16	District Office	15600 Concord Circle	10 Gbps	\$959.00	\$	\$0.00	\$
17	District Office	15600 Concord Circle	10 Gbps	\$959.00	\$	\$0.00	\$
Total				\$13,299.00	\$0.00	\$0.00	\$0.00

These prices will remain in effect throughout the initial Service Period, subject to the following contingencies:

- ▶ final engineering, design and site visits; complete Terms & Conditions as provided in our Commercial Terms of Service;
- ▶ Non-recurring Charges ("NRC") and Monthly Recurring Charges ("MRC") are exclusive of taxes, fees and surcharges; and
- ▶ Pricing is provided only for the sites shown in the Pricing Proposal. Pricing for additional sites added during the term shall be determined upon Spectrum's receipt of site information for the new service location, evaluation of the requested services, performance of surveys, and other site information that may be required, subject to the terms and conditions of Spectrum's Commercial Terms of Service.

Spectrum's Taxes, Surcharges, and Fees provision is as follows:

**Taxes, Surcharges, and Fees.** Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, and including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation. Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes, and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

**APPENDIX D: RFP RESPONSE FORM**

**MORGAN HILL UNIFIED SCHOOL DISTRICT**

**RFP RESPONSE FORM (RFP # 2019-101)  
WAN Services  
FISCAL YEAR 2019-2020**

**Service Provider Company Name:** Charter Communications Operating, LLC

**Service Provider SPIN:** 143050436

**Proposer confirmation they are currently participating in CTF (Yes/No):** Yes

**Service Provider Representative Name:** Bill Hoblin

**Service Provider Representative Title:** MAE, GOV/EDU

**Service Provider Representative Email:** Bill.Hoblin@Charter.Com

**Service Provider Representative Phone:** (530) 215-4930

Provide pricing for 3-year term contract, for all services as described in RFP # 2019-101.

Service Provider must provide the following information for the person authorized to negotiate and sign the terms and conditions of any agreement between vendor and Morgan Hill Unified School District (Include other important contact information as needed):

**Name:** Irwin Whistler

**Title:** Dir., Strategic Sales

**Company:** Charter Communications Operating, LLC

**Address:** 12405 Powerscourt Dr.

**City:** St. Louis

**State:** MO

**ZIP-code:** 63131

**Phone:** (530) 215-4930

**Email:**

Bill.Hoblin@Charter.Com



**APPENDIX E: LETTER OF INTENT**  
**Letter of Intent**  
**Morgan Hill Unified School District and**

Charter Communications Operating, LLC  
(Name of Company)

Pursuant to the terms of Morgan Hill Unified School District's (District) Request for Proposal (RFP) # 2019-101 for WAN Services, (Name of Company) Charter Communications Operating, LLC's response to RFP #2019-101 dated (mm/dd/yyyy) 01/03/2019, (Name of Company) Charter Communications Operating will provide equipment and services per RFP # 2019-101, effective the date of issuance of District's Purchase Order(s).

(Name of Company) Charter Communications Operating, LLC and District acknowledge this Agreement is for E-Rate eligible products and services, which are contingent on funding by the School and Libraries Division of USAC/FCC and District for E-Rate Year 2019 (Year 22), and Morgan Hill Unified's Board of Education approval.

(Name of Company) Charter Communications Operating, LLC has read RFP #2019-101 in its entirety and is fully compliant with RFP requirements and intends to cooperate with all terms, conditions and processes as specified in said RFP #2019-101.

District reserves the right to terminate the referenced RFP and all documents associated with the RFP, including but not limited to this Letter of Intent, in its sole discretion at any time, with or without cause, upon written notice to the other party. In the event of termination, notice shall be deemed served on the date of mailing and shall be effective immediately. The District shall not be responsible for any costs to Service Provider, prior to termination.

This proposal shall not be considered an acceptance of any offer by Morgan Hill Unified School District or otherwise create a binding contract between Morgan Hill Unified School District and Spectrum. This proposal is submitted with the express understanding that the specific, comprehensive terms under which Spectrum and Morgan Hill Unified School District may enter into a binding contract are understood to be subject to negotiation between the parties hereafter. All agreed upon terms and conditions within this RFP shall be incorporated in the Service Agreement.

This proposal may assume a certain minimum level of acceptance of our bid. Therefore, in the event only a portion of Spectrum's proposal is accepted, our offer may be affected, and thus, Spectrum requests to review any such partial acceptance before final acceptance.

Termination rights shall be in accordance with Section 13 (Default, Suspension of Services and Termination) of Commercial Terms of Service attached.

Notwithstanding anything to the contrary, if the funds Customer requests for Services under a Service Order for a fiscal year are not appropriated (a "Non-Appropriation"), Customer shall have the right to terminate, without penalty, such Services at a Service location listed on such Service Order, provided that Customer shall (a) provide Spectrum with at least thirty (30) days written notice prior to the start of such fiscal year setting forth how such Non-Appropriation did not result from the act or failure by Customer; (b) pay Spectrum all amounts due and owing at the time of such Non-Appropriation for all Services provided by Spectrum pursuant to the Contract; (c) pay to Spectrum, upon receipt of all construction expenses and other non-recurring charges associated with the Services, and any costs and expenses incurred by Spectrum to deal with the Non-Appropriation, including, without limitation, any applicable third-party termination liability charges; (d) promptly shall cease all use of any software provided by Spectrum hereunder for such Service, and shall return such software to Spectrum; and (e) return to Spectrum or permit Spectrum to remove, in Spectrum's sole discretion, the Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing Spectrum for the repair or replacement of any Equipment not returned in accordance with this paragraph.



(Name of Company) : Charter Communications

Irwin Whistler III

Irwin Whistler III (Dec 20, 2019)

Authorized Representative Signature

Date: 12/01/2018

Name: Bill Hoblin

Title: MAE - GOV/EDU

Address: 12405 Powerscourt Dr.

St. Louis, MO 63141

Email: Bill.Hoblin@Charter.com

Phone: 530-215-4930

Page 22 of 22

Morgan Hill Unified School District

Lit Fiber Transport Service (WAN services) Funding Year 2019

## TECHNICAL SPECIFICATIONS

# ETHERNET SERVICES

Spectrum Enterprise Ethernet Services provide best-in-class MEF CE 2.0 certified, high-speed Ethernet Services for business connectivity across the Metro or nationwide.

Spectrum Enterprise Ethernet Services is an offering of MEF Carrier Ethernet 2.0 defined E-Line and E-LAN services, providing point-to-point Ethernet Private Line (EPL), point-to-multipoint Ethernet Virtual Private Line (EVPL) and multipoint-to-multipoint Ethernet Private LAN (EP-LAN) service configurations. Each is a carrier-grade Layer-2 transport service where frames/packets are transported and delivered over Spectrum Enterprise's advanced optical fiber network, making it possible to meet bandwidth demands with cost effective, scalable alternatives to legacy connectivity solutions such as TDM, SONET, ATM and Frame Relay.

Spectrum Enterprise Ethernet Services is an end-to-end network solution that allows businesses to attach their LAN to a User-Network Interface (UNI) using a standard copper or fiber Ethernet interface to access Spectrum Enterprise Ethernet Services.

Spectrum Enterprise Ethernet Services are available in multiple standard bandwidth tiers ranging from 2 Mbps up to 10 Gbps.

Spectrum Enterprise Ethernet Services are suitable for all businesses including Financial, Healthcare, Education, Government, IT, Retail, Real Estate, Legal, Media and many other verticals.

**Spectrum Enterprise Ethernet Services deliver Layer 2 (VLAN) connectivity which can support higher layer applications (i.e., IP Layer 3 and above) and other services such as:**

- Site-to-Site Access/Transport (Layer 2, Layer 3)
- Internet Access
- Server Farm Consolidation & Virtualization
- Business Continuity/Disaster Recovery
- Cloud-based Business Applications
- Distributed Storage Area Networks (SAN)
- Voice over IP (VoIP)
- Video and Digital Imaging Distribution (Streaming/Interactive)

### Service Specifications

Spectrum Enterprise Ethernet Services are MEF CE 2.0 certified for all eight service types, CoS (Class of Service) and all Performance Tiers (PT). The following section outlines the standards associated with the services that Spectrum Enterprise will market and support as part of their suite of Ethernet Services.

Each of the following service attributes is common to all Spectrum Enterprise Ethernet Services. Each parameter meets or exceeds those outlined by MEF CE 2.0.

More specific details for each of the services can be found in the Service Types section of this document.

## ETHERNET SERVICES (CONT.)

### UNI (User-to-Network Interface)

ALL Spectrum Enterprise Ethernet Services utilize a MEF CE 2.0 certified Ethernet Network Interface Device (NID) as the demarcation point between Spectrum Enterprise and the client. The Spectrum Enterprise NID provides bidirectional, full duplex transmission of Ethernet frames using a standard IEEE 802.3-2005 Ethernet (UNI) that also provides the ability to manage and monitor the performance of Ethernet Services.

Spectrum Enterprise supports multiple types of UNIs by which to interconnect clients. Figure 1 outlines the Spectrum Enterprise-supported physical UNIs along with the recommended bandwidths:

UNI PHYSICAL INTERFACE	UNI SPEED	CABLE TYPES	SUPPORTED STANDARD SERVICE BANDWIDTHS
100BASE-T (FastE)	100 Mbps	Category 5e (Cat5e) Category 6 (Cat6) or optical fiber	512 Kbps up to 100 Mbps
1000BASE-T (GigE)	1000 Mbps or 1 Gbps	Category 5e (Cat5e) Category 6 (Cat6) or optical fiber	Up to 1 Gbps
1000BASE-SX 100BASE-LX	1000 Mbps or 1 Gbps	Optical-Fiber MMF, SMF	Up to 1 Gbps

Figure 1: Spectrum Enterprise-supported physical UNIs

### UNI Mode (Speed & Duplex)

Spectrum Enterprise Ethernet Services allow clients to choose their method of interface speed settings. By default, all Spectrum Enterprise UNIs are set for Auto-Negotiation, which allows for automatic determination of speed between the client Ethernet interface and the UNI.

The adjacent chart outlines the available UNI-Speed and Duplex options:

UNI PHYSICAL INTERFACE	UNI SETTING OPTIONS	DUPLEX SETTING
100BASE-T (FastE)	Auto-Negotiation or Hard Coded (100 Mbps)	FULL DUPLEX
1000BASE-T (GigE)	Auto-Negotiation or Hard Coded (1 Gbps)	FULL DUPLEX
1000BASE-SX 100BASE-LX	Auto-Negotiation or Hard Coded (1 Gbps)	FULL DUPLEX

All Spectrum Enterprise UNI interfaces are set to Full Duplex. This allows the client to transmit data in both directions simultaneously.

### Maximum # of UNIs

Spectrum Enterprise Ethernet Services support a specified number of UNIs (client locations) for each of its service types.

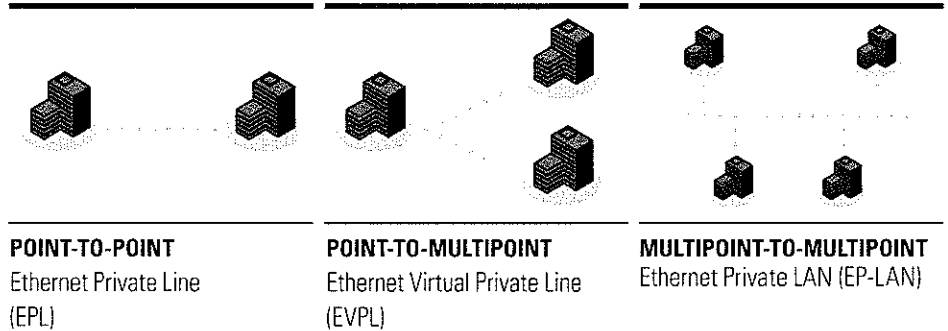
SERVICE TYPE (EVC TYPE)	MAXIMUM # OF UNIs
EPL (point-to-point)	2
EVPL (point-to-multipoint)	32 (Depends on Multiplexed UNI speed)
EP-LAN (multipoint-to-multipoint)	62

## ETHERNET SERVICES (CONT.)

### Ethernet Virtual Connection (EVC)

Ethernet Virtual Connection (EVC) is a MEF defined Layer 2 bridging architecture that associates two or more UNIs. Spectrum Enterprise Ethernet Services will provision three EVC types:

### MEF CE 2.0-Certified topologies for any business



### EVCs Per UNI

Each of the Spectrum Enterprise Ethernet Services will support the maximum number of EVCs outlined here:

SERVICE TYPE (EVC TYPE)	MAXIMUM # OF EVCs
EPL (point-to-point)	1
*EVPL (point-to-multipoint)	32 (service multiplexed)
EP-LAN (multipoint-to-multipoint)	1

\*Ethernet Virtual Private Line (EVPL) is a Hub and Spoke architecture. The number of EVCs that can be 'Service Multiplexed' on a UNI port is determined by the UNI speed and aggregate service bandwidth.

### MAC Addresses

Spectrum Enterprise Ethernet Services will support 1000 MAC Addresses for EP-LAN.

### Service Maximum Transmission Unit (MTU)

The Service MTU Frame Size is the maximum service frame size (in bytes) allowed to transmit beyond the UNI. Spectrum Enterprise Ethernet Services offer two options for MTU Frame Size:

- Standard MTU - up to 1544 bytes
- Jumbo MTU - up to 9000 bytes

The MTU applies to untagged and tagged (802.1Q VLAN) Ethernet frames.

### Client Edge VLANs (CE-VLAN ID)

Spectrum Enterprise Ethernet Services support untagged and tagged (802.1q VLAN) client data traffic. All Spectrum Enterprise Ethernet Services support a maximum of 4095-802.1Q VLANs per service instance.

### Client VLAN Preservation

All Client VLAN IDs and Priority Code Points (PCP - IEEE 802.1p) markings for CoS are transmitted through the UNIs, across the network and received at the destination unaltered by the Spectrum Enterprise Ethernet Service.

Please note: Spectrum Enterprise reserves the right to reserve one VLAN for network management purposes, in which case that VLAN would not be available for the client's use.

## ETHERNET SERVICES (CONT.)

### Class Of Service (CoS)

Class of Service (CoS) allows for the differentiation of service performance levels for different types of network data traffic. CoS is used to prioritize data traffic within the network, including the designated Ethernet Services.

As part of the MEF CE 2.0 certifications, Spectrum Enterprise Ethernet Services are certified to support multiple CoS.

Our current Service Offerings provide a single CoS, providing the highest service classification to our clients—free of network congestion and always available. We relay this to clients through our SLAs and defined Performance Tiers, which are defined by the geographic service area,

Clients may define internal CoS, which will be preserved through the Ethernet transport, or clients may elect to utilize Spectrum Enterprise's Managed Router Services, which have the ability to manage client's internal CoS.

### Service Performance Tiers (PT)

Spectrum Enterprise Ethernet Services provide a best-in-class service offering with defined Performance Tiers (PT) to coincide with the client's geographic service area.

Each of the defined PTs coincide with the Spectrum Enterprise Service Level Agreements (SLAs) Each PT Tier has a defined objective for Frame Delay (FD), Frame Loss (FL) and Frame Delay Variation (FDV).

Figure 2 provides the service PTs based on service geography:

GEOGRAPHY	SERVICE AVAILABILITY	FRAME / PACKET LOSS	MEAN TIME TO RESTORE ("MTTR")	LATENCY / FRAME DELAY (ROUND-TRIP)	JITTER / FRAME DELAY VARIATION
Metro	End-to-End: ≥ 99.99%	≤ 0.01%	Priority 1 Outages within 4 hours	≤ 10ms	≤ 2ms
Regional				≤ 25ms	≤ 4ms
National				≤ 125ms	≤ 8ms

Figure 2: SLA Targets for On-Net Services

### Ethernet Frame Delivery

Data frames are differentiated into three categories: Unicast Service Frames, Multicast Service Frames and Broadcast Services Frames, which are based on the destination MAC Address. Frames are categorized at the ingress UNI and must adhere to the following Spectrum Enterprise disposition rules for Frame Delivery:

- Delivery Unconditionally—All frames are delivered to the ingress UNI(s)
- Delivery Conditionally—Frames meeting the defined conditions are delivered to the egress UNI(s)

Spectrum Enterprise Ethernet Services adhere to the following rules for handling each type of frame:

SERVICE FRAME TYPE	FRAME DISPOSITION FOR EPL	FRAME DISPOSITION FOR EVPL	FRAME DISPOSITION FOR EP-LAN
Unicast	Deliver Unconditionally	Deliver Unconditionally	Deliver Unconditionally
Unknown Unicast	Deliver Unconditionally	Deliver Unconditionally	Deliver Conditionally
Multicast	Deliver Unconditionally	Deliver Unconditionally	Deliver Conditionally
Broadcast	Deliver Unconditionally	Deliver Unconditionally	Deliver Conditionally

## ETHERNET SERVICES (CONT.)

### Bandwidth Profiles (BWP)

Bandwidth Profiles (BWP) enforce limits on bandwidth utilization according to the defined Service Level Agreements (SLAs) agreed upon by the client and Spectrum Enterprise. The BWP enforces the defined Committed Information Rate (CIR) agreed upon in the SLA and also specifies how excess data should be handled.

Spectrum Enterprise Ethernet Services use an ingress traffic policing policy to restrict traffic flows to the subscribed CIR. If the transmitted bandwidth exceeds the defined CIR and Committed Burst Size (CBS), the traffic will be subject to be discarded.

### Layer 2 Control Protocol (L2CP) Processing

Spectrum Enterprise Ethernet Services will discard, tunnel/transmit or peer/process certain L2CP service frames at each UNI location. Spectrum Enterprise adheres to the MEF policy for the disposition of L2CP service frames, which is listed below. The default disposition is to discard all client L2CP frames not tunneled/transmitted.

L2 CONTROL PROTOCOL	DESTINATION MAC ADDRESS	ETHERTYPE / SUBTYPE	EPL L2CP FRAME DISPOSITION / ACTION	EVPL L2CP FRAME DISPOSITION / ACTION	EPLAN L2CP FRAME DISPOSITION / ACTION
STP, RSTP, MSTP	01-80-C2-00-00-00	NA	Tunnel	Discard	Tunnel
PAUSE	01-80-C2-00-00-01	0x8808	Discard	Discard	Discard
LACP/LAMP	01-80-C2-00-00-02	0x8809 / 01 / 02	Discard or Peer (Per UNI)	Discard or Peer (Per UNI)	Discard or Peer (Per UNI)
Link OAM	01-80-C2-00-00-02	0x8809 / 03	Discard or Peer (Per UNI)	Discard or Peer (Per UNI)	Discard or Peer (Per UNI)
ESMC	01-80-C2-00-00-02	0x8809 / 0A	Discard	Discard	Discard
	01-80-C2-00-00-03	0x88E	Discard	Discard	Discard
802.1X Port Auth	01-80-C2-00-00-04 thru 01-80-C2-00-00-06	NA	Discard	Discard	Discard
	01-80-C2-00-00-07	0x88EE	Discard	Discard	Discard
E-LMI	01-80-C2-00-00-08 thru 01-80-C2-00-00-0A	NA	Discard	Discard	Discard
	01-80-C2-00-00-0B	NA	Tunnel	Discard	Tunnel
	01-80-C2-00-00-0C	NA	Tunnel	Discard	Tunnel
MVRP	01-80-C2-00-00-0D	NA	Tunnel	Discard	Tunnel
	01-80-C2-00-00-0E	0x88CC	Discard	Discard	Discard
LLDP PTP Peer Delay	01-80-C2-00-00-0F	NA	Tunnel	Discard	Tunnel
GARP, MRP	01-80-C2-00-00-20 thru 01-80-C2-00-00-2F	NA	Tunnel	Tunnel	Tunnel
CDP, VTP	01-00-0C-CC-CC-CC	NA	Tunnel	Discard	Tunnel

Figure 4: L2CP Frame Disposition

Please Note: Cisco Discovery Protocol (CDP) frames will be Tunneled/Transmitted

©2016 Charter Communications. All Rights Reserved. Not all products, pricing and services are available in all areas. Pricing and actual speeds may vary. Restrictions may apply. Subject to change without notice.

# Ethernet Service Level Agreement

This document outlines the Service Level Agreement ("SLA") for Ethernet fiber-based service (the "Service").

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the "Agreement"). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. All SLA Targets in the table below are measured end to end (i.e. from any two applicable Customer's edge or network interface devices at the Service Location) at the individual circuit or service level, and any applicable credits are issued for the affected circuit or service (the "Affected Service"). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

## I. SLA Targets for Ethernet Services:

Spectrum Enterprise Ethernet Services SLAs				
Performance Tier	On-Net			Off-Net
	Metro	Regional	National	
Miles	0 - 155	156 - 746	> 746	N/A
Kilometers	0 - 250	251 - 1200	> 1200	N/A
Latency	< 10ms	< 25ms	< 125ms	< 125ms
Jitter	< 2ms	< 4ms	< 8ms	< 8ms
Frame Loss	< 0.01%	< 0.01%	< 0.01%	< 0.01%
Availability	> 99.99%	> 99.99%	> 99.99%	> 99.99%
MTTR	4 hrs.	4 hrs.	4 hrs.	4 hrs.

"On-Net" includes circuits that are provided by Spectrum Enterprise to Service Locations directly from the Spectrum Network.

"Off-Net" includes circuits that are provided to geographic locations that may be outside or inside Spectrum Enterprise service areas and are provided by third party service providers and not from the Spectrum Network.

## II. Priority Classification:

A "Service Disruption" is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption, that interferes with the ability of a Spectrum Enterprise network hub to transmit and receive network traffic between Customer's A and Z Service Locations. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise's trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

"Service Degradation" means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, such as failure of the Service to achieve the SLA Targets for Latency / Frame Delay, Jitter / Frame Delay Variation, or Packet / Frame.

"Excluded Disruptions" means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer's premises to troubleshoot, repair or replace equipment or the Service, (iv) service problems resulting from acts of omissions of Customer or Customer's representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	<ul style="list-style-type: none"> <li>Service Disruption resulting in a total loss of Service; or</li> <li>Service Degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing (each a "Priority 1 Outage").</li> </ul>
Priority 2	<ul style="list-style-type: none"> <li>Service Degradation where Customer is able to use the Service and is not prepared to release it for immediate testing.</li> </ul>
Priority 3	<ul style="list-style-type: none"> <li>A service problem that does not impact the Service; or</li> <li>A single non-circuit specific quality of Service inquiry.</li> </ul>

### III. Service Availability

"Service Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the Service is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month.

The following table contains examples of the percentage of Service Availability translated into minutes of Downtime for the 99.99% Service Availability Target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

### IV. Mean Time to Restore ("MTTR")

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore a Service following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the Service.

MTTR per calendar month is calculated as follows:

<div>Cumulative length of time to restore Priority 1 Outage(s) per Service</div> <hr/> <div>Total number of Priority 1 Outage trouble tickets per Service</div>
---

### V. Latency / Frame Delay

Latency or Frame Delay is the average roundtrip network delay, measured every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, to adequately determine a consistent average monthly performance level for frame delay for each Service. The roundtrip delay is expressed in milliseconds (ms).



Latency / Frame Delay is calculated as follows:

Latency / Frame Delay=	Sum of the roundtrip delay measurements for a Service
	Total # of measurements for a Service

#### VI. Packet Loss / Frame Loss Ratio

Packet Loss or Frame Loss Ratio is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point.

Packet Loss / Frame Loss Ratio is calculated as follows:

Packet Loss / Frame Loss (%)	= 100 (%)	–	Frames Received
------------------------------	-----------	---	-----------------

#### VII. Jitter / Frame Delay Variation

Jitter or Frame Delay Variation is defined as the variation in delay for two consecutive frames that are transmitted (one-way) from a network origination point and received at a network destination point. Spectrum Enterprise measures a sample set of frames every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, and determines the average delay between consecutive frames within each sample set. The monthly Jitter / Frame Delay Variation is calculated as the average of all of the frame delay variation measurements during such calendar month and is expressed in milliseconds (ms).

Jitter / Frame Delay Variation =	Sum of the Frame Delay Variation measurements for a Service
	Total # of measurements for a Service

## VIII. Network Maintenance

### Maintenance Notice:

Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

### Maintenance Windows:

Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

## IX. Remedies Service Credit:

If the actual performance of a Service during any calendar month is less than the SLA Targets, and Customer is in compliance with the terms of the Agreement and this SLA, then Customer may request credit equal to the corresponding percentage of the monthly recurring charges for the Affected Service as set forth in the table below. Any credit to be applied will be off-set against any amounts due from Customer to Spectrum Enterprise in the billing cycle following the date Spectrum Enterprise makes its credit determination. Credit requests must be submitted to Spectrum Enterprise within thirty (30) days of the calendar month in which the SLA Target was missed. Spectrum Enterprise will exercise commercially reasonable efforts to respond to such credit requests within 30 days of receipt thereof.

Service Availability	Mean Time To Restore ("MTTR")		Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
30%	> 4 hours ≤ 7:59:59 hours	4%	5%	5%	5%
	> 8 hours	10%			

All SLA Targets are monthly measurements, and Customer may request only one credit per SLA Target per month for the Affected Service. Should one event impact more than one SLA hereunder, Customer shall receive the single highest of the qualifying credits only. Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to any missed SLA Targets. Service Credits hereunder shall not be cumulative per Service.

### Chronic Priority 1 Outages:

If Customer experiences and reports three (3) separate Priority 1 Outages where the Downtime exceeds four (4) hours during each Priority 1 Outage within three (3) consecutive calendar months, then Customer may terminate the Affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the Affected Service; (ii) Customer must exercise its right to terminate the Affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Agreement, and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.

## COMMERCIAL TERMS OF SERVICE

These Terms of Service include all Attachments hereto ("Attachment(s)"), and all, and other documents identified hereunder, each of which are incorporated herein by reference. The Attachments further describe Spectrum's services (each a "Service" or collectively the "Services") and set forth additional terms and conditions for the applicable Service. Spectrum and Customer may each be referred to as a "Party" or collectively as the "Parties." Unless specifically set forth in any Attachment, capitalized terms shall have the meanings set forth in this Service Agreement.

### GENERAL

1. **SERVICE AGREEMENT TERM.** The Service Agreement shall be effective upon the earlier to occur of (a) the latest date of the signatures of the Parties; or (b) Spectrum's commencement of performance (the "Effective Date"). The Service Agreement shall remain in effect until the expiration or proper termination of the final existing Service Order entered into under this Service Agreement (the "Term").
2. **SERVICES.** Customer shall request Services hereunder by submitting orders in a manner required by Spectrum. Upon Spectrum's acceptance of a Service Order, as indicated either by: (a) Spectrum's written acceptance, (b) by Spectrum's delivery of the Services, or (c) commencement of installation, such Service Order shall be deemed incorporated into the Service Agreement. Spectrum shall provide the Services to Customer at the Service address(es) specified in the applicable Service Order ("Service Location(s)").
3. **ORDER TERM.** The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). If no Initial Order Term is specified in a Service Order, the Initial Order Term is twelve (12) months from the Billing Start Date. Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.
4. **AVAILABILITY OF FACILITIES.** Customer understands that certain Services may not be available in all Spectrum service areas and Spectrum may decline to provide any requested Services. Spectrum's ability to provide Services depends upon its ability to secure and retain, without unreasonable expense, suitable facilities, and rights to construct and maintain necessary facilities such as pole attachments and conduits to serve the Service Location. Spectrum may decline to accept or terminate a Service Order upon notice to Customer because of (a) the lack of transmission medium, transmission capacity or any other facilities or equipment, (b) the lack of available services from or interconnection with the services or facilities of other providers, or (c) any other cause beyond Spectrum's control.
5. **SERVICE LOCATION ACCESS AND INSTALLATION.**
  - (a) **Access.** Spectrum requires reasonable access to each Service Location at any time throughout the Term as necessary for Spectrum to provide the Services and to review, install, inspect, maintain, repair, or remove any Spectrum-provided cabling, modems, related splitters, routers or other equipment ("Spectrum Equipment") used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Spectrum permission to enter the Service Location(s) in order for Spectrum to fulfill its obligations and exercise its rights under the Service Agreement. If a Service Location is not owned or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum may decline Customer's request for Services, or terminate or amend the affected Service Order with respect to the Service Location that Spectrum cannot access, without any liability to Customer.
  - (b) **Installation Review.** Spectrum may perform an installation review of each Service Location prior to installation of the Services to determine serviceability or the need to extend Spectrum's facilities, fiber optic cable, electronics, or other equipment (collectively, the "Network") to provide the Services at the Service Location. If during the installation review, Spectrum determines that additional work is required to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges (as defined below) in excess of the amounts previously specified in a quote or Service Order. Upon request, Customer shall provide Spectrum with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps, prior to the installation review.
  - (c) **Site Preparation.** Customer shall be responsible for necessary preparations at the Service Location(s) for delivery and installation of Spectrum Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture and furnishings as necessary to access the Spectrum Equipment or Services. In addition, Customer shall provide Spectrum with floor space, rack space, other space and clean power as is reasonably necessary for the installation and operation of Spectrum Equipment at the Service Location(s). Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise

in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer. Any failure or refusal by Customer to be ready to receive Services does not release Customer from its obligation to pay Service Charges for any Service that is otherwise available for Customer's use.

- (d) Installation. Spectrum will schedule one or more installation visits with Customer. At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional Service Charges based on Spectrum's actual incurred labor, material or other costs for such non-routine installation or maintenance. Customer's authorized representative must be present during installation.

If Spectrum is unable to install the Service as a result of (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum not being able to obtain access to equipment at the Service Location as necessary for installation of the Service, then Customer shall pay Spectrum a Service Charge at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional Service Charge for each subsequent trip necessary to perform the Service installation. In addition, if Spectrum's installation of the Service is delayed as a result of Customer's actions or inactions as set forth above or if Customer is otherwise refusing or not ready to receive Services, then Spectrum will notify Customer that Spectrum is ready to finalize installation of the Services (the "Ready Notice") and may begin invoicing Service Charges as set forth in Section 7 upon the earlier of the Billing Start Date or sixty (60) days after the date of the Ready Notice.

If during the course of installation Spectrum determines additional work is necessary to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to terminate the applicable Service Order. Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entities when authorized by Customer to allow connection of a Service Location to the Network.

Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer- provided or End User equipment (collectively, "Customer Equipment"), unless otherwise set forth in an Attachment or agreed in writing between the Parties, and shall conform its Customer Equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum.

Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship. If the installation and maintenance of Services at the Service Locations is or becomes, in Spectrum's sole opinion, hazardous or dangerous to Spectrum's employees or Network, the public, or property, including without limitation due to the presence of asbestos or other hazardous materials, Spectrum may refuse to install and maintain such Service or stop providing Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or dangerous. Customer shall bear any additional costs incurred by Spectrum arising from any such hazardous or dangerous conditions.

## **6. EQUIPMENT.**

- (a) Equipment Responsibilities and Safeguards. Spectrum shall use commercially reasonable efforts to maintain and secure the Spectrum Equipment used by Spectrum to provide Services to Customer. Except as otherwise provided in this Service Agreement or any Service Order(s), Customer shall be responsible for the maintenance or repair of any cable, electronics, structures, equipment or materials owned or provided by Customer. Customer shall not, and shall not cause any third party to, move, modify, disturb, alter, remove, relocate to another Service Location, install software not provided by Spectrum, or otherwise tamper with any portion of the Spectrum Equipment without the prior consent of Spectrum. Customer shall be responsible for loss or damage to the Spectrum Equipment while at Customer's or an End User's facilities. Customer shall also ensure that all Spectrum Equipment at Customer's and End Users' Service Location(s) remains free and clear of all liens and encumbrances.
- (b) Customer Security Responsibilities. Customer shall be responsible for all access to and use of the Service, including whether or not Customer has knowledge of or authorizes such access or use. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service, and Spectrum Equipment. Customer shall secure and maintain any and all Customer Equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, "PBXs"), where applicable, and any applications accessible through use of Customer Equipment, and shall be solely responsible for any conduct through and any charges incurred on Customer's Service account, regardless of whether such activity or charges are authorized by Customer management or involve fraudulent activity until such time as Customer informs Spectrum of any fraudulent or unauthorized access. Without limiting Customer's responsibilities, Spectrum has the right to implement reasonable measures to track, manage, and secure the connection between any Customer Equipment or applications used by Customer, End Users, or any third party who accesses the Customer Equipment and the Spectrum Network, including without limitation authentication or other security access procedures. Spectrum may suspend any affected Services if Spectrum discovers or becomes aware of any breach or compromise of the security of any Customer Equipment, Service, Service Location, Spectrum Equipment, or connection to the Spectrum Network.

(c) **Equipment Return, Retrieval, Repair and Replacement.** Immediately upon termination of this Service Agreement or Service Order(s) ("Termination"): (i) at the discretion of Spectrum, Customer shall return, or allow Spectrum to retrieve, the Spectrum Equipment in the condition in which the Spectrum Equipment was received, subject to ordinary wear and tear; and (ii) promptly cease all use of and return, if applicable, to Spectrum any software or software services provided by Spectrum ("Software"). Failure of Customer to return or allow Spectrum to retrieve the Spectrum Equipment within fifteen (15) days after Services are terminated will result in a charge to Customer's account equal to either Spectrum's applicable unreturned equipment charge or the retail cost of replacement of the unreturned Spectrum Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Spectrum Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material or workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of Spectrum Equipment.

7. **STANDARD PAYMENT TERMS.** Customer shall pay recurring and non-recurring charges, taxes, and fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement (collectively, "Service Charges").

(a) **Charges.** Spectrum invoices for monthly recurring charges specific to the Service(s) ("MRCs"), plus applicable taxes, fees, and surcharges, in advance on a monthly basis. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the Billing Start Date or as specified in the Service Order. All other charges, including usage-based charges (e.g., phone usage, pay-per view charges), will be invoiced monthly in arrears. Service Charges are payable within thirty (30) days after the date appearing on the invoice. If Spectrum fails to present a Service Charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such Service Charges when invoiced in accordance with these payment terms. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer.

(b) **Taxes, Surcharges, and Fees.** Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation. Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

(c) **Change Requests.** Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

(d) **Site Visits and Repairs.** If Spectrum visits a Service Location to either inspect the Services or respond to a service request, and Spectrum reasonably determines that the cause of the service issue is not due to a problem arising from Spectrum's Network or Spectrum Equipment, but rather is due to Customer misuse, abuse, or modification of the Services, Customer Equipment or facilities, or due to similar acts by a third party not under Spectrum's control or direction, then Spectrum may invoice Customer at Spectrum's

then-prevailing commercial rates for an on-site visit, plus any charges for Spectrum Equipment repair or replacement as a result of Customer or third party damage that may be necessary.

(e) **Invoicing Disputes; Late and Collection Fees.** Customer must provide notice to Spectrum of any disputed charges within sixty (60) days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Undisputed amounts not paid within thirty (30) days of the invoice date shall be past due and subject to a late fee up to the lesser of 1.5% of the MRC per month or the maximum amount permitted by law. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services. Spectrum may charge a reasonable service fee for all returned checks and bank card, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.

(f) **Credit Verification.** Spectrum shall have the right to verify Customer's credit standing at any time. Additionally, Spectrum may at any time require Customer to make a deposit and/or advance payment. The deposit requested will be in cash, the equivalent of cash, or a bank, credit card or account debit authorization and does not relieve Customer of the responsibility for the prompt payment of invoices when due. Spectrum may deduct amounts from the deposit, bill any bank or credit card provided, or utilize any other means of payment available to Spectrum, for past due amounts.

(g) **Bundled Pricing.** If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:

- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon Termination by Customer, for any reason other than a Spectrum Default, of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time of Termination. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.

8. **ADMINISTRATIVE WEB SITE.** Spectrum may, at its sole option, make one or more administrative web sites, including without limitation [www.spectrum.net](http://www.spectrum.net), available to Customer in connection with Customer's use of the Services (each an "**Administrative Web Site**"). Spectrum may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site and Customer must promptly change any Spectrum-provided user identifications and passwords to a secure, Customer designated user identification and password. Customer shall be responsible for the confidentiality and use of such user identifications and passwords, whether provided by Spectrum or designated by Customer, and any equipment or devices used to access any Administrative Web Site, and shall immediately notify Spectrum if there has been an unauthorized release, use, or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the Administrative Web Site. Spectrum shall not be liable for any loss, cost, expense, or other liability arising out of any Customer use of the Administrative Web Site. Spectrum may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Any additional terms and policies applicable to Customer's use of the Administrative Web Site will be posted on the site.

9. **SUPPORT.** Spectrum shall provide contact information for inquiries and remote problem support for the Services. All such Customer support shall be provided only to Customer's designated personnel or as mutually agreed upon by Spectrum and Customer. Customer is responsible for all communications and support for its End Users. Customer shall provide routine operational support for Spectrum Equipment located at a Service Location, including without limitation, by performing reboots as requested by Spectrum. Customer is responsible for the installation, repair and use of Customer Equipment, including without limitation, Customer-supplied third-party hardware or software for the use of Spectrum Service or third-party services.

Spectrum does not support third-party hardware or software used in conjunction with third-party services or supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. Spectrum assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third-party software, or any Customer Equipment or Customer-supplied software with the Services. If such third-party equipment or software impairs the Services, Customer shall continue to pay all applicable Service Charges. If, at Customer's request, Spectrum should attempt to resolve difficulties caused by such third-party equipment or software, such efforts shall be performed at Spectrum's discretion and subject to Service Charges as set forth in Section 7(d).

## 10. CUSTOMER REPRESENTATIONS AND OBLIGATIONS

(a) **Representations.** Customer represents and warrants to Spectrum that: (i) Customer has the authority to execute, deliver and carry out the terms of this Service Agreement, and (ii) its End Users and any person who accesses any Services at the Service Location, will use the Service and Network for Customer's internal business purposes and will comply with the terms of this Service Agreement.

(b) **No Reselling.** Customer shall not re-sell or re-distribute (whether for a fee or otherwise) access to the Service(s) or system capacity, or any part thereof, in any manner other than for Customer's internal business without the express prior consent of Spectrum, including without limitation, any use to provide services for the benefit of, or on behalf of, any third party other than Customer or its End Users.

- (c) No Illegal Purpose or Unauthorized Access. Customer shall not use or permit End Users or third parties to use the Service(s), including the Spectrum Equipment and Software, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

No Interference. Customer shall not interfere with or cause technical difficulties for other customers' use of equipment or Services or interfere with or disrupt the Spectrum Network, backbone, nodes or other Services. Customer shall not install any equipment, including without limitation, any antenna or signal amplification system, at the Service Location that interferes with the Services.

- (e) Applicable Laws. With respect to Customer's and End Users' use of the Service (including the transmission or use of any content via the Service), Customer shall comply, and shall ensure that its End Users comply, with all applicable laws and regulations in addition to the terms of this Service Agreement. Spectrum shall have the right to audit Customer's use of the Service remotely or otherwise, to ensure compliance with this Service Agreement.

- (f) Acceptable Use. As between the Parties, Customer is solely responsible for (i) all use (whether or not authorized) of the Service by Customer, any End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Service Agreement, (ii) all content that is viewed, stored or transmitted via the Service, as applicable, and (iii) all third-party charges incurred for merchandise and services accessed via the Service, if any. Customer shall not use, or allow the Services to be used, in any manner that would violate the applicable Spectrum Acceptable Use Policies or that would cause, or be likely to cause, Spectrum to qualify as a "Covered 911 Service Provider" as defined in 47 C.F.R. §12.4 or any successor provision of the rules of the Federal Communication Commission. For avoidance of doubt, Customer and Spectrum agree that any failure to satisfy the covenants set forth in the preceding sentence shall constitute a material breach of the Service Agreement.

11. **PERFORMANCE.** Unless otherwise set forth in an Attachment or service level agreement, Spectrum will use commercially reasonable efforts to provide the Services to Customer twenty-four (24) hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Spectrum's reasonable control. Temporary service interruptions or outages for such reasons, as well as service interruptions or outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Spectrum to perform its obligations under this Service Agreement.

12. **MONITORING, EQUIPMENT UPGRADES AND NETWORK MODIFICATIONS.** Spectrum has the right, but not the obligation, to upgrade, modify, and enhance the Spectrum Network and the Service and take any action that Spectrum deems appropriate to protect or improve the Service and its facilities. Spectrum shall have the right, but not the obligation, to monitor, record, and maintain oral communications with Customer regarding Customer's account or Services for the purpose of service quality assurance, or as permitted under applicable law.

### 13. **DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION.**

Default. A Party shall be in default under this Service Agreement if it has failed to comply with the terms of this Service Agreement or any of all of the applicable Service Orders, including without limitation the obligation to pay any amounts due, and such Party fails to correct each such noncompliance within thirty (30) days of receipt of notice from the non-defaulting Party describing in reasonable detail the default or noncompliance ("Default").

- (b) Mutual Termination Rights. Either Party may terminate this Service Agreement or a Service Order if: (i) the other Party is in Default; (ii) the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debts, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange; or (iii) after entering into such Service Order, Spectrum learns that the costs to deliver the Services to the Service Location shall require a material increase in the Service Charges and Customer does not agree to pay such additional Service Charges by executing a revised Service Order.

- (c) Termination for Convenience by Customer. Notwithstanding any other term or provision in this Service Agreement, Customer may terminate a Service Order, or this Service Agreement, at any time upon thirty (30) days prior notice to Spectrum, subject to payment of all outstanding amounts due, payment of any applicable Termination Charges (as defined below), and the return of any Spectrum Equipment.

- (d) Spectrum's Right to Suspend. Spectrum shall have the right, at its option, without prior notice, and in addition to any other rights of Spectrum expressly set forth in this Service Agreement and any other remedies it may have under applicable law to suspend Services if Customer fails to comply with any applicable laws or regulations or this Service Agreement, or if Customer or its End Users' use of the Service is determined by Spectrum, in its sole discretion, to result in a material degradation of the Spectrum Network until Customer remedies any such noncompliance or degradation. Any suspension shall not affect Customer's on-going obligation to pay Spectrum any amounts due under this Service Agreement. If Spectrum suspends any Service, Spectrum may require the payment of reconnect or other charges before restarting the suspended Service.

- (e) Termination Charges. Upon Termination, Customer must pay all Services Charges then due for Services provided through the effective date of Termination. In addition, if Termination is due to Customer Default or for Customer's convenience, Customer must pay Spectrum a termination charge (a "Termination Charge"), which the Parties recognize as liquidated damages and not as a penalty. This Termination Charge shall be equal to 100% of the unpaid balance of all Service Charges that would have been due throughout the applicable Order Term, including, without limitation, the outstanding balance of any and all unpaid OTCs. The foregoing terms will also apply to any partial Termination impacting one or more Service Orders, but not the entire Service Agreement.

- (f) Survival. The provisions of sections 6(c), 7(b), 7(e), 13(e), 13(f), 14, 15, 18-22 and the Attachments shall survive the termination or expiration of the Service Agreement.

### 14. **DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY.**

(a) **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND SPECTRUM EQUIPMENT, AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF CUSTOMER'S EQUIPMENT AND CUSTOMER'S NETWORK. SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, SPECTRUM EQUIPMENT, AND ANY SPECTRUM MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S EQUIPMENT OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

(b) **LIMITATION OF LIABILITY.** WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE ORDER SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE ORDER IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM. SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES OR SERVICES.

15. **INDEMNIFICATION.** Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Spectrum, its affiliates, service providers, and suppliers, and their directors, employees, representatives, officers and agents (the "Indemnified Parties") against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Indemnified Parties, to the full extent that such arise from or relate to any one or more of the following:

- (a) Customer's use or misuse of the Service,
- (b) Customer's failure to comply with any applicable law, order, rule, regulation or ordinance or this Service Agreement,
- (c) personal injury or tangible property damage caused by Customer's or its employees' or agents' negligence or willful misconduct.

Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim.

16. **COMPLIANCE WITH LAWS.** As between the Parties, Spectrum shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Spectrum's operation and provision of the Services as contemplated in the Service Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Service Agreement. Unless specified otherwise in the Service Agreement, each Party shall give all notices, pay all fees and comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement. The Service Agreement is subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which Spectrum provides the Services. If any provision of the Service Agreement contravenes or is in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Service Agreement. If the relevant law or regulation applies to some but not all of the Services being provided under the Service Agreement, then such law or regulation shall take priority over



the relevant provision of the Service Agreement only for purposes of those Services to which the law or regulation applies. Except as explicitly stated in the Service Agreement, nothing contained in the Service Agreement shall constitute a waiver by Spectrum of any rights under applicable laws or regulations pertaining to the installation, construction, operation, maintenance or removal of the Services, facilities or equipment.

**REGULATORY CHANGES.** In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in any government- or quasi-government-imposed fees or charges that increases the costs or other terms of Spectrum's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by Spectrum in providing the Service, Customer acknowledges and agrees that Spectrum may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase. Spectrum shall use commercially reasonable efforts to notify Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the Service Charges payable by Customer under the Service Agreement for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without an obligation to pay Termination Charges, provided Customer notifies Spectrum at least thirty (30) days in advance of Customer's requested termination date. Further, in the event that Spectrum is required to file tariffs, rate schedules, or price guides with a regulatory agency or otherwise publish or make generally available its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff, rate schedule, or price guide shall govern Spectrum's delivery of, and Customer's use or consumption of the Service. In addition, if Spectrum determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then Spectrum may terminate the Service Agreement and any affected Service Orders without liability, by giving Customer thirty (30) days prior notice or any such notice as is required by law or regulation applicable to such determination.

**18. ARBITRATION.** This Service Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" paragraph below, Spectrum and Customer agree to arbitrate disputes and claims arising out of or relating to this Service Agreement, the Services, the Spectrum Equipment, Network, or marketing of the Services. Notwithstanding the foregoing, either Party may bring an individual action on any matter or subject in small claims court. The arbitrator of any dispute or claim brought under or in connection with this Service Agreement shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No claim subject to arbitration under this Service Agreement may be combined with a claim subject to resolution before a court of law. THIS SERVICE AGREEMENT MEMORIALIZES A TRANSACTION IN INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THESE ARBITRATION PROVISIONS.

(a) A Party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "Notice of Intent to Arbitrate" ("Notice"). The Notice to Spectrum should be addressed to: VP and Associate General Counsel, Litigation, Charter Communications, 12405 Powerscourt Drive, St. Louis, MO 63131 ("Arbitration Notice Address"). The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. If the Parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or Spectrum may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Service Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Service Agreement, and the arbitration shall be administered by the AAA. The AAA Rules and fee information are available at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by writing to the Arbitration Notice Address.

(b) EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER APPLICABLE LAW. If the arbitrator's award exceeds \$75,000, either Party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the AAA Rules, by filing a written notice of appeal within thirty (30) days after the date of entry of the arbitration award. The appealing Party must provide the other Party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within one hundred twenty (120) days of the date of the appealing Party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the Federal Arbitration Act. The Parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by AAA rules. Unless Spectrum and Customer agree otherwise in writing, all hearings conducted as part of the arbitration shall take place in the Borough of Manhattan, City of New York.

(c) CUSTOMER AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SPECTRUM ARE WAIVING THE RIGHT TO A TRIAL BY JUDGE OR JURY. CUSTOMER AND SPECTRUM AGREE THAT CLAIMS MAY ONLY BE BROUGHT IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Furthermore, unless both Customer and Spectrum agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding. If this specific paragraph is found to be unenforceable, then the entirety of these arbitration provisions shall be null and void and rendered of no further effect with respect to the specific claim at issue.

(d) Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY JURY. For purposes of the foregoing sentence only, in the event such

waiver is found to be unenforceable, it shall be severed from this Service Agreement, rendered null and void and of no further effect without affecting the rest of the arbitration provisions set forth herein.

- (e) **EXCLUSIONS.** CUSTOMER AND SPECTRUM AGREE THAT THE FOLLOWING CLAIMS OR DISPUTES SHALL NOT BE SUBJECT TO ARBITRATION:
- i. ANY INDIVIDUAL ACTION BROUGHT BY CUSTOMER OR BY SPECTRUM ON ANY MATTER OR SUBJECT THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING SMALL CLAIMS.
  - ii. ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS.
  - iii. ANY DISPUTE RELATED TO OR ARISING FROM ALLEGATIONS ASSOCIATED WITH UNAUTHORIZED USE OR RECEIPT OF SERVICE.

**19. PROPRIETARY RIGHTS AND CONFIDENTIALITY.**

- (a) **Spectrum's Proprietary Rights.** All materials including, but not limited to, any Spectrum Equipment (including related firmware), software, data and information provided by Spectrum, any identifiers or passwords used to access the Service or otherwise provided by Spectrum, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by Spectrum to provide the Service (collectively "Spectrum Materials") shall remain the sole and exclusive property of Spectrum or its suppliers and shall not become a fixture to the Service Location. Customer shall acquire no title to, interest or right (including intellectual property rights) in the Spectrum Materials by virtue of the payments provided for herein other than the limited, non-exclusive, and non-transferable license to use the Spectrum Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify, or distribute the Spectrum Materials, in whole or in part, or use them for the benefit of any third party. Customer shall not cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Services. All rights in the Spectrum Materials not expressly granted to Customer herein are reserved to Spectrum or its suppliers. Customer shall not open, alter, misuse, tamper with, or remove the Spectrum Equipment or Spectrum Materials as and where installed by Spectrum, and shall not remove any markings or labels from the Spectrum Equipment or Spectrum Materials indicating Spectrum (or its suppliers) ownership or serial numbers.
- (b) **Confidentiality.** Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the Spectrum Materials and any other information and materials provided by Spectrum in connection with this Service Agreement, including but not limited to the contents of this Service Agreement and any Service Orders. Customer may not issue a press release, public announcement or other public statements regarding the Service Agreement without Spectrum's prior consent.
- (c) **Software.** If Software is provided to Customer hereunder, Spectrum grants Customer a limited, non-exclusive, and non-transferable license to use such Software, in object code form only, for the sole and limited purpose of using the Services for Customer's internal business purposes during the Term. Customer shall not copy, reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any Software. Upon termination of a Service Order, the license to use any Software provided by Spectrum to Customer in connection with the Services provided under the Service Order shall terminate and Customer shall destroy any copies of the Software provided to Customer.

**20. PRIVACY.** Spectrum also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Spectrum's website at <http://enterprise.spectrum.com/>. The Privacy Policy may be updated or modified from time-to-time by Spectrum, with or without notice to Customer. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act, the Federal Cable Communications Act, the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in an Attachment, the Privacy Policy, and, if applicable, in Spectrum's tariff, which are incorporated into, and made a part of, this Service Agreement by this reference. In addition to the foregoing, Customer hereby acknowledges and agrees that Spectrum may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers or any similar agency, or in accordance with the Privacy Policy or, if applicable, tariff(s). In addition, Spectrum shall have the right (except where prohibited by law), but not the obligation, to disclose any information to protect its rights, property or operations, or where circumstances suggest that individual or public safety is in peril.

**21. NOTICES.** Any notices or consents to be given under this Service Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses:

If to Spectrum:  
Charter Communications Operating, LLC  
ATTN: Commercial Contracts Management  
Corporate - Legal Operations  
12405 Powerscourt Drive  
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address or as set forth in the Service Agreement. Each Party may change its respective address(es) for legal notice by providing notice to the other Party. Upon Spectrum's request, Customer will also provide

Spectrum with a current email address that Customer regularly checks so that Spectrum may provide copies of notices and other communications to Customer by email.

## MISCELLANEOUS.

- (a) **Entire Agreement.** This Service Agreement, including without limitation all Attachments, incorporated documents and any executed Service Orders constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof. This Service Agreement supersedes all prior understandings, promises, and undertakings, if any, made orally or in writing by or on behalf of the Parties with respect to the subject matter of this Service Agreement, including without limitation any prior confidentiality or non-disclosure agreement between the Parties regarding the purchase and sale of Spectrum Services. Spectrum may change or modify the Terms of Service at any time by posting revised Terms of Service to the Spectrum website at <https://enterprise.spectrum.com/> or such other URL as Spectrum may specify from time to time (the "Spectrum Website"). The revisions to the Terms of Service are effective upon posting to the Spectrum Website. Customer may receive notice of any revisions to the Terms of Service by email or in the next applicable invoice. Customer shall have thirty (30) calendar days from the date of the notice to provide Spectrum with written notice that the revisions to the Terms of Service materially and adversely affect Customer's use of the Services. If after notice Spectrum is able to verify such material adverse effect, but is unable to reasonably mitigate the impact on such Services, then Customer may terminate the impacted Services and Service Order(s) without further obligation to Spectrum beyond the termination date, including Termination Charges, if any, as its sole and exclusive remedy. Customer should also consult Spectrum's website <https://enterprise.spectrum.com/> to be sure Customer is aware of Spectrum's Acceptable Use Policies, Network Management Practices, applicable tariffs and price guides, and other policies or practices that are applicable to Customer's use of the Services (collectively "Policies"). Customer's use of the Services shall be deemed acknowledgment that Customer has read and agreed to Spectrum's Policies as a part of this Service Agreement.
- (b) **Signatures; Electronic Transactions.** This Service Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature. The Parties agree to conduct business using electronic means including using electronic records and electronic signatures, except as provided with respect to notices in Section 21.
- (c) **Order of Precedence.** Each Service shall be provisioned pursuant to the terms and conditions of this Service Agreement. In the event that Spectrum permits Customer to use its own standard purchase order form to order the Service, the Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of the Service Agreement or any Service Order are inconsistent with the terms of any applicable tariff, the tariff shall control. To the extent that the terms of any Service Order are inconsistent with the terms of these Terms of Service, the Terms of Service shall control, excluding pricing discounts, nonrecurring fees, or order fulfillment timing terms to the extent permissible under applicable law set forth in the Service Order that shall control.
- (d) **No Assignment or Transfer.** Customer may not assign or transfer (directly or indirectly by any means, including by operation of law or otherwise) this Service Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining consent from Spectrum, and any assignment or transfer in violation of this Section shall be null and void. Spectrum may assign its rights and obligations under this Service Agreement, in whole or in part, and any Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s) without the prior approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of Spectrum in the Service Agreement may accrue to, or be fulfilled by, any affiliate, as well as by Spectrum or its subcontractors.
- (e) **Severability.** If any term, covenant, condition or portion of this Service Agreement shall, to any extent, be held to be invalid or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law as nearly as possible to reflect the original intentions of the Parties.
- (f) **Force Majeure.** Notwithstanding anything to the contrary in the Service Agreement, neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, weather, fire, flood, natural causes, mechanical or power failures, fiber cuts, governmental acts or any order, law or ordinance in any way restricting the operation of the Services (each a "Force Majeure Event"). Changes in economic, business, or competitive conditions shall not be considered a Force Majeure Event.
- (g) **Governing Law; Claims Limitation; Waiver of Jury Trial.** The law of the state of New York shall govern the construction, interpretation, and performance of this Service Agreement, except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded. Any legal action brought under or in connection with the subject matter of the Service Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Service Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Service Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Service Agreement must be initiated not later than one (1) year after the claim arose. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE

OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.

- (h) No Third Party Beneficiaries. The terms of this Service Agreement and the Parties' respective performance of obligations as described are not intended to benefit any person or entity not a Party to this Service Agreement, and the consideration provided to each Party hereunder only runs to the respective Parties, and that no person or entity not a Party to this Service Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the Parties.
- (i) Waiver. Except as otherwise provided herein, the failure of Spectrum to enforce any provision of this Service Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. To be legally binding on Spectrum, any waiver must be in writing.
- (j) Remedies Cumulative and Nonexclusive. Unless stated otherwise herein, all rights and remedies of the Parties under this Service Agreement shall be cumulative, nonexclusive and in addition to, but not in lieu of, any other rights or remedies available to the Parties whether provided by law, in equity, by statute or otherwise. The exercise of any right or remedy does not preclude the exercise of any other rights or remedies.

**Attachment A**  
**Spectrum Business TV and Enterprise TV Service**  
**(collectively, "TV Service")**

**Spectrum Business TV Service:** Spectrum Business TV Service includes television programming services, including the package of channels and music programming as designated in a Service Order. Customer must notify Spectrum if Customer's use of the Service will be for private or public viewing. If specified in the Service Order, Spectrum will provide to private-view Customers premium programming such as HBO, Showtime, TMC, Cinemax, STARZ, Encore, or Epix, or Customer premise equipment such as DVRs (collectively, "Premium Services").

**Spectrum Enterprise TV Service:** Spectrum Enterprise shall provide the customized multi-channel video programming service ("Enterprise TV Service") to Customer's Service Location(s) identified in a Service Order. Enterprise TV Service includes Government TV, Healthcare TV, Hospitality TV, and Education/University TV. Enterprise TV Service includes the channel line-up and those premium and other pay-per-view, video-on-demand, or any visual content as mutually agreed upon in the Service Order. If specified in the Service Order, Spectrum will provide Premium Services to Customer.

1. Music Programming. Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers, Broadcast Music, Inc., and SESAC, Inc. or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services. Customer shall not, and shall not authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the TV Service is being displayed or are to be displayed; or (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the TV Service.
2. Spectrum Equipment. Spectrum owns and shall at all times have the exclusive right to access, control, maintain, upgrade, use and operate its TV Service, Network, and Spectrum Equipment, except for (i) any video display terminals ("Connections") or inside wiring owned and maintained by Customer or a third party, and (ii) any conduit, risers, raceways or other spaces where the Network or Spectrum Equipment is located that are owned by Customer or a third party, in which case (as between Customer and Spectrum) Customer shall own such items and Customer hereby grants to Spectrum the non-exclusive right to access and use such space during the Order Term as provided in the Service Agreement. The inside wiring and Connections shall be provided and installed by Customer, at its sole expense, in consultation with Spectrum and any specifications provided by Spectrum to Customer in writing. Spectrum shall not be responsible for an outage that may be due to a fault or failure with respect to any inside wiring, Connections or any systems, equipment or facilities of Customer or any third party, including but not limited to, instances where such outage is due to the Customer's failure to promptly provide Spectrum with access to the Service Location to inspect, monitor, repair, and/or replace the TV Service or Spectrum Equipment. If changes in technology require the use of specialized equipment to continue to receive Spectrum Business TV Service, Spectrum shall provide such Spectrum Equipment, and Customer shall pay for such Spectrum Equipment at the same rate charged by Spectrum to commercial customers in the same service area as the Service Location.
3. Provision of Service. Spectrum may, in its discretion, preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, channel line-ups applicable to, and/or distribution of its TV Service. Spectrum may make certain TV Service available via mobile applications or third party hardware to Customer and its End Users, which may be subject to additional terms and conditions.
4. Restrictions. Customer shall take all necessary precautions to ensure that the TV Service is received only by authorized parties, and that no part of the TV Service is received at any other location, including but not limited to locations where an admission fee, cover charge, minimum or like sum is charged. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the TV Service (or any part thereof); (ii) transmit the TV Service by any television or radio broadcast or by any other means or use the TV Service outside the Service Location; (iii) move the TV Service to another location after installation; or (iv) insert any commercial announcements into the TV Service or interrupt any performance of the TV Service for the making of any commercial announcements. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. TV Service is available for use at commercial establishments and other non-residential buildings (such as a bar, restaurant, hospital, or commercial building). In commercial establishments with public viewing, only the TV Service lineup(s) that is approved for public viewing may be used. Customer may not order or request pay-per-view (PPV) programming for receipt, exhibition or taping in a commercial establishment; or exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Spectrum's prior written consent.
5. Service Inspection. Customer shall permit Spectrum reasonable access to the Service Locations to inspect the Service Location at periodic intervals as needed to ascertain, among other things, the number of television outlets receiving the TV Service, verify the estimated viewing occupancy, or . If any Spectrum inspection reveals that Customer's usage of the TV Service exceeds Customer's

rights under the Service Agreement or Service Order and without abrogating or otherwise affecting Spectrum's right to consider such activity a breach of the Service Agreement, Customer shall pay Spectrum an amount equal to one and a half times the MRCs that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable MRCs for such additional usage or Spectrum may, in its discretion, suspend or disconnect a TV Service.

6. Noninterference. Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the TV Service, which are transmitted over any of the channels provided hereunder without the prior written consent of Spectrum. Under no circumstances shall Customer have any right to encode, alter, reformat, delete or otherwise modify the TV Service, including without limitation delivery method and any programming contained within the TV Service, without the express written consent of Spectrum. The limitations of this paragraph shall not apply to formatting of programming for Enterprise TV Service as agreed by Spectrum and Customer.
7. Charges. Notwithstanding anything to the contrary in the Service Agreement, the MRCs set forth in a Service Order for TV Service: (i) do not include applicable taxes, regulatory fees, franchise fees or public access fees; and (ii) are subject to change in accordance with commercial rate increases applied to commercial customers.

Customer's use of the Enterprise TV Service is subject to the following additional terms and conditions:

8. End User Support. Customer shall provide all first level contact and support to its authorized users relating to the Network, Spectrum Equipment, Connections, Customer-provided equipment, and Enterprise TV Service. In the event of any disruption, failure, or degradation of the Enterprise TV Service lasting for twenty-four (24) consecutive hours or more, Customer shall use all reasonable efforts to diagnose the cause of the Enterprise TV Service impacting event. If the Enterprise TV Service impacting event is reasonably determined to be caused by the signal delivered by Spectrum, Customer shall contact the designated Spectrum technical support contact for resolution.
9. Set Back Box. Customer's use of the Set Back Box Product ("SBB") available as part of the Enterprise TV Service (the "SBB Offering") is subject to the following additional terms and conditions:
  - A. Notwithstanding Section 2 above, Spectrum shall install and program all Connections for the SBB Offering. Customer shall ensure the availability of Connections that are compatible with the SBB Offering including, without limitation, the provision and use of appropriate tuners and Connections having HDTV compatibility.
  - B. If Customer desires for the front desk portal and the TV user interface associated with the SBB Offering to be co-branded (with Spectrum's and Customer's brands), then Customer shall provide Spectrum Enterprise a copy of Customer's logo in accordance with Spectrum's technical specifications and hereby grants Spectrum a right and license to use such logo for purposes of such co-branding.
10. SpectrumU Service. SpectrumU is an online video service accessible via an Internet browser or through a mobile device application (the "SpectrumU TV App") that permits authorized users to stream video content over-the-top while connected to Customer's Wi-Fi network (the "SpectrumU Service").
  - A. Customer is not required to purchase Internet or Wi-Fi service from Spectrum in order to purchase or use the SpectrumU Service. Many factors affect the quality of service experienced by Customer and its authorized users, including without limitation, the quality of the Internet and Wi-Fi service provided by Customer, events impacting the Customer's Wi-Fi network such as network service attacks, and the authorized user's device.
  - B. Customer acknowledges that Spectrum requires Customer's authorized users to accept separate end user license terms when downloading the SpectrumU TV App.
  - C. Spectrum may require that authorized users update the SpectrumU TV App from time-to-time in order to continue to use the SpectrumU Service via the SpectrumU TV App.

**Attachment B**  
**Spectrum Business Voice Service, PRI/SIP Trunking Service (collectively "Voice Services")**

**Spectrum Hosted Voice, Hosted Voice for Hospitality, Hosted Call Center, and Unified Communications (collectively, "Hosted Communications Services")**

**DESCRIPTION OF SERVICES:**

**Voice Services:**

**Spectrum Business Voice Service:** If Customer selects to receive Spectrum Business Voice Service, Customer will receive voice service consisting of one or more lines or connections and a variety of features, as described more fully in the applicable Service Order and price guide.

**SIP Trunking Service:** If Customer selects to receive the SIP Trunking Service, Customer will receive voice and call processing services via eight or more concurrent call paths using a Session Initiation Protocol ("SIP") connection to the Customer's private branch exchange (including any non-Spectrum switch, collectively, "PBX") or other Customer Equipment, and a variety of features, as described more fully in the applicable Service Order.

**PRI Service:** If Customer selects to receive PRI Service, Customer will receive voice and call processing services via a full (23B+1D channel) or fractional (12B+1D channel) Primary Rate Interface ("PRI") connection to Customer's PBX or other Customer Equipment, and a variety of features, as described more fully in the applicable Service Order.

**Spectrum Hosted Communications Services:**

**Spectrum Hosted Voice Service:** If Customer selects to receive Hosted Voice Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance.

**Spectrum Hosted Voice for Hospitality Service:** If Customer selects to receive Hosted Voice for Hospitality Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance. Customer may also receive Property Management System integration and other services, including a variety of features, as described more fully in the applicable Service Order.

**Spectrum Hosted Call Center:** If Customer selects to receive Spectrum Hosted Call Center Service, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance, as described more fully in the applicable Service Order.

**Unified Communications Service:** If Customer selects to receive Unified Communications Service features that are added onto a Spectrum Hosted Communications Service, Customer will receive a combination of (i) instant messaging and presence service, (ii) video calling service, (iii) desktop sharing service, and (iv) web collaboration service, as described more fully in the applicable Service Order. Unified Communications Services are available in personal computer and mobile phone or tablet application formats where features, functionalities, and capabilities will differ based on the device used to access the Unified Communications Service. Changes made to either the features, functionalities, or capabilities, or to the application user interface formats shall be in Spectrum's sole discretion.

**COMMUNICATIONS SERVICES TERMS AND CONDITIONS:**

Customer's use of the Voice Services and Hosted Communications Services (collectively, "Communications Service") is subject to the following additional terms and conditions:

**1. Availability of Facilities and Service Modifications:**

- a. Services and associated products, facilities, equipment, features and functions will be available in accordance with the terms of this Attachment, where technically and operationally feasible. The quantity of business lines for each Service Location is dependent on the technical feasibility at that specific location. Additional construction and facilities may be required to provide requested Communications Services at Customer's expense. Customer must pay for any special construction prior to the activation of service and/or cancellation of contract.

- b. Spectrum is not obligated to provide Communications Services if Customer intends to or uses the Communications Services (i) to interfere with or impair any service over any facilities and associated Spectrum Equipment or impair the privacy of any communications over such facilities and associated Spectrum Equipment; (ii) to sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Communications Services or any component or combination thereof; or (iii) in any manner that results in non-standard calling patterns or practices, including but not limited to, use of the Communications Service for high volume auto-dialing, continuous or extensive call forwarding, high-volume telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting for services with unlimited local and long distance calling plans, and PBX hacking or modem hijacking resulting in excessive usage of long distance service (collectively, "Prohibited Use"). In addition, Prohibited Use shall include augmentation of the Communications Service or Communications Service features, in any way as to change the functionality of the Communications Service or its component features in any manner that is inconsistent with standard commercial calling patterns and practices or the terms of this Service Agreement. Such non-standard calling patterns and practices include, but are not limited to, use of three-way calling, or call forwarding, that results in unusually high traffic volumes or excessive long distance usage. A non-standard calling pattern may also include, when Customer's long distance calling minutes from (i) calls terminating to Alaska, (ii) calls terminating to Guam, (iii) calls terminating to a conference calling service operating in areas with high carrier access rates (e.g., rates that carriers pay one another for network use), or (iv) calls terminating to a chat line service, in the aggregate exceed ten percent (10%) of Customer's total long distance minutes in any one-month billing cycle.
  - c. Spectrum may, from time to time, offer additional Communications Service features or functionality, or discontinue certain Communications Service features or functionality. Information about these features or functions will be available at <http://enterprise.spectrum.com/> or <http://business.spectrum.com/> or in the applicable price guide at [www.spectrum.com](http://www.spectrum.com), under "Customer Disclosures." These additional Communications Services, features or functions may be subject to additional specific terms and conditions, and may be subject to change at any time by Spectrum.
2. Customer-Premise Equipment: Communications Services may require Customer-premise equipment. If required, Spectrum will supply such equipment for so long as Customer remains a Communications Service Customer. Depending on the Communications Service plan, there may be a monthly charge for the equipment. Upon termination of Communications Service for any reason, Customer shall return the Spectrum-supplied equipment within thirty (30) days or Customer will be charged an equipment fee equal to the fee charged by Spectrum at the time the equipment was supplied by Spectrum. An exception to this return policy is when the equipment is also supporting Internet service, in which case Customer may continue to use the equipment until such time as Internet is no longer provided or Spectrum requests a substitution of the equipment.
  3. Communications Service Limitations:
    - a. Unavailable Services; Call Blocking and Fraud. Spectrum does not offer or provide certain operator-assisted services such as dial around services (10-10-XXX), pay services, and third-party billing. Spectrum blocks access to calls with 900 and 976 area codes and to international chat lines. In addition, Spectrum will initiate toll blocking if Customer's excessive use of any toll has surpassed the threshold set by Spectrum and/or Customer's account is delinquent. Notwithstanding any other provision of the Service Agreement or this Attachment, Spectrum may block calls which (i) are made to certain countries, cities, or central office exchanges, or (ii) use certain authorization codes, as Spectrum, in its sole discretion, deems reasonably necessary to prevent unlawful or fraudulent use of Communications Services.
    - b. Service Outages. Communications Service modems are electrically powered and will not work in a power outage or if the required broadband connection is disrupted or not operating. In the event of power outages, the modem, including all phones and Services connected to or powered by it, will not work. Power outages will disrupt Enhanced 911 ("E911") service and the use of Communications Service as the connection between a security system and central monitoring services. Spectrum may supply Customer with a battery backup for use in the event of a non-network related outage. COMMUNICATIONS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, OR IF THERE IS A DISRUPTION TO THE SPECTRUM NETWORK OR FACILITIES, COMMUNICATIONS SERVICE WILL NOT WORK. CUSTOMER ACKNOWLEDGES THAT IN SUCH CASES IT WILL NOT BE POSSIBLE TO PLACE OR RECEIVE CALLS INCLUDING CALLS TO ACCESS EMERGENCY 911 SERVICES.
    - c. Security Systems. Although Spectrum will supply a connection that will allow the operation of Customer's existing security system, Spectrum does not guarantee that any such system will be in complete operational order following the installation of Communications Service. As such, it is Customer's obligation to contact their security system provider to inform them of the Communications Services installation, and any change in phone number, and to request a complete operational test of their system immediately following installation of the Communications Services. In addition, it is Customer's responsibility to test their system on a regular basis. Spectrum does not represent that Service is fail-safe. Customer is solely responsible for obtaining such testing, ensuring that such testing is completed in a timely manner, and confirming that the security system and any related Customer Equipment at the Service Location connected to the Communications Service operate properly. Customer is solely responsible for any and all costs associated with this activity. In addition, Spectrum prohibits the use of Communications Service as the connection between medical alert systems and a central monitoring station, and will neither connect to such services nor provide technical support for the connection.



4. Use of Services. Customer is solely responsible for: (i) prevention of Prohibited Use and unauthorized, unlawful, or fraudulent use of, or access to, Communications Services, which use or access is expressly prohibited; and (ii) administration and non-disclosure of any authorization codes provided by Spectrum to Customer. Spectrum may require Customer to immediately shut down its transmission of signals if Spectrum concludes, in its sole discretion, that such transmission is a Prohibited Use or causing interference to other customers or with other transmissions generally.
- a. Spectrum reserves the right (i) to refuse to provide, discontinue, or temporarily suspend Communications Services to or from a Service Location where the necessary facilities or equipment are not available under terms and conditions reasonably acceptable to Spectrum, or (ii) to limit or block Communications Services to and from any Service Location or the use of any authorization code, without any liability whatsoever, in the event that Spectrum detects or reasonably suspects either (a) Prohibited Use or fraudulent, or unlawful use of the Communications Services, or use of the Communications Service in violation of the Service Agreement or this Attachment, or (b) consumption of Communications Services in excess of the credit limit (if any).
- b. Customer is responsible for (i) securing its Customer Equipment against placement of fraudulent calls, and (ii) ensuring that Customer Equipment is not being used for any Prohibited Use or fraudulent use or access with Communications Services. Customer shall be responsible for payment of all applicable charges for Communications Services and charged to Customer's accounts, even where those calls are originated by fraudulent means either from Customer's Service Location or from remote locations. Spectrum is not liable for any damages, including toll usage charges, Customer may incur as a result of the unauthorized use of its telephone facilities. This unauthorized use of Customer's facilities includes, but is not limited to, the placement of calls from the Service Location, and the placement of calls through Customer Equipment that are transmitted or carried on Spectrum's Network. Customer shall ensure that all uses by Customer, whether authorized by Customer or not, of the Spectrum Equipment or the Communications Services installed at the Service Location comply with all applicable laws, rules, regulations, and the Service Agreement (including this Attachment).
- c. Spectrum has the right to limit the Communications Service to reasonable quantities of minutes and messages used or consumed by Customer to prevent Prohibited Use and to maintain a high level of service for other Spectrum customers.
5. Access to Telecommunications Relay Communications Service: Telecommunications Relay Service ("TRS") enables deaf, hard-of-hearing or speech-impaired persons who use a Text Telephone or Caption Telephone (collectively, "TDD") or similar devices to communicate with the hearing population not using TDD. It also allows the hearing population not using a TT to communicate with deaf, hard-of-hearing or speech-impaired persons who do use a TDD. Customer will be able to access the state provider to complete such calls by either dialing the applicable telephone number directly or by dialing the number 711, where available. Spectrum may bill Customer a monthly surcharge in order to fund the TRS system.

911 Services:

- a. CUSTOMER ACKNOWLEDGES THAT THE VOICE-ENABLED FIBER CONNECTION, CABLE MODEM, INTEGRATED ACCESS DEVICE ("IAD") OR OTHER SPECTRUM EQUIPMENT USED TO PROVIDE COMMUNICATIONS SERVICE ARE ELECTRICALLY POWERED AND THAT COMMUNICATIONS SERVICE, INCLUDING THE ABILITY TO ACCESS 911 AND E911 SERVICES AND ALARM, SECURITY, AND OTHER MONITORING SERVICES, MAY NOT OPERATE IN THE EVENT OF AN ELECTRICAL POWER OUTAGE, A SPECTRUM NETWORK SERVICE INTERRUPTION, OR A THIRD-PARTY NETWORK SERVICE INTERRUPTION IF THE COMMUNICATIONS SERVICE IS PROVIDED AS AN OVER-THE-TOP OR OFF-NET (TYPE II) SERVICE USING A THIRD PARTY'S NETWORK. CUSTOMER ALSO ACKNOWLEDGES THAT, IN THE EVENT OF A POWER OUTAGE AT A SERVICE LOCATION, ANY BACK-UP POWER SUPPLY PROVIDED WITH A SPECTRUM-PROVIDED VOICE-ENABLED CABLE MODEM, IAD, OR OTHER SPECTRUM EQUIPMENT USED IN DELIVERING THE COMMUNICATIONS SERVICE MAY ENABLE SERVICE FOR A LIMITED PERIOD OF TIME OR NOT AT ALL, DEPENDING ON THE CIRCUMSTANCES, AND THAT THE USE OF A BACK-UP POWER SUPPLY DOES NOT ENSURE THAT COMMUNICATIONS SERVICE WILL BE AVAILABLE IN ALL CIRCUMSTANCES. CUSTOMER SHALL ADVISE EVERY END USER OF COMMUNICATIONS SERVICE THAT SPECTRUM VOICE-ENABLED CUSTOMER EQUIPMENT IS ELECTRICALLY POWERED AND, IN THE EVENT OF A POWER OUTAGE OR SPECTRUM NETWORK SERVICE INTERRUPTION, COMMUNICATIONS SERVICE AND 911 OR E911 MAY NOT BE AVAILABLE. CUSTOMER SHALL DISTRIBUTE TO ALL END USERS OF COMMUNICATIONS SERVICE LABELS/STICKERS (TO BE SUPPLIED BY SPECTRUM) AND INSTRUCT ALL END USERS OF COMMUNICATIONS SERVICE TO PLACE THEM ON OR NEAR THE EQUIPMENT USED IN CONJUNCTION WITH THE COMMUNICATIONS SERVICE.
- b. Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves any of the voice-enabled cable modem, IAD, or other Spectrum Equipment to an address other than the Service Location identified on the Service Order, calls from the modem, IAD, or other Spectrum Equipment to E911 will appear to E911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.
- c. Customer will be notified by Spectrum as to whether the Communications Service to which Customer subscribes includes the capability to support E911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Communications

Service, including the inability to reach 911 or other emergency services, the inability to contact a security system or other monitoring service provider or any failure or fault relating to Customer Equipment, facilities or services, the use of third-party enterprise 911 solutions, or Customer's attempt to access Communications Service from a remote location.

- d. In some geographic areas, Communications Service does not provide the capability to support E911 service from any location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that (i) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller and (ii) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines. IN SUCH AREAS, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF OR RELATING TO 911 CALLS MADE BY END USERS OF THE COMMUNICATIONS SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.
  - e. Customer shall not use the Communications Services, or allow the Communications Services to be used, (i) to provide 911 or E911 services; (ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or (iii) for any automatic location information services related to E911 or in any other manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §12.4 or any successor provision of the rules of the Federal Communication Commission. Any breach of this provision shall constitute a material breach of the Service Agreement.
  - f. CUSTOMER ACKNOWLEDGES THAT SPECTRUM'S "ANYWHERE CONNECT" OR OTHER SOFTPHONE SOFTWARE OR APPLICATIONS (COLLECTIVELY "SOFTPHONE APPLICATIONS") ARE NOT A REPLACEMENT FOR MOBILE OR FIXED LINE VOICE SERVICES. SOFTPHONE APPLICATIONS DO NOT PERMIT END USERS TO MAKE 911 OR OTHER EMERGENCY CALLS. CUSTOMER SHALL PROVIDE ALTERNATIVE COMMUNICATION OPTIONS TO ENABLE END USERS TO MAKE 911 AND OTHER EMERGENCY CALLS WHEN USING SPECTRUM'S SOFTPHONE APPLICATIONS.
7. Custom Caller-ID (Voice Services only): If Customer activates Custom Caller ID for Trunks, which permits a customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes, the telephone number chosen must be active and assigned to Customer. Custom Caller ID for Trunks may be used only where Customer employs a Customer Equipment solution that ensures that 911 and other emergency calls placed by an end user are routed to an appropriate public safety answering point or other responding agency based on the caller's location, in a manner consistent with applicable law. If Customer activate Custom Caller ID, they must configure their PBX to out-pulse a telephone number that is active in their Spectrum account and accurately identifies the Service Location for all outbound emergency 911 calls to be handled by that PBX. By activating Custom Caller ID for Trunks, Customer represents and warrants that it employs such a Customer Equipment solution and agrees to continue using such a solution until Customer discontinues its use of Custom Caller ID for Trunks. Telemarketers or other entities using Custom Caller ID for Trunks must comply with applicable federal and state laws, including obligations requiring identification of: (i) the telemarketer or the party on whose behalf the telemarketing call is made and (ii) the calling party's number ("CPN"), automatic number identification ("ANI"), or customer service number of the party on whose behalf the telemarketing call is made. The use of substitute or fictitious CPN, ANI, or other calling party information is prohibited. Custom Caller ID for Trunks may not be used by any person or entity in connection with any unlawful purpose.
8. Access: Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone or local area network wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Communications Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Communications Service and all related Spectrum Equipment. The agents and employees of Spectrum shall have the right to enter the Service Location at any reasonable hour for the purpose of installing, inspecting, maintaining or repairing Spectrum Equipment, instruments and/or lines, or upon termination of the Communications Service, for the purpose of removing such Spectrum Equipment, instruments and/or lines.
9. Exclusively for Businesses: Communications Services are offered to businesses only and are not available for residential use.
10. Customer Equipment: Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "Demarcation Point" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Customer is responsible for ensuring that all such Customer Equipment conforms to the Federal Communications Commission's requirements

set forth in Part 68 of the Code of Federal Regulations (as amended), and Spectrum may discontinue the provision of Communications Services to any location where Customer Equipment fails to conform to such regulations. Customer shall be solely responsible for satisfying all legal requirements for interconnecting Customer-provided terminal equipment or communications systems with other provider's facilities, including, without limitation, application for all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. Satisfaction of all legal requirements, any interface equipment or any other facilities necessary to interconnect the facilities of Spectrum and other providers must be provided at Customer's sole expense.

11. CPNI: Information relating to Customer calling details ("Calling Details"), including the quantity, configuration, type, destination and amount of Communications Service usage by Customer, and information contained in Customer's bills (collectively, "Customer Proprietary Network Information" or "CPNI"), that is obtained by Spectrum pursuant to its provision of Communications Service will be protected by Spectrum as described herein, in the Privacy Policy and in accordance with applicable federal and state requirements. Notwithstanding the foregoing, the following shall not be CPNI: (i) Customer's directory listing information, and (ii) aggregated and/or compiled information that does not contain Customer-specific references, even if CPNI was used as a basis for such information.
  - a. Spectrum may use and disclose Calling Details and CPNI when required by applicable law. Spectrum may use Calling Details and CPNI and share (including via email) Calling Details and CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer; (ii) pursuant to applicable law; (iii) to protect the interests of Spectrum, Customer and related parties in preventing fraud, theft of services, abuse, harassment and misuse of telephone services; (iv) to protect the security and integrity of Spectrum Network systems; and (v) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.
  - b. Spectrum will obtain Customer's consent before using Calling Details or CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that Spectrum will not be liable for any losses or damages arising as a result of disclosure of Calling Details or CPNI in accordance with the terms of this Attachment.
  - c. Spectrum will respond to Customer requests for Customer Calling Details only in compliance with Spectrum's then-current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for Calling Details. Spectrum will notify Customer of any requests to change account passwords, activate online account access and change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account address of record.
  - d. Customer may identify a person or persons who are authorized to request Calling Details by executing an Agency Letter provided by Spectrum upon request. Customer is responsible for: (i) ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals identified in the Agency Letter. Spectrum will not be liable to Customer for any disclosure of Calling Details (including CPNI) that occurs if Spectrum has complied with the Agency Letter.
12. Directory Listings: Spectrum will facilitate the inclusion of its business customers in alphabetical white and yellow pages directories and/or electronic compilations, as requested and available in Spectrum's service area. These listings are intended as a resource for interested parties who can use them to find the telephone numbers of Spectrum customers who subscribe to Communications Services. Spectrum, in its sole discretion, may limit the length of any listing in a directory or electronic compilation by abbreviating the listing. Listings may be subject to additional rules and restrictions. Toll free and private number service may be available to Customer for an additional charge. A listing may be omitted from a directory or electronic compilation upon Customer's request.

IN THE EVENT THAT A MATERIAL ERROR OR OMISSION IN CUSTOMER'S DIRECTORY LISTING INFORMATION, REGARDLESS OF FORM, IS CAUSED BY SPECTRUM, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE A SERVICE CREDIT IN AN AMOUNT SET BY SPECTRUM'S THEN-CURRENT STANDARD POLICIES OR AS PRESCRIBED BY APPLICABLE REGULATORY REQUIREMENTS, IF ANY. SPECTRUM SHALL HAVE NO OTHER LIABILITY FOR ANY ERROR OR OMISSION IN ANY DIRECTORY LISTING INFORMATION.

13. Minute Packages: If a minutes of use ("MOU") package is exceeded, additional minutes will be charged at the standard domestic long distance rates listed at <http://enterprise.spectrum.com> (or successor URL).
14. Number Porting: Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location to Spectrum for use with Communications Services. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third-party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses the Spectrum Network, Customer shall remain bound by the terms of the Service Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers. Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in

advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider. Customer has no property right in telephone number(s) or any other call number designations associated with the Communication Services, and Spectrum may change such numbers as deemed necessary.

15. Call Redirect: If a PRI Service, SIP Trunking Service, or Hosted Communication Service Customer elects to redirect calls to an alternate number and if the receiving telephone number is charged as domestic long distance, charges will be applied against Customer's MOU package on the account or, if exceeded, at the applicable long distance rates.
16. Fiber Internet Access Bundles: If Customer purchases a discounted bundled offering from Spectrum including a SIP Trunking Service, PRI Service, or Hosted Communications Services combined with Spectrum Fiber Internet Access, Customer must have the SIP Trunking Service, PRI Service, or Hosted Communications Service installed and billing within four months after the provisioning and turn-up of the bundled data circuit. The monthly recurring charge will revert to the non-bundled rate for the installed service if Customer fails to accept both Services within this timeframe.
17. Unified Communications Service Data: Spectrum and any third-party service provider Spectrum uses to provide Unified Communications Services may use Customer data provided to such service provider in the course of the performance of the Unified Communications Services, including but not limited to any personal data of Customer's employees ("UCS Data"), other than content transmitted by the Unified Communications Services, to (a) communicate with Spectrum or Customer, and (b) administer and/or perform this Service Agreement, any Service Order, and/or any agreement between Spectrum and such third-party service provider. Spectrum and such service provider may access or disclose UCS Data and related information, to: (i) satisfy legal requirements, comply with the law or respond to subpoenas, warrants or court orders, or (ii) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Spectrum's or such service provider's employees, customers or the public.

**Attachment C**  
**Fiber Internet Access Service ("FIA Service")**

**Fiber Internet Access:** If Customer elects to receive the FIA Service, Spectrum shall provide Customer with a dedicated, scalable connection over a packet-based infrastructure with Internet service provider ("ISP") peering between Customer's data network identified in a Service Order and Spectrum's facilities.

FIA Service, or features of FIA Service, may not be available in all service areas. Spectrum's FIA Service is "On-Net" if it is provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with "Off-Net" services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third Party Services"). Third Party Services and Off-Net Services may be subject to additional terms and conditions.

Customer's use of the FIA Service is subject to the following additional terms and conditions:

1. **FIA Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the FIA Service selected by Customer on the Service Order, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
2. **Bandwidth Management.** Spectrum shall have the right, but not the obligation, to (a) monitor traffic on its Network; and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by Spectrum) as Spectrum deems appropriate to efficiently manage the Spectrum Network. If Customer purchases Multi-Path FIA Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path FIA Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) "Path" shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) "Multi-Path" shall mean FIA Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.
3. **Acceptable Use Policy.** Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at <http://enterprise.spectrum.com> (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the Spectrum AUP.

**Supplemental Managed Services.** This subsection shall only apply if Customer purchases Spectrum's supplemental "Managed Services." The Managed Services may include software, firmware, and hardware components supplied by Spectrum or third parties and may be subject to additional terms and conditions. Spectrum may update the Desktop Security Service (as described in Attachment E) from time-to-time based on manufacturer-provided updates. SPECTRUM DOES NOT WARRANT THAT THE SUPPLEMENTAL MANAGED SERVICES, INCLUDING ANY SECURITY SERVICES, WILL MEET CUSTOMER'S REQUIREMENTS, ENABLE CUSTOMER TO COMPLY WITH ANY APPLICABLE LAWS, REGULATIONS, OR THIRD PARTY REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE. CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO OR USE OF, WHETHER AUTHORIZED OR NOT, CUSTOMER'S OR ANY END USER'S EQUIPMENT OR ACCESS TO OR LOSS OF DATA, MATERIAL, OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL, OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

**Attachment D**  
**Ethernet Service ("Ethernet Service") and Cloud Connect ("Cloud Connect")**

**Ethernet Service:** Spectrum will provide Ethernet Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more Customer end-points under a unique customer topology. Spectrum will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge or network interface device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Ethernet Services are "On-Net" if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with "Off-Net" services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

**Cloud Connect Service:** Spectrum will provide a cloud connect service allowing Customer a private, layer 2 connectivity to cloud service providers (CSPs) through a cloud exchange via Spectrum Enterprise Ethernet Service. Therefore, all terms herein shall apply to the Cloud Connect Service in addition to the Ethernet Service.

Customer's use of Ethernet Service and, as applicable, Cloud Connect Service, is subject to the following additional terms and conditions:

1. Spectrum's provision of Ethernet and Cloud Connect Services is subject to availability.
2. Spectrum shall have the right to disconnect (or demand the immediate disconnection of) any Ethernet and/or Cloud Connect Service that degrades any service provided to other subscribers on the Spectrum Network. Spectrum shall have the right, but not the obligation, to (a) monitor traffic on the Spectrum network, in its sole discretion; and (b) monitor Customer's bandwidth utilization as Spectrum deems appropriate to efficiently manage its Network. If Customer purchases Multi-Path Ethernet Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path Ethernet Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) "Path" shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) "Multi-Path" shall mean Ethernet Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.
3. Customer shall not transmit or otherwise make available on or via the Ethernet or Cloud Connect Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, or that would constitute a criminal offense, give rise to civil liability or otherwise violate any law.
4. Customer shall permit Spectrum reasonable access to the Service Locations to inspect the Service Locations at periodic intervals as needed to verify Customer's compliance with this Service Agreement.
5. Customer's use of Ethernet Services is presumed by Spectrum to be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use "10% Rule" (47 C.F.R. 36.154, 4 FCC Rcd. 1352). It is Customer's sole responsibility to notify Spectrum if Customer's use of the Service is not jurisdictionally interstate pursuant to the 10% Rule and, so long as Customer's use of the Service remains not jurisdictionally interstate, Customer must certify at least annually that this condition remains in effect, using the form and format available upon request from Spectrum. If Customer fails to provide such certification or if the Customer's certification is inaccurate or invalid, Customer shall be liable for any resulting fees, fines, penalties and/or costs incurred by Spectrum. In addition, if Spectrum determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that Spectrum's provision of the Ethernet Services is likely to put Spectrum or its licenses, permits or business at risk, or otherwise cause financial, regulatory or operational problems for Spectrum, then Spectrum may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides Spectrum with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) Customer is otherwise brought into full compliance with any applicable laws and regulations. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Indemnified Parties against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by any Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Spectrum Indemnified Parties, to the full extent that such arise from or relate to any fees, fines or penalties incurred by Spectrum as a result of Customer's violation of the 10% Rule.

**Attachment E**  
**Spectrum Business High-Speed Internet Service**  
**("Internet Service")**

**Spectrum Business High-Speed Internet Service<sup>1</sup>:** Internet access service implemented using a hybrid fiber/coax ("HFC") or a fiber access network. Customer interface to the data network is via Ethernet connection. Internet Service enables a variety of upstream and downstream rates. If Customer elects to receive Internet Service, Spectrum shall provide connectivity from Customer site(s) to Customer's data network.

Certain Internet Services, or features of Internet Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third-Party Services"). Third Party Services may be subject to additional terms and conditions. Except to the limited extent described in this Attachment, Spectrum makes no warranties of any kind (express or implied) regarding Third-Party Services and hereby disclaims any and all warranties pertaining thereto (including implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose). Spectrum does not have title to and is not the manufacturer of any software or hardware components of any Third-Party Services nor is Spectrum the supplier of any components of such software or hardware. IN NO EVENT SHALL SPECTRUM BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY THIRD-PARTY SERVICES.

Customer's use of the Internet Service is subject to the following additional terms and conditions:

1. **Minimum Equipment Requirements.** Customer shall maintain certain minimum equipment and software to receive the Internet Service (see [www.business.spectrum.com](http://www.business.spectrum.com) for the current specifications). The minimum configuration standards may change, and Spectrum will make reasonable efforts to support previously acceptable configurations; however, Spectrum is not obligated to continue to provide such support. Spectrum may supply Spectrum Equipment such as modems, gateways, routers, or wireless cards, for a fee, to operate the Internet Service. Spectrum reserves the right to provide service only to users with Spectrum-approved equipment. Customer acknowledges that such Spectrum Equipment may require updates and/or changes to the software resident in the Spectrum Equipment and that Customer may be required to perform such updates and/or changes. Customer hereby authorizes Spectrum to perform updates or changes, on-site or remotely from time to time as Spectrum deems necessary, in Spectrum's sole discretion. Customer will not connect any equipment, other than equipment authorized by Spectrum, to the Spectrum Network. When Spectrum installs the Internet Service, Customer will need a network interface card or adapter providing an Ethernet connection. Alternatively, Customer may connect to a networking device (commonly referred to as a router or gateway).
- Software.** At the time of installation of the Internet Service, Spectrum may provide Customer with common Spectrum or third-party software (e.g., a browser and plug-ins) to enable and enhance the Internet Service, subject to the license terms and restrictions in the Spectrum Service Agreement. Customer hereby represents and warrants to Spectrum that Customer owns the operating system software and associated use/license rights thereto for the computers that are connected to the Spectrum Network.
3. **Internet Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the Internet Service selected by Customer, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
4. **Security.** Customer shall take commercially reasonable security measures when using the Internet Service and assumes sole responsibility for use of the Internet Service and for access to and use of Customer Equipment used in connection with the Internet Service and Spectrum Network.
5. **Electronic Addresses; Mailboxes.** All non-vanity email addresses, email account names, and IP addresses ("**Electronic Addresses**") provided by Spectrum (and not through Customer's domain) are the property of Spectrum. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.
  - a. **Mailboxes.** Spectrum owns any and all mailboxes associated with the Internet Service and may reclaim such mailboxes at any time for any reason. Spectrum may also limit the number of new email addresses available per account and the number of email messages that may be sent within a 24-hour time period. Spectrum may lock inactive mailboxes and prohibit the mailbox from receiving new email messages. Customer acknowledges that upon termination of Internet Service, Spectrum will suspend all accounts associated with the Internet Service and delete the contents of all mailboxes, if any. Deleted content cannot be recovered. Email addresses are not permanently retired and become eligible to be reused at Spectrum's sole discretion.
  - b. **Mail Storage.** In no event will Spectrum be responsible for maintaining, and Spectrum will not guarantee storage of, email for any period of time. Spectrum also reserves the right to enforce email storage limits.

<sup>1</sup> Customers that purchased Internet services from Time Warner Cable Business Class, Brighthouse Networks, or Charter before June 11, 2017 may continue to receive the same Internet service plan, features, and supplemental services at the same prices offered as of June 11, 2017 ("Legacy Services") until such time as Spectrum discontinues the Legacy Services by written notice to such Customers. If Customer elects to receive Spectrum Business Internet Services available as of June 11, 2017, then Customer will no longer be eligible to receive any Legacy Services, including, without limitation, any supplemental services or features that may not be available as part of the Spectrum Business Internet Services. Please contact your Spectrum sales representative for further information.

- c. **Cookies.** Customer may access their Spectrum email account at [www.spectrumbusiness.net](http://www.spectrumbusiness.net) or by using the Customer's software application (e.g., Outlook, Outlook Express, and Apple Mail). When accessing email at [www.spectrumbusiness.net](http://www.spectrumbusiness.net) Customer must have its Internet browser configured to accept cookies. Spectrum will notify the End User if the browser is not configured to accept cookies.
6. **Changes of Address.** Spectrum may change addressing schemes, including email and IP addresses provided by Spectrum.
7. **Acceptable Use Policy.** Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at [www.business.spectrum.com](http://www.business.spectrum.com) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP.
8. **Spectrum Business WiFi.** Spectrum Business WiFi supported by a Spectrum-provided wireless router is a service available to certain Customers and provides wireless access to the Internet Service within the Service Location ("WiFi Network"), for which Customer may be charged a fee consistent with Spectrum's then-current practices. Customer must purchase Spectrum Internet Service in order to receive Spectrum Business WiFi. The Spectrum-provided WiFi router comes programmed with certain default settings and configurations for the WiFi Network. Customer may modify the default settings and configurations on the Spectrum-provided WiFi router although Spectrum recommends maintaining the default configuration and settings. Spectrum does not guarantee the security of the Spectrum-provided WiFi router and Customer's connection to the Internet Service via the WiFi Network. Customer understands and agrees that Customer is solely responsible for the security of its WiFi Network and must enable and use encryption in order to access Spectrum-provided applications. Customer understands that this service is intended to be used by the Customer and its End Users and that Spectrum accepts no liabilities for any third-party usage.

The Spectrum-provided WiFi router will collect and maintain certain information regarding access to and use of the WiFi Network, which information shall include but not be limited to device identifiers, device name, device type, applications and protocols, connections, and traffic flows. Such information will be used by Spectrum to provide the Internet Service and support, as well as for Spectrum's internal business analytics regarding the use of the Internet Service. Customer acknowledges and agrees that Spectrum shall have access to the network name and password associated with the Spectrum-provided WiFi router in order to provide support and diagnostic services. Spectrum reserves the right to modify the WiFi network name and password for the Spectrum-provided WiFi router in order to safeguard Internet security, the security and privacy of Customer's information, where required by law, or for other good cause to provide, upgrade, and maintain the Internet Service, and protect the network, other users of the Internet, or our customers and subscribers. Abusive, vulgar, offensive, inappropriate or profane WiFi Network names are prohibited and may be modified in Spectrum's sole discretion. Customer acknowledges that the Spectrum-provided WiFi router is Spectrum Equipment.

9. **Spectrum Business WiFi Hotspot.** Spectrum reserves the right to preconfigure the Spectrum-provided WiFi router to distribute a wireless Internet access point (i.e., a Spectrum Business WiFi Hotspot, a "WiFi Hotspot") separate from the WiFi Network. Any use of bandwidth from such wireless access point by third parties will not be considered to be use by the Customer for any purpose. Customer shall have the right to disable such WiFi Hotspot, and shall not be responsible for the security of the WiFi Hotspot.
- a. To be eligible to receive the WiFi Hotspot, Customer must be receiving Spectrum Internet Service. Subject to the foregoing, Spectrum will, and Customer grants Spectrum permission to, attach, install, maintain, operate, and upgrade WiFi-related equipment, cables and devices ("WiFi Equipment") on and within the Service Location. The WiFi Equipment will be operated by Spectrum, at no cost to Customer, in order to provide the WiFi Hotspot at the Service Location(s). Customer agrees to provide a standard power source for operation of the WiFi Equipment.
- b. Customer's use of the WiFi Hotspot is subject to the following additional terms and conditions:
- The WiFi Hotspot made available at Service Location(s) may be accessed by Customer and its End Users through their Spectrum accounts for no additional charge.
  - To access the WiFi Hotspot, Customer and its End Users and patrons must have a WiFi-enabled device that meets the technical specifications for the WiFi Hotspot.
  - Customer grants Spectrum the right to advertise, market and otherwise promote Customer's location(s) as a WiFi Hotspot access point(s), in any and all forms of media now known or hereafter developed, in Spectrum's sole discretion, and Customer grants Spectrum a license to use Customer's names, trademarks and logos in connection with such advertising, marketing and promotion.
  - Customer will not be entitled to receive any refunds or credits should the WiFi Hotspot be interrupted or fail, regardless of the length of time during which the WiFi Hotspot is unavailable.
  - All WiFi Equipment constitutes Spectrum Equipment. Customer may not relocate or disconnect the WiFi Equipment.
10. **Hosting.** Spectrum will provide to Customer Hosting Service in accordance with the specifications associated with the plan Customer has selected (the "Hosting Service").
- a. **Hosting Software.** The Hosting Service will permit access to a variety of resources available from selected third parties, including developer tools, communication forums and product information (collectively, "Hosting Software"). The Hosting Software, including any updates, enhancements, new features, and/or the addition of any new Web properties, may be subject to and



Customer shall comply with applicable product use rights/end user license agreements between such third parties and Customer. Notwithstanding anything to the contrary in the Terms of Service, Spectrum (not the manufacturer) shall provide technical support for Hosting Service, except that version changes of any such software compatibility or suitability with any other Customer provided software shall be Customer's responsibility. Customer hereby consents to the disclosure to the provider of third-party software, of Customer's name and any other necessary information for the limited purpose of licensing rights.

- b. **Content Liability and Use Restrictions.** Spectrum exercises no control over the content of the information passing through Customer's site(s) and it is Customer's sole responsibility to ensure that Customer and Customer's End Users use of the Hosting Service complies at all times with all applicable laws and regulations and the AUP. Spectrum shall have the right to disclose any and all available information collected from Customer to law enforcement authorities upon written request by such authorities. Information that may be disclosed includes IP addresses, account history, and files stored on servers used to provide the Hosting Service. If Customer engages in any of the following prohibited activities or if Customer's use of the Hosting Service is causing an adverse impact on the Spectrum Network, Spectrum shall have the right to suspend or terminate the Hosting Services:
  - i. Customer shall not use Hosting Service for or in connection with any high risk use or activity such as aircraft or other modes of human mass transportation, nuclear, or chemical facilities, or Class III medical devices under the Federal Food, Drug, and Cosmetic Act.
  - ii. Copying or reproduction of the Hosting Software to any other server or location for further reproduction or redistribution is expressly prohibited, unless approved in writing by Spectrum.
  - iii. Hosting of unlicensed software.
  - iv. Use of software or files that contain computer viruses or files that may harm computers.
  - v. Any attempt or actual unauthorized access by Customer or through Customer Equipment to any Spectrum website or the website of any Spectrum customer.
  - vi. The collection or any attempt to collect personally identifiable information of any person or entity without his, her or its express written consent. Customer shall maintain records of any such written consent throughout the Term of this Service Agreement and for three years thereafter.
  - vii. Any action or inaction which is harmful or potentially harmful to the Spectrum server structure.
  - viii. Running a banner exchange, free adult thumbnail gallery post and/or free adult image galleries on Customer's website.
  - ix. Inclusion of sites with material, links, or resources for hacking, phreaking, viruses, or any type of site that promotes or participates in willful harm to Internet sites, users or providers.
- c. **Domain Names.** Customer shall be solely responsible for registering for or renewing a desired domain name. Spectrum does not guarantee that Customer will be able to register or renew a desired domain name.
- d. **Specification Limitations.** Individual websites may not at any time exceed the hosting specifications for the Internet Service. If Customer's hosting account exceeds the applicable specifications or is adversely impacting Spectrum's network or server(s), Spectrum may (i) contact Customer to resolve the issues; or (ii) suspend or terminate the Hosting Service if Customer has exceeded the then-applicable specifications in any given month.
- e. **Limitation of Spectrum-provided Services.** Certain services are not provided by Spectrum as part of the Hosting Service (e.g., Spectrum does not provide nor offer webpage creation, development, design or content services).
- f. **Impositions on Customer's End Users.** Customer is responsible for charging and collecting from its End Users any and all applicable taxes relating to use of the Customer site hosted by Spectrum. If Customer fails to impose and/or collect any tax from its End Users then, as between Spectrum and Customer, Customer shall be liable for such uncollected tax and any interest and penalty assessed thereon with respect to the uncollected tax. Customer shall indemnify and hold the Indemnified Parties harmless for any costs incurred or taxes or fees paid due to actions taken by the applicable taxing authority to collect any such tax from Spectrum due to Customer's failure to comply with this Section.

11. **Desktop Security Service.** Desktop Security Service is made up of software and hardware components. Spectrum is not the manufacturer or supplier of any software or hardware components of the Desktop Security Service. Spectrum shall update the Desktop Security Service from time-to-time based on manufacturer-provided updates.

12. **Cloud Backup Service.**

- a. Spectrum is not the manufacturer or supplier of any Cloud Backup Service software components. Customer shall be responsible for updating Cloud Backup Service from time-to-time based on updates provided by the software manufacturer, and any failure of Customer to perform such updates shall relieve Spectrum from any responsibility to ensure that Cloud Backup Service remains operational.
- b. Customer understands and acknowledges that (1) it is Customer's sole responsibility to create and retain the Cloud Backup Service password that is necessary for access to any data stored via the Cloud Backup Service and (2) Spectrum has no access to and does not know nor keep any record of the password created by Customer. Failure by Customer to retain Customer's Cloud Backup Service password shall result in complete loss of accessibility to data stored via the Cloud Backup Service.

**Attachment F**  
**Managed WiFi Service ("Managed WiFi Service")**

**Managed WiFi Service:** If Customer elects to receive Managed WiFi Service, Spectrum will provide a managed WiFi solution with wireless access points ("WAPs") deployed at the designated Service Location to enable designated users of the Customer's choice to wirelessly access the Internet as more specifically set forth in a Service Order. Managed WiFi Service, or certain features, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion.

Customer's use of the Managed WiFi Service is subject to the following additional terms and conditions:

1. WiFi Equipment. Spectrum will, and Customer grants Spectrum permission to, attach, install, maintain, operate and upgrade WiFi-related equipment, cables and devices on and within Customer's premises at the Service Location(s) identified in the applicable Service Order.
2. Internet Access. Spectrum may provide Managed WiFi Service to locations that use a centralized Internet access configuration where Spectrum will not be the primary Internet access provider if Customer purchases an Internet access Service for the sole purpose of providing Spectrum Enterprise out of bandwidth management ("OOB"). This OOB service would only provide connectivity to the Managed WiFi Service equipment (switches and controllers).
3. Connectivity to Local Area Networks. Configuration of the Managed WiFi Service will be as agreed in the WiFi questionnaire completed by the Parties. Managed WiFi Service may provide a separate SSID for employee Internet access if specified on the WiFi questionnaire. A second WLAN will be created on the wireless network with its own VLAN assigned. The aggregation switch will be configured to hand off an Ethernet Service port to Customer. In this scenario, network functions (DHCP and NAT, for example) may be handled by Customer's LAN. Customer will need to train and engage Customer's staff for all ongoing support issues. The Managed WiFi Service does not include support for connectivity to any device (printers, laptops, computers, routers, etc.).
4. Security Limitations. This Service does not include features such as: locked down access for the WAPs, single user name and logins for each WAP, logging, content filtering or intrusion detection systems. All Spectrum-authorized personnel and vendors will have access to log into the WAP devices on site. Spectrum is not responsible for security breaches that occur related to any SSIDs. Spectrum does not monitor the traffic on any SSIDs and Customer has the sole responsibility and obligation to monitor any traffic transmitted through use of the Managed WiFi Service to protect Customer's and any user data. Spectrum can provide a non-broadcast SSID if specified on the WiFi questionnaire.