

# **Attachment A**

## **Astound Master Services Agreement**

## MASTER SERVICES AGREEMENT FOR ENTERPRISE SERVICES – GOVERNMENTAL CUSTOMER

This Master Services Agreement for Enterprise Services (this “**MSA**”) is dated for reference purposes as of May 1, 2024, and is entered into as of the **Effective Date** (defined below), by and between ASTOUND BUSINESS SOLUTIONS, LLC, a Delaware limited liability company, acting on behalf of itself and as agent for its Affiliates (collectively, “**Provider**”), and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (“**Customer**”). For purposes of this MSA, the term “**Affiliate**” shall mean any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first person or any of its subsidiaries. Affiliates of Astound Business Solutions, LLC include, but are not limited to (i) RCN Telecom Services, LLC, (ii) Grande Communications Networks, LLC, and (iii) Wave Business Solutions, LLC. Each of Provider and Customer may be referred to in this MSA as a “**Party**” and together as the “**Parties**.”

### ARTICLE 1 – STRUCTURE OF AGREEMENT

1.1 Purpose of MSA. Provider and its Affiliates provide various facilities-based telecommunications services, including Ethernet transport, dedicated internet access, phone over fiber, dark fiber, and related services (as applicable, the “**Services**”). This MSA is neither an agreement to purchase nor a commitment to provide Services. The purpose of this MSA is to provide the general terms, conditions and framework within which Customer and its Affiliates may from time to time purchase Services from Provider and its Affiliates, pursuant to one or more “**Service Orders**,” as described in Section 1.2 below.

1.2 Service Orders. The purchase of Services shall be accomplished only through the negotiation and mutual execution and delivery of a Service Order memorializing the terms and conditions pursuant to which Provider shall provide the desired Services to Customer. Service Orders shall clearly specify the following: (i) the type of Service at issue (e.g., Internet access, data transport, VoIP, dark fiber, etc.); (ii) the location(s) at which the Service is to be provided (each, a “**Service Site**”); (iii) the initial term of the Service Order (the “**Initial Service Term**”); (iv) the pricing for the Service, including (a) the monthly recurring charges (“**MRC**”) for the Service, and (b) any non-recurring charges (“**NRC**”) associated with installation of the Service; and (v) any other terms or conditions specific to the particular Service Order. Each fully-executed Service Order shall be governed by and become part of this MSA, and this MSA together with all fully-executed Service Orders shall be collectively referred to as the “**Agreement**.” Depending on the location of the Service Site, in some instances Services may be provided by an Affiliate of Provider.

1.3 Additional Documents Comprising Agreement; Order of Precedence. If one or more Service Level Agreements are attached to this MSA as Exhibits (the “**SLA**”), the SLA constitutes a part of this MSA. Customer’s use of any Services purchased pursuant to the Agreement will also be governed by Provider’s Acceptable Use Policy for Commercial Services (the “**AUP**”) which is posted on Provider’s website at <http://www.astound.com/business/aup>. Additional provisions that are applicable only to specific types of Services are contained in Provider’s Service-Specific Terms and Conditions (the “**Service-Specific T&Cs**”) which is posted on Provider’s website at <http://www.astound.com/business/service-terms>. In the event of a conflict between the provisions of any of the foregoing documents, the documents shall have the following order of precedence unless expressly stated otherwise in a particular Service Order: (i) this MSA (including the SLA); (ii) the applicable Service Order; (iii) the AUP; and (iv) the Service-Specific T&Cs.

### ARTICLE 2 – TERM AND RENEWAL

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

2.2 Term of Service Orders. The Initial Service Term of each Service Order shall be as specified in the Service Order. Upon expiration of the Initial Service Term, unless either Party terminates the Service Order by giving written notice of termination to the other Party not less than thirty (30) days prior to the end of the Initial Service Term, this Service Order will begin to automatically renew on a month-to-month basis (the “**Renewal Term**”). During the Renewal Term, either Party may terminate this Service Order by giving no less than thirty (30) days’ advance written notice of termination to the other Party. Written notice of termination by Customer must be given to Provider by completing and submitting the online “Change of Service” form on the Astound Business Solutions website located at <http://www.astound.com/business/support/macd>. The total period of time a Service Order is in effect is referred to as the “**Service Term**” for the Service Order at issue.

### ARTICLE 3 – INSTALLATION, TESTING, ACCEPTANCE AND USE

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

3.2 Testing, Acceptance and Service Commencement Date. Provider shall use commercially reasonable efforts to install the Services consistent with Provider's usual and customary installation timeline, and shall endeavor to keep Customer regularly informed regarding installation progress. Provider shall notify Customer when a Service has been installed and is ready for testing and use. Customer may, at Customer's option, participate in Provider's final testing of the Service. For Services having a committed bandwidth, the committed information rate shall be measured at the Ethernet layer and includes the Ethernet frame itself. The Initial Service Term for the Service at issue shall commence on the date on which the Service has been installed, tested and is active and available for use by Customer (the "**Service Commencement Date**"). Customer shall have a period of five (5) business days after the Service Commencement Date in which Customer may notify Provider that the Service at issue is not functioning properly. If Customer notifies Provider of problems with a Service pursuant to this Section 3.2, Provider shall investigate and correct same and the Service Commencement Date shall be revised to be the first calendar day after the date on which Provider has corrected the problems. Unless Customer delivers notification of problems to Provider within the time period set forth above, Customer shall be deemed to have accepted the Service at issue and to have confirmed that the Service has been installed and is functioning properly as of the Service Commencement Date.

3.3 No Sub-Licensing; Non-Compete. Any Services provided to Customer pursuant to the Agreement are for the sole benefit of Customer. Customer shall not grant to any third party the right to use any of the Services, regardless of whether such grant were to take the form of a license, sublicense, lease, sublease, or any other form. Nor shall Customer use the Services for commercial purposes that are competitive with Provider's business (e.g., use the Services to sell Internet access services, point-to-point data transport services, VoIP services, etc., to third parties within Provider's service area).

### ARTICLE 4 – PAYMENT AND BILLING

4.1 Invoicing. All amounts owed by Customer to Provider under the Agreement shall be collectively referred to as "**Fees.**" Provider shall begin billing Customer for the MRC applicable to a Service as of the Service Commencement Date. Invoices shall be delivered monthly, and shall be paid by Customer within forty-five (45) days of receipt. Fixed Fees shall be billed in advance and usage-based Fees shall be billed in arrears. Fixed fees for any partial month shall be pro-rated. For Services having an NRC, unless otherwise stated in the Service Order, Provider shall invoice Customer for the NRC upon full-execution of the Service Order. Except for amounts disputed in good faith by Customer pursuant to Section 4.2 below, past due amounts shall bear interest in the amount of 1.5% per month, or the highest amount allowed by law, whichever is lower.

4.2 Disputed Invoices. If Customer in good faith disputes any portion of a Provider invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Provider regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a "**Fee Dispute Notice**"). A Fee Dispute Notice must be submitted to Provider within thirty (30) days from the date the invoice at issue is received by Customer. Customer waives the right to dispute any Fees not disputed within such thirty (30) day period. The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after Customer's delivery of the applicable Fee Dispute Notice.

4.3 Applicable Taxes. All charges for Services set forth in Service Orders are exclusive of Applicable Taxes (as defined below). Except for taxes based on Provider's net income or taxes for which Customer possesses a valid exemption certificate, Customer shall be responsible for payment of all applicable taxes and regulatory fees, however designated, that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, fees, assessments, duties, charges or surcharges, that are imposed on, incident to, or based upon the provision, sale, or use

of the Service(s) (collectively “**Applicable Taxes**”). The Applicable Taxes will be individually identified on invoices. If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Provider with a valid exemption certificate (in a form reasonably acceptable to Provider). Provider will give prospective effect to any valid exemption certificate provided in accordance with the preceding sentence.

#### **ARTICLE 5 – DEFAULT AND REMEDIES**

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

5.2 Remedies for Customer Default. In the event of a Default by Customer under the Agreement, Provider may, at its option: (i) suspend any applicable Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer’s on-going obligation to pay Provider all Fees and other amounts due under the Agreement as if such suspension of Services had not taken place); (ii) terminate the applicable Service(s) and/or the applicable Service Order(s); (iii) after the occurrence of any two Customer Defaults in any twelve (12) month period, terminate all Service Orders entered into with Customer; and/or (iv) pursue any other remedy available to Provider under the Agreement or applicable law. In the event of early termination for Customer Default pursuant to this Section 5.2, Customer shall pay to Provider the Termination Charge described in Section 6.3 below.

5.3 Provider Default. Each of the following shall constitute a Default by Provider under the Agreement: (i) if Provider fails to comply with any material provision of the Agreement other than provisions of the SLA, the failure by Provider to cure same within thirty (30) days of receiving written notice from Customer regarding such non-compliance; or (ii) Provider files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

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

#### **ARTICLE 6 – EARLY TERMINATION & PORTABILITY**

6.1 Early Termination for Non-Appropriation. Customer is a public entity subject to legislative appropriation requirements. As a general matter, Customer cannot legally be obligated to make payments for Services that are provided after the end of the fiscal period in which Customer executes a particular Service Order. In the event that, for any future fiscal period, sufficient funds are not appropriated or allocated for payment of any one or more Service Orders, Customer may terminate the Service Order at issue as a matter of public convenience as provided herein without incurring a Termination Charge or any other early termination fee. If and when Customer becomes aware that non-allocation of funds for the coming fiscal period appears likely, Customer shall use reasonable efforts to notify Provider of that possibility prior to the end of the then-current fiscal period. Once the non-appropriation decision has been made, Customer shall, as soon as reasonably practicable, deliver written notice of termination for non-appropriation to Provider specifying which Service or Services and/or which Service Order or Service Orders are being terminated for non-appropriation and the date on which such early termination shall occur. Customer shall remain obligated to pay for all Services delivered through the date of termination.

6.2 Early Termination for Customer Convenience. Customer may, at any time after executing a Service Order, discontinue one or more of the Services ordered and/or terminate the Service Order by giving at least thirty (30) days’ advance written notice to Provider by completing and submitting the online “Change of Service” form on the Astound Business Solutions website located

at <http://www.astound.com/business/support/macd>. Any early termination of a Service pursuant to this Section 6.2 shall be referred to as “**Termination for Customer Convenience.**” In the event of Termination for Customer Convenience, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

6.3 Early Termination for Default. In accordance with Article 5 above, either Party may elect to terminate one or more Service Orders prior to the scheduled expiration date in the event of an uncured Default by the other Party.

6.4 Termination Charge. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall pay a Termination Charge to Provider. The “**Termination Charge**” shall equal the sum of the following: (i) all unpaid amounts for Services actually provided prior to the termination date; (ii) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (iii) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services; and (iv) one hundred percent (100%) of all remaining MRCs Customer was to pay Provider for the Service during the remainder of the applicable Service Term. If incurred, the Termination Charge will be due and payable by Customer within thirty (30) days after the termination date of the Service at issue. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider’s actual damages and is not a penalty.

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

#### ARTICLE 7 – CONFIDENTIAL INFORMATION

7.1 Definition of Confidential Information. “**Confidential Information**” shall mean all information, including the Agreement, regarding the telecommunications needs of Customer and the Services that Provider offers under the Agreement which is disclosed by one Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), to the extent that such information is marked or identified as confidential or proprietary or would be reasonably deemed confidential or proprietary given the circumstances surrounding its disclosure. All written or oral pricing and contract proposals, as well as network maps or diagrams exchanged between the Parties shall be deemed Confidential Information, whether or not so designated. The fact that Customer is a customer of Provider shall not be deemed Confidential Information and may be freely disclosed by either Party. Information shall not be deemed Confidential Information if (i) it is independently developed by or for the Receiving Party, (ii) it is lawfully received by the Receiving Party free of any obligation to keep it confidential, (iii) it becomes generally available to the public other than by breach of the Agreement, or (iv) it was known to the Receiving Party prior to the Disclosing Party’s disclosure of same.

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

injunctive relief and any other available equitable remedies to enforce the provisions of this Article 7.

7.3 California Public Records Act. Notwithstanding anything to the contrary contained elsewhere in this Article 7, the Parties understand and acknowledge that Customer is a governmental entity, and that California law limits the ability of Customer to shield from public disclosure any information given to Customer. Accordingly, the Parties agree to work together to avoid disclosures to Customer by Provider of confidential information which would result in economic loss or damage to Provider if such information were to be disclosed to third persons by Customer pursuant to a request submitted under the California Public Records Act, California Government Code § 7920.000, *et seq.*, or other similar public disclosure law. In the event that Customer receives a request pursuant to the Public Records Act (or other similar law) to disclose information identified by Provider in writing as confidential, Customer's sole obligations to Provider shall be: (i) to promptly notify Provider; and (ii) to refrain from disclosing such records for a period of up to ten (10) business days to allow Provider an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. Customer will not be required to withhold requested records beyond the ten (10) business days unless it may do so based on good faith reliance upon an exception to disclosure under the Public Records Act, or unless Customer is ordered to withhold disclosure by the order of a court having competent jurisdiction. Customer may, but shall not be required, to join in any legal proceedings relating to the requested disclosure unless required to do so by the court. In the event that Provider initiates legal proceedings, or Customer initiates legal proceedings or withholds requested records at Provider's request, Provider shall indemnify and hold Customer harmless from and against all costs, attorneys' fees, expenses, liabilities, damages or other liabilities Customer may incur due to the legal proceedings initiated at and/or Customer's withholding of records at Provider's request. Customer shall not be liable to Provider for any loss, cost or expense relating to the disclosure of requested records if Provider fails to obtain legal protection against disclosure and Customer releases the records in good faith.

#### ARTICLE 8 – LIMITATION OF LIABILITY

8.1 General Limitations. Provider shall not be liable for any loss or damage occasioned by a Force Majeure Event. Except as expressly provided to the contrary elsewhere in the Agreement, Provider's aggregate liability for any and all causes and claims arising under the Agreement, whether based in contract, tort, warranty or otherwise shall be limited to the lesser of: (i) the actual direct damages sustained by Customer; or (ii) an amount equivalent to the total MRC received by Provider from Customer for the Service(s) at issue during the preceding twelve (12) month period.

8.2 Service Level Agreement. Should Provider fail, on any one or more occasions, to deliver any one or more Services to Customer in accordance with all of the terms and conditions contained in the applicable SLA, Customer's sole and exclusive remedy for such failure shall be as set forth in the SLA. No such failure shall be considered a Default by Provider under the Agreement.

8.3 No Special Damages. EXCEPT FOR (i) EACH PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7 ABOVE, (ii) EACH PARTY'S INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 9 BELOW, AND (iii) CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, ARISING OUT OF OR INCURRED IN CONNECTION WITH A PARTY'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, INCLUDING, BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF DATA OR COST OF PURCHASING REPLACEMENT SERVICES, EVEN IF THE OTHER PARTY HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH SPECIAL DAMAGES.

8.4 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, EITHER IN FACT OR BY OPERATION OF LAW, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY SERVICES PROVIDED PURSUANT TO THIS AGREEMENT.

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

#### ARTICLE 9 – INDEMNIFICATION FOR THIRD PARTY CLAIMS

9.1 Indemnification by Customer. Customer shall indemnify, defend and hold Provider and its members, managers, officers, agents and employees (collectively, the "**Provider Indemnified Parties**") harmless from and against any and all claims, lawsuits or

damages asserted against the Provider Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Customer's negligence or willful misconduct in exercising its rights or performing its obligations under the Agreement; (ii) Customer's noncompliance with or Default under the Agreement; and/or (iii) Customer's failure to comply with applicable law in connection with its performance under the Agreement.

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

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

#### **ARTICLE 10 – FORCE MAJEURE EVENTS**

Neither Party shall be liable for any delay in or failure of performance hereunder (other than Customer's payment obligations under Article 4) due to causes beyond such Party's reasonable control including, but not limited to, acts of God, fire, flood, earthquake, ice storms, wind storms, or other severe weather events, explosion, vandalism, cable cut, terrorist acts, insurrection, riots or other civil unrest, national or regional emergency, unavailability of rights-of-way, a governmental authority's failure to timely act, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority (each, a "**Force Majeure Event**"). If any Force Majeure Event causes an increase in the time required for performance of any of its duties or obligations, the affected Party shall be entitled to an equitable extension of time for completion. If the delay in performance caused by the Force Majeure Event exceeds thirty (30) days, either Party may terminate the Agreement or the applicable Service Order(s) immediately on written notice to the other Party, without incurring any liability in connection with such termination.

#### **ARTICLE 11 – DISPUTE RESOLUTION**

11.1 Good Faith Negotiations. Except for actions seeking a temporary restraining order or injunction, in the event any controversy, disagreement or dispute (each, a "**Dispute**") arises between the Parties in connection with this Agreement, the Parties shall use good faith efforts to resolve the Dispute through negotiation. In the event of a Dispute, either Party may give the other Party written notice of the Dispute (each, a "**Dispute Notice**"). The parties will meet and attempt to resolve the Dispute within sixty (60) days of the date on which the Dispute Notice is delivered. All discussions occurring and documents exchanged during negotiations under this Section are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation process. If the Parties do not resolve the Dispute within the sixty (60) day period, either of the Parties may pursue any remedy available to it under this Agreement, at law or in equity.

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

#### **ARTICLE 12 – ASSIGNMENT AND ASSUMPTION**

Except as otherwise provided in this Article 12, neither Party shall assign, delegate or otherwise transfer the Agreement or its obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the necessity of obtaining the other Party's consent, assign its interest in and to the

Agreement to: (i) any entity acquiring such Party, whether by merger or through purchase of substantially all the assets of such Party; (ii) a lender as an asset securing indebtedness; or (iii) an Affiliate of such party; provided, that in the event of a transfer to an Affiliate, the transferring Party shall continue to remain liable for the obligations under the Agreement.

#### ARTICLE 13 – NOTICES

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

**If to Provider:**

Astound Business Solutions, LLC  
650 College Road East, Suite 3100  
Princeton, NJ 08540  
ATTN: Business Solutions

**If to Customer:**

County of Santa Barbara  
105 E. Anapamu Street  
Santa Barbara, CA 93101  
ATTN: \_\_\_\_\_

**With a Copy to:**

Astound Business Solutions, LLC  
650 College Road East, Suite 3100  
Princeton, NJ 08540  
ATTN: Legal Department

**With a Copy to:**

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

#### ARTICLE 14 – REPRESENTATIONS AND COVENANTS

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

#### ARTICLE 15 – MISCELLANEOUS

15.1 Entire Agreement; Interpretation. The Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each Party. The Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of the Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties. If any provision of the Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of the Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect.

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

15.3 Relationship; No Third Party Beneficiaries. The Agreement is a commercial contract between Provider and Customer and the relationship between the Parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal- agent, employer-employee or joint venture relationship between the Parties or any of their Affiliates, agents or employees for any purpose. The Agreement is for the sole benefit of Provider and Customer and is not intended to confer any



rights on any other person; there are no third party beneficiaries of the Agreement.

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

- EXHIBIT A - Service Level Agreement for Lit Fiber Services
- EXHIBIT B - Service Level Agreement for Dark Fiber & Wavelength Services

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

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

*[Signatures on following page.]*

# Agreement for Services of Independent Contractor by and between the County of Santa Barbara and Astound Business Solutions, LLC

**IN WITNESS WHEREOF**, the Parties have executed this Agreement to be effective on the date executed by COUNTY ("Effective Date").

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Steve Lavagnino, Chair  
Board of Supervisors

Date: \_\_\_\_\_

**RECOMMENDED FOR APPROVAL:**

Chris Chirgwin, CIO  
Information Technology

**CONTRACTOR:**

Astound Business Solutions, LLC

DocuSigned by:  
*Chris Chirgwin*  
By: \_\_\_\_\_  
D97209A7A68A4A0...  
Department Head

DocuSigned by:  
*David Lampkin*  
By: \_\_\_\_\_  
519DA6B14AAA45A...  
Authorized Representative  
Name: David Lampkin  
Title: VP Business Solutions

**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

DocuSigned by:  
*Lauren Wideman*  
By: \_\_\_\_\_  
8F464D822C84458...  
Deputy County Counsel

DocuSigned by:  
*C. Edin*  
By: \_\_\_\_\_  
A99ED5BD71D04EB...  
Deputy

**APPROVED AS TO FORM:**

Risk Management

DocuSigned by:  
*Greg Milligan*  
By: \_\_\_\_\_  
05E555E00269466...  
Risk Management

**EXHIBIT A**  
to  
**Master Services Agreement for Enterprise Services**  
**Service Level Agreement for Lit Fiber Services**

This Service Level Agreement for Lit Fiber Services (this "SLA") is a part of the Master Services Agreement for Enterprise Services – Governmental Customer ("MSA") between Astound Business Solutions, LLC ("Astound") and Customer. Unless otherwise provided in the applicable Service Order, this SLA applies to the following types of lit fiber Services provided by Astound pursuant to the MSA: (a) dedicated Internet access services, (b) Ethernet transport services, and (c) voice services, including hosted voice.

**1. AVAILABILITY SLA**

Astound's Network is designed to provide a target **Availability of at least 99.99%** per month. If the Availability target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

Target Availability	Duration of Service Outage	Customer Credit as % of MRC for the applicable Circuit*
<b>99.99% Availability</b>	Less than 4 minutes 20 seconds	Target Met
	4 min. 20 sec. up to 2 hours	5%
	> 2 hour up to 6 hours	10%
	> 6 hours up to 12 hours	20%
	> 12 hours up to 24 hours	35%
	> 24 hours	50%

\*Customer credits for Unavailability are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

**2. MEAN TIME TO RESTORE ("MTTR") SLA**

In the event of Outages in Services due to failure or malfunction of the Astound Network or Astound Equipment, Astound's CNOc is designed to provide a **MTTR of 6 hours or less**. If the target MTTR is not met for a particular circuit in a given calendar month, and Customer receives a Service from Astound on the circuit at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

Target MTTR	Actual MTTR	Customer Credit as % of MRC for the applicable Circuit
<b>6 hr MTTR</b>	≤ 6 Hrs.	Target Met
	> 6 Hrs. to 10 Hrs.	5%
	> 10 Hrs. to 18 Hrs.	10%
	> 18 Hrs.	20%

**3. PACKET DELIVERY/PACKET LOSS SLA**

The Astound Network is designed to provide **no greater than 0.1% Packet Loss**. If the Packet Loss target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA. Customer credits for average monthly Packet Loss are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

Target Maximum Packet Loss	Actual Packet Loss (lower end – upper end)	Customer Credit as % of MRC for the applicable Circuit
<b>≤ 0.1% Packet Loss</b>	0% - 0.1%	Target Met
	> 0.1% - 0.4%	5%
	> 0.4% - 0.7%	10%
	> 0.7% - 1.0%	25%
	> 1.0%	50%

#### 4. LATENCY SLA

The Astound Network is designed to provide a monthly average one-way Latency not to exceed the following:

- For “Local Market” distances of ≤ 75 miles = 10 ms
- For “Inter-Market” distances of between 76 – 750 miles = 20 ms
- For “Long-Haul” distances of > 750 miles = 50 ms

If the applicable Latency target is not achieved in a given month and Astound does not remedy the problem within fifteen (15) calendar days from the date on which Customer opens a Trouble Ticket with the Astound CNOC regarding excessive Latency, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

Target Local Market Latency	Target Inter-Market Latency	Target Long-Haul Latency	Actual One-Way Latency (lower end - upper end)	Customer Credit as % of MRC for the applicable Circuit
<b>10 ms or less</b>	<b>20 ms or less</b>	<b>50 ms or less</b>	≤ Target Latency	Target Met
			> Target up to 8 ms over Target	5%
			> 8 ms up to 15 ms over Target	10%
			> 15 ms up to 20 ms over Target	25%
			> 20 ms over Target	50%

#### 5. NETWORK JITTER SLA

The Astound Backbone Network is designed to have a monthly average one-way Network Jitter not to exceed the following:

- For Local Market distances of ≤ 75 miles = 2 ms
- For Inter-Market distances of between 76 – 750 miles = 5 ms
- For Long-Haul distances of > 750 miles = 15 ms

If the applicable Network Jitter target is exceeded in a given calendar month, Customer will be entitled to a credit of 1/30<sup>th</sup> of the MRC of the affected circuit for that month for each full 1ms of Network Jitter above the Network Jitter target set forth above. Any such credit must be claimed as described in this SLA.

#### 6. CHRONIC OUTAGE

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different circuit/path for the Service and circuit/path that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the circuit/path that experienced the Chronic Outage without incurring any Termination Charge.

#### 7. DEFINITIONS

For purposes of this SLA the following terms shall have the meanings set forth below.

“Astound Backbone Network” means Astound’s core fiber backbone that connects Astound’s POPs and regional hubs.

“Astound’s Commercial Network Operations Center” or “Astound’s CNOC” means Astound’s commercial network operations center, which is staffed 24x7x365.

“Astound Network” means all equipment, facilities and infrastructure that Astound uses to provide Services to Customer, and includes Customer’s access port. The “Astound Network” does not include Customer owned or leased equipment (unless leased from Astound), or any portion of Customer’s local area network after the demarcation point for the Services provided by Astound.

“Availability” means the ability of Customer to exchange Ethernet packets with the Astound Network via Customer’s router port. Availability is measured in minutes of uptime over the calendar month during which the Services are Available:

$$\begin{array}{l} \% \text{ Availability} \\ \text{(per calendar month)} \end{array} = \frac{\text{(Total Minutes in Month – Total Minutes of Unavailability in Month)}}{\text{Total Minutes in Month}}$$

For Ethernet Transport Services and VoIP Services, Availability is calculated at the individual circuit level, between Astound’s Backbone Network and the Customer’s router port. For Dedicated Internet Access Services, Availability is calculated from the Customer’s router port through the Astound Network to the handoff point for the Internet. Dedicated Internet Access Service Availability does not include the availability of the Internet itself or any particular Internet resource. Periods of Excused Outage are not included in Availability metrics.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the same circuit during a given calendar month, each of which has an actual time to restore “TTR” in excess of Astound’s targeted MTTR.

“Emergency Maintenance” means Astound’s efforts to correct conditions on the Astound Network that are likely to cause a material disruption to or outage in services provided by Astound and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. Astound may undertake Emergency Maintenance at any time Astound deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond Astound’s reasonable control, such as, by way of example only, Force Majeure Events, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by Astound, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for Astound’s delivery of the Services to Customer.

“Jitter” or “Network Jitter” refers to a variation in the interval at which packets are received, also described as the variability in Latency as measured in the variability over time of the packet Latency across a network. Jitter is calculated as an aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Jitter metrics.

“Latency” means how much time it takes, measured in milliseconds, for a packet of data to get from one designated point on Astound’s Network to another designated point on Astound’s Network. Latency is calculated as an aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Latency metrics.

“Mean Time to Restore” or “MTTR” means the average time required to restore the Astound Network to a normally operating state in the event of an Outage. MTTR is calculated on a circuit basis, as a monthly average of the time it takes Astound to repair all Service Outages on the specific circuit. MTTR is measured from the time an Outage related Trouble Ticket is generated by the Astound CNOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\begin{array}{l} \text{MTTR in Hrs} \\ \text{(per calendar month)} \end{array} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage.

For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by Astound. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Packet Loss” means the unintentional discarding of data packets in a network when a device (e.g., switch, router, etc.) is overloaded and cannot accept any incoming data. Packet Loss is calculated as aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Packet Loss metrics.

“Scheduled Maintenance” means any maintenance of the portion of the Astound Network to which Customer’s router is connected that is performed during a standard maintenance window (1:00AM – 6:00AM Local Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the Astound CNOc upon notification of a Service-related problem. Trouble Tickets may be generated by Astound pursuant to its internal network monitoring process, or by Customer’s reporting of a problem to the Astound CNOc. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the Astound CNOc and open a Trouble Ticket regarding the problem; Trouble Tickets generated internally by Astound will not provide a basis for Customer credits or Chronic Outage remedies.

## 8. CLAIMING CREDITS AND REMEDIES

**8.1 Requesting SLA Related Credits and Chronic Outage Remedies.** To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be current in its financial obligations to Astound. Credits are exclusive of any applicable taxes charged to Customer or collected by Astound.

- (i) To claim SLA-related Service credits, Customer must do the following:
  - (a) Open a Trouble Ticket with the Astound CNOc within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);
  - (b) Submit a written request for the credit(s) to Customer’s account manager within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and
  - (c) Provide the following documentation when requesting the credit(s):
    - Customer name and contact information;
    - Trouble Ticket number(s);
    - Date and beginning/end time of the claimed Outage or failed SLA metric;
    - Circuit IDs for each pertinent circuit/path; and
    - Brief description of the characteristics of the claimed Outage or failed SLA metric.
- (ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:
  - (a) Open a Trouble Ticket regarding the Chronic Outage with the Astound CNOc within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;
  - (b) Submit a written request for a remedy regarding the Chronic Outage to Customer’s account manager within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and
  - (c) Provide the following documentation when requesting the remedy:
    - Customer name and contact information;
    - Type of remedy requested (e.g., substitution or termination);
    - Trouble Ticket numbers for each individual Outage event;
    - Date and beginning/end time of each of the claimed Outages;
    - Trouble Ticket number for the Chronic Outage at issue;
    - Circuit IDs for each pertinent circuit/path; and
    - Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or

Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer's sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

**8.2 Astound's Evaluation of Claims.** All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by Astound. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, Astound will evaluate the claim and respond to Customer within thirty (30) days. If Astound requires additional information in order to evaluate Customer's claim, Astound will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives Astound's request for additional information in which to provide the requested information to Astound. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. Astound will promptly notify Customer of Astound's resolution of each Customer claim. If Customer's claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer's claim for a credit is approved, Astound will issue the credit to Customer's account, to appear on the next monthly invoice. If Customer's claim for a Chronic Outage remedy is approved, Astound will notify Customer of the date on which the requested substitution or termination will occur. Astound's determination regarding whether or not an SLA has been violated shall be final.

**8.3 Limitations and Exclusions.** Total credits for any given calendar month shall not exceed 100% of the MRC for the affected Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) the acts or omissions of Customer, its agents, employees, contractors, or Customer's end users, including the failure of or refusal by Customer to reasonably cooperate with Astound in diagnosing and troubleshooting problems with the Services; (ii) scheduled Service alteration, maintenance or implementation; (iii) the failure or malfunction of network equipment or facilities not owned or controlled by Astound or Astound's Affiliates; (iv) Force Majeure Events; (v) Astound's inability (due to no fault of Astound) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; or (vi) Astound's inability to deliver Service by Customer's desired due date.

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**EXHIBIT B**  
to  
**Master Services Agreement for Enterprise Services**

**Service Level Agreement for Dark Fiber & Wavelength Services**

This Service Level Agreement for Dark Fiber & Wavelength Services (this "SLA") is a part of the Master Services Agreement for Enterprise Services – Governmental Customer ("MSA") between Astound Business Solutions, LLC ("Astound") and Customer. Unless otherwise provided in the applicable Service Order, this SLA applies to the following types of Services provided by Astound pursuant to the MSA: (i) dark fiber services, and (ii) wavelength services.

**1. AVAILABILITY SLA**

Astound's dark fiber paths and wavelengths are designed to provide a target Availability of **at least 99.9%** per calendar month. If the Availability target is not met with respect to a given dark fiber path or wavelength in a given calendar month, Customer will be entitled to a credit in the amount set forth below, which must be claimed as described in this SLA. Customer credits for Outages of dark fiber or wavelength Services are calculated on an individual path basis, and the amount of any credit is based on the portion of MRC allocable to the affected Service.

Duration of Unavailability	Customer Credit as % of MRC for the applicable Service
Less than 45 minutes	Target Met
45 Min. up to 8 hours	5%
> 8 hours up to 16 hours	10%
> 16 hours up to 24 hours	20%
> 24 hours	35%

**2. MEAN TIME TO RESTORE ("MTTR") SLA**

In the event of Outages in the Services, Astound's CNOC is designed to provide a MTTR of **no greater than 6 hours**. If the target MTTR is not met for a particular dark fiber path or wavelength in a given calendar month, and Customer receives a Service from Astound on the path at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

Target MTTR	Actual MTTR	Customer Credit as % of MRC for the applicable Service
<b>6 hr MTTR</b>	≤ 6 Hrs.	Target Met
	> 6 Hrs. to 10 Hrs.	5%
	> 10 Hrs. to 18 Hrs.	10%
	> 18 Hrs.	20%

**3. CHRONIC OUTAGE**

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different path for the Service that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the path that experienced the Chronic Outage without incurring any Termination Charge.

**4. DEFINITIONS**

For purposes of this SLA the following terms shall have the meanings set forth below.



“Astound’s Commercial Network Operations Center” or “Astound’s CNOC” means Astound’s commercial network operations center, which is staffed 24x7x365.

“Astound Network” means all equipment, facilities and infrastructure that Astound uses to provide Services to Customer, and includes Customer’s access port. The “Astound Network” does not include Customer owned or leased equipment (unless leased from Astound), or any portion of Customer’s local area network after the demarcation point for the Services provided by Astound.

“Availability” means the dark fibers or the wavelength at issue is available to and accessible by Customer at the specified locations, is capable of transmitting signals and can otherwise be used by Customer. Availability does not involve the quality of data transmission. Periods of Excused Outage are not included in the Availability metric. Astound does not monitor the use or availability of dark fiber or wavelength Services, thus any Outage must be reported to Astound by Customer.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the path during a given calendar month, each of which has an actual time to restore “TTR” in excess of Astound’s targeted MTTR.

“Emergency Maintenance” means Astound’s efforts to correct conditions on the Astound Network that are likely to cause a material disruption to or outage in Services provided by Astound and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. Astound may undertake Emergency Maintenance at any time Astound deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond Astound’s reasonable control, such as, by way of example only, Force Majeure Events, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by Astound, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for Astound’s delivery of the Services to Customer.

“Mean Time to Restore” or “MTTR” means the average time required to restore the Service(s) to a normally operating state in the event of an Outage. MTTR is calculated on a path/route basis, as a monthly average of the time it takes Astound to repair all Service Outages on the specific path/route. MTTR is measured from the time Customer opens an Outage related Trouble Ticket is with the Astound CNOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\text{MTTR in Hrs (per calendar month)} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by Astound. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Scheduled Maintenance” means any maintenance of the portion of the Astound Network to which Customer’s demarc is connected that is performed during a standard maintenance window (1:00AM – 6:00AM Local Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the Astound CNOC upon notification of a Service-related problem. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the Astound CNOC and open a Trouble Ticket regarding the problem.

## 5. CLAIMING CREDITS AND REMEDIES

**5.1 Requesting SLA Related Credits and Chronic Outage Remedies.** To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be current in its financial obligations to Astound. Credits are exclusive of any applicable

taxes charged to Customer or collected by Astound.

- (i) To claim SLA-related Service credits, Customer must do the following:
  - (a) Open a Trouble Ticket with the Astound CNOC within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);
  - (b) Submit a written request for the credit(s) to Customer's account manager within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and
  - (c) Provide the following documentation when requesting the credit(s):
    - Customer name and contact information;
    - Trouble Ticket number(s);
    - Date and beginning/end time of the claimed Outage or failed SLA metric;
    - Circuit IDs for each pertinent circuit/path; and
    - Brief description of the characteristics of the claimed Outage or failed SLA metric.
- (ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:
  - (a) Open a Trouble Ticket regarding the Chronic Outage with the Astound CNOC within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;
  - (b) Submit a written request for a remedy regarding the Chronic Outage to Customer's account manager within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and
  - (c) Provide the following documentation when requesting the remedy:
    - Customer name and contact information;
    - Type of remedy requested (e.g., substitution or termination);
    - Trouble Ticket numbers for each individual Outage event;
    - Date and beginning/end time of each of the claimed Outages;
    - Trouble Ticket number for the Chronic Outage at issue;
    - Circuit IDs for each pertinent circuit/path; and
    - Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer's sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

**5.2 Astound's Evaluation of Claims.** All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by Astound. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, Astound will evaluate the claim and respond to Customer within thirty (30) days. If Astound requires additional information in order to evaluate Customer's claim, Astound will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives Astound's request for additional information in which to provide the requested information to Astound. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. Astound will promptly notify Customer of Astound's resolution of each Customer claim. If Customer's claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer's claim for a credit is approved, Astound will issue the credit to Customer's account, to appear on the next monthly invoice. If Customer's claim for a Chronic Outage remedy is approved, Astound will notify Customer of the date on which the requested substitution or termination will occur. Astound's determination regarding whether or not an SLA has been violated shall be final.

**5.3 Limitations and Exclusions.** Total credits for any given calendar month shall not exceed 100% of the MRC for the affected Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) the acts or omissions of Customer, its agents, employees, contractors, or Customer's end users, including the failure of or refusal by

Customer to reasonably cooperate with Astound in diagnosing and troubleshooting problems with the Services; (ii) scheduled Service alteration, maintenance or implementation; (iii) the failure or malfunction of network equipment or facilities not owned or controlled by Astound or Astound's Affiliates; (iv) Force Majeure Events; (v) Astound's inability (due to no fault of Astound) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; or (vi) Astound's inability to deliver Service by Customer's desired due date.

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# **Astound Service Orders**



**Service Order**  
**OP395931**

This Service Order: OP395931 (this “Service Order”) is entered into as of the date of last signature below (the “Effective Date”), by and between ASTOUND BUSINESS SOLUTIONS, LLC, a Delaware limited liability company, acting on behalf of itself and as agent for its Affiliates (collectively, “Provider”), and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (“Customer”). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement for Enterprise Services – Governmental Customer dated for reference purposes as of May 1, 2024 (the “MSA”) executed separately between Provider and Customer. All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the MSA. Affiliates of Astound Business Solutions, LLC include, but are not limited to (i) RCN Telecom Services, LLC, (ii) Grande Communications Networks, LLC, and (iii) Wave Business Solutions, LLC.

CUSTOMER	DBA	CUSTOMER CONTACT NAME	CUSTOMER CONTACT INFO
County of Santa Barbara-ITD		Andre Monostori	Office: 805.568.2606 Mobile: 805.568.2606 Email: amonostori@countyofsb.org
CUSTOMER BILLING ADDRESS		ALTERNATIVE CUSTOMER CONTACT	ALTERNATIVE CUSTOMER CONTACT INFO
105 E. Anapamu St., Room 304- ITD Finance		Onelia Rodriguez	Mobile: 805.568.2699 Email: onrodriguez@countyofsb.org
CUSTOMER ACCOUNT NUMBER	SERVICE ORDER REFERENCE NUMBER		ACCOUNT SALES REP
0 -	OP395931		Lynn Cardoza - 301268

INITIAL SERVICE TERM	SEGMENT
60 months	Enterprise

Provider shall provide to Customer the services set forth below (each, a “Service”), at the location(s) set forth below (each, a “Service Site”), in exchange for the one-time, non-recurring installation charge (“NRC”), and the monthly recurring service charges (“MRC”) set forth below:

PRODUCT LINE ITEM	Z-LOC ADDRESS (PRIMARY)	Z-LOC DEMARC	A-LOC ADDRESS	A-LOC DEMARC	UNITS	MRC / UNIT	TOTAL MRC	NRC / UNIT	TOTAL NRC
EPL 10 Gb	115 Civic Center Plaza Lompoc, CA 93436	MPOE	2125 Centerpointe Pkwy Santa Maria, CA 93455	MPOE	1	\$3,000.00	\$3,000.00	\$0.00	\$0.00
<i>NOTE: If the Demarcation Point listed above for a Service Site is the MPOE, then Customer is responsible for providing any necessary demarc extension / additional inside wiring to reach the Customer’s premises/suite.</i>							<b>TOTALS</b>	<b>\$3,000.00</b>	<b>\$0.00</b>

Note: The charges listed above do not include applicable taxes, fees and surcharges.

**NOTES**

Termination Charge. For purposes of this Service Order, Section 6.4 of the MSA is deleted in its entirety and replaced with the following:

6.4 Termination Charge. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall pay a Termination Charge to Provider. The "Termination Charge" shall equal the sum of the following: (i) all unpaid amounts for Services actually provided prior to the termination date; (ii) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (iii) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services; and (iv) fifty percent (50%) of all remaining MRCs Customer was to pay Provider for the Service during the remainder of the applicable Service Term. If incurred, the Termination Charge will be due and payable by Customer within thirty (30) days after the termination date of the Service at issue. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider's actual damages and is not a penalty.

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

\_\_\_\_\_  
Authorized Customer Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

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

DocuSigned by:

*David Lampkin*

\_\_\_\_\_  
Authorized Provider Signature

David Lampkin

\_\_\_\_\_  
Printed Name

VP Business Solutions

\_\_\_\_\_  
Title

5/8/2024

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

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**Service Order**  
**OP396702**

This Service Order: OP396702 (this “Service Order”) is entered into as of the date of last signature below (the “Effective Date”), by and between ASTOUND BUSINESS SOLUTIONS, LLC, a Delaware limited liability company, acting on behalf of itself and as agent for its Affiliates (collectively, “Provider”), and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (“Customer”). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement for Enterprise Services – Governmental Customer dated for reference purposes as of May 1, 2024 (the “MSA”) executed separately between Provider and Customer. All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the MSA. Affiliates of Astound Business Solutions, LLC include, but are not limited to (i) RCN Telecom Services, LLC, (ii) Grande Communications Networks, LLC, and (iii) Wave Business Solutions, LLC.

CUSTOMER	DBA	CUSTOMER CONTACT NAME	CUSTOMER CONTACT INFO
County of Santa Barbara		Andre Monostori	Office: 805.568.2606 Mobile: 805.568.2606 Email: amonostori@countyofsb.org
CUSTOMER BILLING ADDRESS		ALTERNATIVE CUSTOMER CONTACT	ALTERNATIVE CUSTOMER CONTACT INFO
105 E. Anapamu St., Room 304 Santa Barbara, CA 93101-ITD Finance		Onelia Rodriguez	Mobile: 805.568.2699 Email: onrodriguez@countyofsb.org
CUSTOMER ACCOUNT NUMBER	SERVICE ORDER REFERENCE NUMBER		ACCOUNT SALES REP
48 - 103741301	OP396702		Debbie Albee - 043858

INITIAL SERVICE TERM	SEGMENT
60 months	Enterprise

Provider shall provide to Customer the services set forth below (each, a “Service”), at the location(s) set forth below (each, a “Service Site”), in exchange for the one-time, non-recurring installation charge (“NRC”), and the monthly recurring service charges (“MRC”) set forth below:

PRODUCT LINE ITEM	Z-LOC ADDRESS (PRIMARY)	Z-LOC DEMARC	A-LOC ADDRESS	A-LOC DEMARC	UNITS	MRC / UNIT	TOTAL MRC	NRC / UNIT	TOTAL NRC
DIA 1 Gb	2125 Centerpointe Pkwy Santa Maria, CA 93455	MPOE	N/A	N/A	1	\$1,100.00	\$1,100.00	\$0.00	\$0.00
Dark Fiber Strand	2125 Centerpointe Pkwy Santa Maria, CA 93455	Cust Prem	312 E Cook St , Santa Maria, CA 93454, USA	Cust Prem	2	\$400.00	\$800.00	\$0.00	\$0.00
Dark Fiber Strand	2125 Centerpointe Pkwy Santa Maria, CA 93455	Cust Prem	812 W Foster Rd , Santa Maria, CA 93455, USA	Cust Prem	2	\$400.00	\$800.00	\$0.00	\$0.00
<i>NOTE: If the Demarcation Point listed above for a Service Site is the MPOE, then Customer is responsible for providing any necessary demarc extension / additional inside wiring to reach the Customer’s premises/suite.</i>							<b>TOTALS</b>	<b>\$2,700.00</b>	<b>\$0.00</b>

Note: The charges listed above do not include applicable taxes, fees and surcharges.

**NOTES**

Termination Charge. For purposes of this Service Order, Section 6.4 of the MSA is deleted in its entirety and replaced with the following:

6.4 Termination Charge. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall pay a Termination Charge to Provider. The "Termination Charge" shall equal the sum of the following: (i) all unpaid amounts for Services actually provided prior to the termination date; (ii) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (iii) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services; and (iv) fifty percent (50%) of all remaining MRCs Customer was to pay Provider for the Service during the remainder of the applicable Service Term. If incurred, the Termination Charge will be due and payable by Customer within thirty (30) days after the termination date of the Service at issue. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider's actual damages and is not a penalty.

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

\_\_\_\_\_  
Authorized Customer Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

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

DocuSigned by:

*David Lampkin*

519DA6B14AA45A  
\_\_\_\_\_  
Authorized Provider Signature

David Lampkin

\_\_\_\_\_  
Printed Name

VP Business Solutions

\_\_\_\_\_  
Title

5/8/2024

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

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