

CENTREX SERVICE AGREEMENT

Agreement made this 17th day of August, 2005 by and between Ellensburg Telephone Company ("COMPANY"), a Washington corporation and Central Washington University, an institution of higher learning, ("CUSTOMER").

1. SCOPE OF AGREEMENT

1.1 COMPANY shall furnish Centrex service to CUSTOMER as described in Appendix A to this Agreement.

1.2 This Agreement applies only to the specified number of lines, system features, facilities and services at the locations and in the quantities set forth in Appendix A ("Centrex Services").

1.3 Centrex Services do not include (1) the installation or maintenance of any cable or inside wiring on CUSTOMER's side of a Demarcation Point established in accordance with the regulations of the Federal Communications Commission ("FCC") and COMPANY's Standard Operating Practices, or (2) the provision of any telephone sets or other CUSTOMER premises equipment. Service or equipment excluded by this subsection shall be provided by COMPANY or its affiliates under a separate contract.

1.4 Other services furnished to CUSTOMER by COMPANY are not covered by this Agreement. This Agreement shall not preclude negotiation of separate agreement(s) between Company and the CUSTOMER for additional telephone line features for residence unit service. Rates and charges for such services are in addition to those specified herein.

2. GOVERNING TARIFF

2.1 COMPANY's provision of intrastate services is subject to regulation by the applicable state public utilities commission. Except as expressly modified by the terms and conditions set forth in this Agreement, COMPANY's provision of the Centrex Services to the CUSTOMER are governed by the terms and conditions set forth in COMPANY's Tariff on file with the state public utilities commission. Said Tariff is incorporated herein by reference.

3. PAYMENT OBLIGATIONS

3.1 CUSTOMER's payment options and obligations for the Centrex Services are specified in Appendix B.

3.2 In addition to the rates and charges set forth in Appendix B, CUSTOMER shall pay any and all applicable federal, state and local regulatory usage fees or assessments pertaining to CUSTOMER's use of the Centrex Service and any other charges imposed on, required or allowed to be collected by COMPANY by any governmental agency or any existing, new or

increased charges by any carrier that affect COMPANY's costs in providing the Centrex Services to CUSTOMER.

3.3 Payment of all applicable sales and/or federal, state and local, sales, use and excise taxes or government mandated charges associated with the Centrex Services are the responsibility of the CUSTOMER.

4. **TERM OF AGREEMENT**

4.1 Subject to any required approvals of the state public utilities commission, this Agreement is effective on September 1, 2005 and will expire on August 31, 2007 with the option to renew for two (2) additional years on a yearly basis, at the agreement of both parties. The total term of the contract will not exceed four (4) years.

5. **TERMINATION LIABILITY**

5.1 Except as otherwise provided in this Agreement, the CUSTOMER may terminate this Agreement prior to the end of the term provided the CUSTOMER pays COMPANY a termination charge within thirty (30) days equal to the monthly recurring charge for the Centrex Services plus all other federal, state and local applicable charges, taxes, duties, levies or other similar charges times the number of months remaining on the original or renewal term.

5.2 CUSTOMER may terminate this Agreement without termination liability for a material breach by COMPANY, provided that COMPANY has failed to cure said breach within ninety (90) days after receiving written notice of the breach from CUSTOMER.

6. **DEFAULT**

CUSTOMER shall be in default ("Default") of this Agreement in the event: (a) CUSTOMER fails to timely pay any undisputed amount due hereunder; (b) CUSTOMER fails to timely pay any disputed amount due hereunder, upon resolution of the dispute in COMPANY's favor; (c) CUSTOMER becomes insolvent, makes an assignment for the benefit of creditors, files or has filed against it a petition of bankruptcy, and such proceeding is not dismissed within forty-five (45) calendar days; (d) CUSTOMER utilizes the Centrex Services for any unlawful purpose or any purpose other than that for which the Centrex Services were intended. In the event of a Default, CUSTOMER shall reimburse COMPANY for all costs (including reasonable attorneys' fees) associated with collecting and delinquent or outstanding payments. In the event of a Default, COMPANY may, subject to applicable state public utilities commission or FCC requirements, terminate this Agreement or cancel or suspend any Centrex Services provided hereunder. COMPANY may cancel or suspend any Centrex Services used in a manner which adversely affects COMPANY's facilities or service to others. CUSTOMER shall in any event be liable for all charges accrued as of the termination, cancellation or suspension date.

7. **LIMITATION OF LIABILITY**

7.1 The liability of COMPANY for damages arising out of mistakes, omissions, interruptions, delays or errors or defects in transmission occurring in the course of furnishing the Centrex Services and not caused by negligence of the CUSTOMER or any cause beyond COMPANY's control shall in no event exceed an amount equivalent to the proportionate charge to the CUSTOMER for the period of Centrex Services during which such mistakes, omissions, interruptions, delays or errors or defects in transmission occurs, based upon these factors being reported to COMPANY's Repair Department and allowance of 24 hours for repairs.

7.2 In no event shall COMPANY be liable for any damages arising out of mistakes, omissions, interruptions, delays or errors or defects caused by negligence of the CUSTOMER or due to any cause beyond COMPANY's control.

7.3 In no event shall COMPANY be liable for any defacement or damage to the CUSTOMER's premises resulting from the existence of COMPANY's instruments, apparatus and associated wire on such premises, or from the installation or removal thereof, when such defacement or damage is not the result of the negligence of COMPANY or its employees.

7.4 In no event shall COMPANY be liable for incidental, direct, special or consequential damages whatsoever, arising out of or related to the performance of the agreement.

7.5 This Section 7 shall not be interpreted to grant the CUSTOMER any greater protection or rights than contained in the COMPANY's tariff and any language that is interpreted to grant CUSTOMER greater protection or rights than contained in tariff shall be deemed to be superceded by such tariff.

8. INDEMNIFICATION

To the extent allowed by law, CUSTOMER shall indemnify and save COMPANY harmless against the following:

8.1 Any claim arising out of CUSTOMER's performance under this Agreement except when such claim arises through the fault or negligence of COMPANY.

8.2 Acts or omissions of other companies when their facilities are used in connection with COMPANY's facilities to provide Centrex Services.

8.3 Any accident, injury or death occasioned by its equipment or facilities, which such is not due to the negligence of COMPANY.

8.4 Claims for libel, slander or infringement or copyright arising from the material transmitted or recorded over its facilities; claims for infringement of patents arising from combining with, or using in connection with, facilities of COMPANY, apparatus and systems of the CUSTOMER; and

8.5 Against all other claims arising out of any act or omission of CUSTOMER in connection with facilities or Centrex Services provided by COMPANY.

9. **DISCLAIMER OF WARRANTY**

9.1 COMPANY MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE DESCRIPTION, COMPLETENESS, QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF ANY SERVICES PROVIDED HEREUNDER.

10. **FORCE MAJEURE**

10.1 Notwithstanding any other provision of this Agreement, neither COMPANY nor the CUSTOMER shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by Acts of God, acts of civil or military authority, government regulations, fire, flood, major environmental disturbance, power blackout, explosion, war, strike, embargo, riot, terrorist act, insurrection, earthquake, nuclear accident, unusually severe weather conditions or similar causes beyond the control of the party (collectively referred to as "Force Majeure Conditions"). If any Force Majeure Condition occurs, the party delayed or unable to perform shall give notice as soon as practicable to the other party. During the pendency of the force majeure, the duties of the Parties under this Agreement affected by the force majeure condition shall be abated and shall resume, without liability, within a reasonable time thereafter.

11. **NOTICES**

11.1 All notices required under this Agreement shall be sent by registered or certified mail, return receipt requested, and shall be addressed as follows:

COMPANY

Ellensburg Telephone
305 North Ruby Street
Ellensburg, WA 98926
509-925-1425

CUSTOMER

Central Washington University
Nancy Jackson, Manager Telecommunications
Services
400 E. University Way
Ellensburg, WA 98926-7437
509-963-3333

12. **MISCELLANEOUS**

12.1 This Agreement sets forth the entire understanding of the parties and supersedes all prior written and oral communications and agreements relating thereto.

12.2 No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

12.3 This Agreement may not be assigned by either party without the express written consent of the other, except that COMPANY may assign this Agreement to an affiliate on written notice to CUSTOMER.

12.4 This Agreement may be modified only by a written amendment duly signed by persons authorized to sign agreements on behalf of the parties.

12.5 This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Washington.

ADDITIONAL TERMS AND CONDITIONS

Telephone lines provided by COMPANY and billed to the University residence units shall be restricted from dialing 1+ (DDD) toll calls, as well as from accepting collect toll calls.

Residence unit telephone services are numbered within the range of 963-7000 through 963-9899. The COMPANY will reassign telephone numbers to specific rooms within established number ranges at the request of the CUSTOMER to assist with "harassment" or "threatening" caller situations. The COMPANY will notify the 911 administration of all such changes. The CUSTOMER will notify required campus agencies for directory or accounting updates.

CUSTOMER'S minimum commitment under this Agreement is for eighteen hundred forty-eight (1848) Centrex line equivalents in the form of seventy-seven (77) ISDN Centrex arrangements (twenty-four (24) lines per ISDN Centrex arrangement) as specified on Appendix B. Centrex line equivalents installed in excess of the eighteen-hundred forty-eight (1848) provided for in Appendix B will be billed on a pro-rate basis according to the rates provided in Appendix B. Additional Centrex line equivalents must be ordered and installed on the basis of twenty-four (24) line increments (i.e., one(1) ISDN Centrex arrangement).

Ownership and maintenance of cable from the COMPANY's central office to the residence units building entrance terminals will remain with the COMPANY.

Installation of telephone jacks or other telephone line outlets shall be provided by the CUSTOMER or continue to be provided to the University residence units by the COMPANY on a time and materials basis at the discretion of the CUSTOMER. The CUSTOMER will provide all necessary conduit, molding, or access, as well as, electrical service and distribution boxes for the installation of cable, distribution system, and service outlets. Rearrangement, malicious damage and replacement of missing parts identified above and cables shall be charged to the COUSTOMER on a time and materials basis.

It is further agreed COMPANY shall provide normal repair and maintenance of the system provided to University residence units, including routine maintenance to cable. COMPANY has CUSTOMER permission and approval to perform routine maintenance on COUSTOMER premises; however, all non-routine work within CUSTOMER's Auxiliary Services buildings must be cleared, coordinated and approved by the Auxiliary Services and all other work elsewhere on campus, both inside and outside of buildings, except on existing right-of-ways, must be cleared, coordinated, and approved by the Director of Facilities Management.

The CUSTOMER requires that the COMPANY provide the CUSTOMER with a certificate, binder, or policy of liability insurance to the CUSTOMER in an amount(s) specified below.

- A. Commercial General Liability – The COMPANY shall provide bodily injury and property damage on an occurrence basis with a limit of not less than \$1,000,000 per occurrence, and product liability to be additionally included with the same limit. The University shall be named as an additionally insured as related to this contract.

- B. Comprehensive Auto Liability – coverage for bodily injury and property damage shall be provided on an occurrence basis with limits of liability not less than \$1,000,000. Limits of \$1,000,000 stated above, may be a combination of underlying and excess liability coverage.
- C. Property Insurance – to cover all project equipment in the possession of the Company through acceptance of work as defined therein. At a minimum such property insurance shall cover losses due to theft and/or vandalism.
- D. Certifications of insurance shall be sent to and approved by Central Washington University, Business Services & Contracts, Barge Hall, Room 103, Ellensburg, WA. 98926.
- E. Cancellation/Reduction of Insurance – The COMPANY’S insurance company will notify in writing, Central Washington University Business Services and Contracts, 30 days in advance of the effective date of any reduction in or cancellation of any of the aforementioned insurances.

COMPANY shall perform all services as an independent contractor and it shall not be considered as an agent or agency of CUSTOMER or of any of its departments, divisions, or employees/

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed the day and year first above written.

Thomas P. Gorman
 By: THOMAS P. GORMAN
 Title: President
 Date: 8/17/05

CENTRAL WASHINGTON UNIVERSITY
 By: [Signature]
 Title: ASSOC. VP BUS. & FIN AFFAIRS
 Date: August 17, 2005

Approved as to Form:
 AG'S SIGNATURE ON FILE

Teresa C. Kulik, Senior Asst. Attorney General

Appendix A

DESCRIPTION OF CENTREX SERVICES

Minimum Initial Service Order

COMPANY will provide the CUSTOMER with Centrex Service to the buildings listed in Appendix C.

The Centrex Services consists of a minimum of 77 (seventy-seven) ISDN Centrex Arrangements or 1848 Centrex line equivalents (24 Centrex line equivalents per ISDN Centrex Arrangement).

Additional Main Station Lines (Growth)

Subject to the availability of existing facilities and subject to the limitations as stated hereinafter, additional ISDN Centrex Arrangements (i.e., in minimum quantity of twenty-four (24) Centrex line equivalents per location) may be added to existing and new system locations at rates and charges not to exceed the per ISDN Centrex Arrangement rates in Appendix B.

The Centrex Services provided pursuant to this Agreement includes the following features:

Centrex Features List

Centrex features included in the rates in Appendix B include Call Waiting, Cancel Call Waiting, Call Trace, 3 Way Calling, Call Transfer, Last Call Return, Continuous Redial & Caller ID.

Voice Mail

In addition, COMPANY will make available up to 100 COMPANY standard voice-mail boxes at the price set out on Appendix B.

Appendix B

RATES AND CHARGES

Centrex Services for Central Washington University

A. One Time Installation

Total \$ NA

B. Monthly Service Centrex Line Rates

Number of Features included 8
Number of ISDN Centrex Arrangements* 77

*1848 line equivalents at 24 line equivalents per ISDN Centrex arrangement

Monthly Charge Per Arrangement	\$195.00
<u>SLC Per Arrangement</u>	<u>\$ 46.00</u>
Total 77 (\$195.00 + \$46.00)	\$18,577.00

C. Voice Mail Boxes

Price per voice mail box per month \$4.00

D. Taxes & Fees

All applicable taxes and fees shall apply:

**County 911 Charge	\$.50
**State 911 Charge	\$.20
**Lifeline Charge	\$.13
**Hearing Impaired Charge	\$.14
** <u>FCC Universal Service Charge</u>	<u>\$.34</u>
Total	\$1.31

** Taxes and charges apply per Centrex line equivalent per month and are subject to change by the appropriate taxing or assessing authority.

Appendix C

Central Washington University Buildings with Centrex Services from EITel

Wilson
North
Stephens Whitney
Moore
Anderson
Barto
Beck
Hitchcock
Meisner
Davies
Quigley
Sparks
Courson
Muzzall
Munson
Campus Courts
Short Getz
Student Village
Kennedy
Green
Carmody Munro
Alford Montgomery
Wahle