

**INTERCONNECTION AGREEMENT**  
**BY AND BETWEEN**  
**PEND OREILLE TELEPHONE COMPANY**  
**AND**  
**ELTOPIA COMMUNICATIONS, LLC**

This Interconnection Agreement ("Agreement") is made effective as of the \_\_\_\_ day of \_\_\_\_\_, 2009 by and between Pend Oreille Telephone Company ("POTC"), a Washington corporation with offices at 892 West Madison Avenue, Glens Ferry, ID 83623 and Eltopia Communications, LLC ("Eltopia"), a Washington limited liability company with offices at 2304 Ringgold Road, Eltopia, WA 99330. POTC and Eltopia may also be referred to herein singularly as a "Party" or collectively as the "Parties."

## BACKGROUND

The Parties are entering into this Agreement under Section 251 (a) and (b) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996.

POTC represents that it is an incumbent local exchange carrier and Eltopia represents that it is a telecommunications carrier for purposes of this Agreement.

The Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services.

In consideration of the mutual obligations set forth below, the Parties agree to the following terms and conditions:

## AGREEMENT

In consideration of the mutual obligations set forth below, the Parties agree to the following terms and conditions:

1. Term of Agreement
  - 1.1. This Agreement is effective upon signature by both Parties and has an initial term of one year. Unless renegotiated or terminated pursuant to this Section 1, this Agreement will automatically renew for successive one year periods.
  - 1.2. Either Party may seek to terminate this Agreement by providing written notice to the other Party at least sixty (60) days but no more than one hundred eighty (180) days prior to expiration of the initial term or any succeeding term. If, after the date of such termination notice, either Party sends a request to negotiate a new agreement within thirty (30) days of the date of the termination notice, this Agreement will continue in full force and effect until such new Agreement is effective unless terminated under Section 1.3, below.
  - 1.3. Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party; *provided however*, that the non-defaulting Party notifies the defaulting party in writing of the alleged default and that

the defaulting Party does not cure the alleged default within sixty (60) calendar days of receipt of written notice thereof. Following the non-defaulting Party's notice to the defaulting Party of its default, the non-defaulting Party shall not be required to process new service orders until the default is timely cured. Default means any one or more of the following:

- (a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or
- (b) A Party's operating authority has been revoked by the Commission; or
- (c) A Party's refusal or failure in any material respect to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.

1.4 Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

## 2. Scope

- 2.1. This Agreement is for Interconnection, and the exchange of Traffic between Eltopia and POTC.
- 2.2. Nothing in this Agreement alters or otherwise affects in any manner the local calling areas or services offered by either Party to its End Users.
- 2.3. Eltopia represents that, in part, it provides service to its End Users through a fixed wireless technology. This Agreement expressly excludes the exchange of mobile wireless (CMRS)-to wireline or wireline-to-mobile wireless (CMRS) forms of Traffic.

## 3. Definitions

- 3.1. The following definitions will apply to all sections contained in this Agreement. Additional definitions that are specific to the matters covered in a particular section may appear in that section. Any term used in this Agreement that is not specifically defined shall have the meaning ascribed to such term in the Act. If no specific definition exists in the Act for a

specific term used in this Agreement, then normal usage in the telecommunications industry shall apply.

- 3.2. Act, as used in this Agreement, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.
- 3.3. Bill and Keep means that neither of the two interconnecting carriers charges the other for the transport and termination of Traffic originated by the other Party's End User.
- 3.4. Commission means the Washington Utilities and Transportation Commission.
- 3.5. EAS Traffic means two-way traffic that is exchanged between the Parties that falls within the definition of "EAS" as set forth in this agreement.
- 3.6. End User means the residential or business subscriber or other ultimate retail user of services provided by either of the Parties.
- 3.7. Extended Area Service ("EAS") means a service arrangement approved by the Commission whereby End Users in a specific local service exchange area are provided the ability to place and receive interexchange calls to End Users in another local service exchange area on the basis of terms, conditions and charges that are distinct from the terms applicable to message toll service. As used in this Agreement, EAS does not include VNXX traffic that originates or terminates outside of the Commission approved EAS route.
- 3.8. Interconnection is the linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic.
- 3.9. Interconnection Facility is the dedicated transport facility used to connect the two Parties' networks.
- 3.10. Internet Service Provider ("ISP")-Bound Traffic means traffic which terminates to a provider of Internet Services in the same local calling area as the calling party that originates the call.
- 3.11. Local Traffic means, regardless of the transport protocol that may be used, two-way telephone exchange traffic exchanged between the Parties that originates and terminates within the POTC's local calling area boundaries as established and defined by the Commission and includes any other traffic mandated by the Commission to be treated as EAS Traffic.

- 3.12 Point of Interconnection ("POI") means the physical location(s) at which the Parties' networks meet for the purpose of exchanging Traffic.
- 3.13 Telecommunications Service is as defined in 47 U.S.C. 153(46).
- 3.14 Traffic means telecommunications traffic that is Local Traffic, EAS Traffic, ISP-Bound Traffic, or VNXX Traffic.
- 3.15 VNXX Traffic means traffic that results from arrangements in which a carrier assigns a telephone number from a rate center in a local calling area different from the one where the customer is physically located. For the purposes of this agreement, VNXX traffic results when all of the following conditions hold: (a) the end user dials the call as a local number, (b) the calling and called end users are each assigned telephone numbers in Cusick, Ione, Metaline Falls, or Newport, and (c) at least one of the end users is physically located outside the local calling area to which the end user's number is assigned.

#### 4. Billing and Payments

- 4.1. The Parties will bill each other for all charges due on a monthly basis and all such charges, except those in dispute, are payable within thirty (30) days of the bill date but no less than twenty (20) days after receipt of the bill. Any undisputed amounts not paid when due accrue interest from the date such amounts were due at one percent (1%) per month, prorated to date of payment.
- 4.2. Billed amounts for which written, itemized disputes or claims have been filed are not due for payment until such disputes or claims have been resolved in accordance with the dispute resolution provisions of this Agreement; provided, however, that the undisputed portion of billed amounts on an invoice that is disputed in part shall be paid when due.
- 4.3. No Party shall bill the other Party for services rendered more than twelve (12) months prior to the date of billing.

#### 5. Audits

- 5.1. Either Party may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing and invoicing and to determine compliance with the terms of this Agreement.
- 5.2. Any audit will be performed as follows: (i) following at least thirty (30) business days' prior written notice to the audited Party; (ii) subject to the

reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

- 5.3. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) calendar days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such audit and are agreed to by the Parties.

## 6. Limitation of Liability

- 6.1. The Parties will limit liability in accordance with this Section.
- 6.2. The liability of one Party to the other Party for damages arising out of (i) failure to comply with a direction to install, restore or terminate facilities, or (ii) failures, mistakes, omissions, interruptions, delays, errors, or defects occurring in the course of furnishing any services, arrangements, or facilities hereunder shall be determined in accordance with the terms of the applicable tariff(s) of the providing Party. In the event no tariff(s) apply, the providing Party's liability shall not exceed an amount equal to the pro rata monthly charge for the period in which such failures, mistakes, omissions, interruptions, delays, errors, or defects occurred. Because of the mutual nature of the exchange of Traffic arrangement between the Parties pursuant to this Agreement, the Parties acknowledge that the amount of liability incurred under this Section may be zero.
- 6.3. Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for any indirect, incidental, punitive, special or consequential damages including but not limited to damages for lost profits or revenues, regardless of the form of action, whether in contract, warranty, strict liability, tort, including without limitation, negligence of any kind, or otherwise, even if the other Party has been advised of the possibility of such damages.
- 6.4. Neither Party shall be liable to the End User of the other Party in connection with its provision of services to the other Party under this Agreement. In the event of a dispute involving both Parties with a customer of one Party, both Parties shall assert the applicability of any limitations on liability to End Users that may be contained in either Party's applicable tariff(s) or applicable End User contracts.

6.5 Nothing in this Section shall be construed to limit the indemnification obligations under Section 8 or to limit a Party's liability for its intentional misconduct or gross negligence.

7. No Warranties.

7.1. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER SUBJECT TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

8. Indemnification

8.1. Each Party (the "Indemnifying Party") shall release, indemnify, defend and hold harmless the other Party ("Indemnified Party") from and against all losses, claims, demands, damages, expenses (including reasonable attorney's fees), suits or other actions, or any liability whatsoever related to the subject matter of this Agreement, (i) whether suffered, made, instituted, or asserted by any other party or person, relating to personal injury to or death of any person, or for loss, damage to, or destruction of real and/or personal property, whether or not owned by others, incurred during the term of this Agreement and to the extent proximately caused by the act(s) or omission(s) of the Indemnifying Party, regardless of the form of action, or (ii) whether suffered, made, instituted, or asserted by its own customer(s) against the other Party arising out of the other Party's provisioning of services to the Indemnifying Party under this Agreement, except to the extent caused by the gross negligence or intentional misconduct of the Indemnified Party, or (iii) arising out of the libel, slander, invasion of privacy, misappropriation of a name or likeness.

8.2. The Indemnified Party shall (i) notify the Indemnifying Party promptly in writing of any written claims, lawsuits, or demand by third parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section and (ii) tender the defense of such claim, lawsuit or demand to the Indemnifying Party, (iii) assert any and all provisions in its tariff or contracts that limit liability to third parties as a bar to any recovery by the third-party claimant in excess of such limitation. The Indemnified Party also shall cooperate in every reasonable manner with the defense or settlement of such claim, demand, or lawsuit. The Indemnifying Party shall keep the Indemnified Party reasonably and timely apprised of the status of the claim, demand or lawsuit. In no event

shall the Indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, delayed or conditioned. The Indemnified Party shall have the right to retain its own counsel, at its expense, and participate in but not direct the defense, except that if the Indemnifying Party does not promptly assume or diligently pursue the tendered action, then the Indemnified Party may proceed to defend or settle said action at the expense of the Indemnifying Party.

8.3. The Indemnifying Party shall not be liable under this Section for settlements or compromises by the Indemnified Party of any claim, demand, or lawsuit unless the Indemnifying Party has approved the settlement or compromise in advance, and such approval by the Indemnifying Party shall not be unreasonably withheld, delayed or conditioned, or unless the defense of the claim, demand, or lawsuit has been tendered to the Indemnifying Party in writing and the Indemnifying Party has failed to promptly undertake the defense.

8.4 Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision or use of any facilities by either Party under this Agreement constitutes direct or contributory infringement, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

## 9. Force Majeure

9.1. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation, acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power failure or blackouts. If performance of either Party's obligations is delayed under this Section, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delaying Party will perform its obligations at a performance level no less than that which it uses for its own operations.

## 10. Nondisclosure of Proprietary Information



10.1. It may be necessary for the Parties to exchange with each other certain confidential information during the term of this Agreement including, without limitation, technical and business plans, technical information, proposals, specifications, drawings, procedures, orders for services, usage information in any form, customer account data, call detail records, Customer Proprietary Network Information ("CPNI"), as that term is defined by the Act and the rules and regulations of the FCC, and similar information (collectively, "Confidential Information"). Confidential Information includes (i) all information delivered in written form and marked "confidential" or "proprietary" or bearing mark of similar import; (ii) oral information, if identified as confidential or proprietary at the time of disclosure and confirmed by written notification within ten (10) days of disclosure; and (iii) information derived by the Recipient (as hereinafter defined) from a Disclosing Party's (as hereinafter defined) usage of the Recipient's network. The Confidential Information will remain the property of the Disclosing Party and is proprietary to the Disclosing Party. Recipient will protect Confidential Information as the Recipient would protect its own proprietary information, including but not limited to protecting the Confidential Information from distribution, disclosure, or dissemination to anyone except employees or duly authorized agents of the Parties with a need to know such information and which the affected employees and agents shall be bound by the terms of this Section. Confidential Information will not be disclosed or used for any purpose other than to provide service as specified in this Agreement, or upon such other terms as may be agreed to by the Parties in writing. For purposes of this Section, the Disclosing Party means the entity disclosing of the Confidential Information, and the Recipient means the Party to whom Confidential Information is disclosed.

10.2. Recipient has no obligation to safeguard Confidential Information (i) which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party, (ii) after such information becomes publicly known or available through no breach of this Agreement by Recipient, (iii) after such information is rightfully acquired by Recipient free of restrictions of the Disclosing Party, or (iv) after it is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential information had not been previously disclosed. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all reasonable lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will cooperate with the Disclosing Party to obtain a protective order and to limit the

scope of such disclosure. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.

- 10.3. Each Party agrees that Disclosing Party would be irreparably injured by a breach of this Agreement by Recipient or its employees or agents and that Disclosing Party is entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of this paragraph. These remedies are not exclusive, but are in addition to all other remedies available at law or in equity.

11. Notices

- 11.1. Notice given by one Party to the other under this Agreement must be in writing and delivered by hand, overnight courier or pre-paid first class mail certified U.S mail, return receipt requested, and is effective when received and properly addressed to:

For Eltopia:

Will Lee MacHugh  
Vice President  
Eltopia Communications, LLC  
P.O. Box 240  
Eltopia, WA 99330  
509-266-4950

With a copy to (which alone shall not constitute notice):

Glenn Blackmon  
203 20<sup>th</sup> Ave SE  
Olympia, WA 98501  
360-556-7888

For POTC:

Attn: Mark Martell  
Pend Oreille Telephone Company  
892 West Madison Avenue  
Glenns Ferry, ID 83623  
208-366-2840

With a copy to (which alone shall not constitute notice):

Richard A. Finnigan  
Law Office of Richard A. Finnigan  
2112 Black Lake Blvd SW

Olympia, WA 98512  
360-956-7001

- 11.2. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other Party pursuant to this Section.

## 12. Dispute Resolution

- 12.1. If any matter is subject to a dispute between the Parties, the disputing Party will give written notice to the other Party of the dispute. Each Party to this Agreement will appoint a good faith representative to resolve any dispute arising under this Agreement.
- 12.2. If the Parties are unable to resolve the issues related to the dispute in the normal course of business within thirty (30) calendar days after delivery of notice of the dispute by the disputing Party to the other Party, the dispute shall be escalated to a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. If negotiations do not resolve the dispute, then either Party may proceed with any remedy available to it pursuant to law, equity, or agency mechanisms. Notwithstanding the above provisions, if the dispute arises from a service affecting issue, either Party may immediately seek any available remedy.
- 12.3. Each Party waives its right to a jury trial in any court action arising among the Parties under this Agreement or otherwise related to this Agreement, whether made by claim, counterclaim, third-party claim or otherwise. The agreement of each Party to waive its right to a jury trial will be binding on its successors and assigns.

## 13. Miscellaneous

- 13.1. Amendments. No amendment of this Agreement is valid unless it is in writing and signed by both Parties.
- 13.2. Independent Contractors. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party.
- 13.3. Taxes. Each Party is responsible for any and all taxes and surcharges arising from its conduct under this Agreement and shall, consistent with Section 8 indemnify and hold harmless the other Party for its failure to pay and/or report any applicable taxes and surcharges. Eltopia is not required to pay any tax or surcharge for which it provides an exemption certificate or other sufficient proof of exemption to POTC.

- 13.4. **Survival.** The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement survive the termination or expiration of this Agreement.
- 13.5. **Publicity.** Neither Party nor its subcontractors or agents will use the other Party's trademarks, service marks, logos, company name or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without the other Party's prior written consent.
- 13.6. **Captions.** Section headings are not to be construed as binding provisions of this Agreement; they are for the convenience of the Parties.
- 13.7. **Waiver.** Any failure on the part of a Party hereto to comply with any of its obligations, agreements or conditions hereunder may be waived by written documentation by the other Party to whom such compliance is owed. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver.
- 13.8. **No Third-Party Beneficiaries.** This Agreement does not provide any third party with any benefit, remedy, claim, right of action or other right.
- 13.9. **Governing Law.** To the extent not governed by, and construed in accordance with, the laws and regulations of the United States, including the FCC, this Agreement is governed by, and construed in accordance with, the laws and regulations of the state of Washington, without regard to its conflicts of laws principles.
- 13.10. **Severability.** If any part of this Agreement is held to be unenforceable or invalid in any respect under law or regulation, such unenforceability or invalidity will affect only the portion of the Agreement which is unenforceable or invalid. In all other respects this Agreement will stand as if the invalid provision had not been a part thereof, and the remainder of the Agreement remains in full force and effect, unless removal of that provision results in a material change to this Agreement. In such a case, the Parties shall negotiate in good faith to replace the unenforceable language with language that reflects the intent of the Parties as closely as possible. If replacement language cannot be agreed upon, either Party may request dispute resolution pursuant to Section 12.
- 13.11. **Assignment.** This Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. Any assignment or transfer (whether by operation of law or otherwise) by either Party of any right, obligation, or duty, in whole or in

part, or of any interest, without the written consent of the other Party will be void ab initio, provided however that consent will not be unreasonably withheld, conditioned or delayed. Consent is not required if assignment is to a corporate affiliate or an entity under common control or an entity acquiring all or substantially all of its assets or equity, whether by sale, merger, consolidation or otherwise or in connection with a financing transaction.

13.12 Construction. It is agreed and understood that both Parties negotiated the terms and conditions of this Agreement. This Agreement shall not be construed more favorably for one Party or the other.

#### 14. Interconnection

14.1 The Parties shall make available to each other Interconnection Facilities for the reciprocal exchange of Traffic. Any Interconnection Facilities provided by one Party to the other Party shall be a tariffed rate, or, if no applicable tariff exists, on an 'ICB' rate. The Interconnection Facilities provided pursuant to this Agreement shall be used by the Parties exclusively for the exchange of Traffic.

#### 14.2 Points of Interconnection

14.2.1 Unless the Parties agree to provide one way facilities, each Party will provision a two-way Interconnection Facility for the delivery of its Traffic to the other Party's network.

14.2.2 The Parties will establish a Point of Interconnection for the exchange of Traffic at an agreed point inside or adjacent to the public library at 208 Blackwell Street in the Ione Exchange. The facilities used as Interconnection Facilities will be initially a copper/metallic form of interconnection at the DS1 level. Each Party shall be responsible for its cost to reach the POI. The Ione POI will be used for the receipt and delivery of Traffic in the local calling area that includes the Ione and Metaline Falls rate centers. POTC has advised Eltopia that POTC is in the process of converting to a soft switch over the course of the next year. POTC has further advised Eltopia that upon installation of the soft switch, the equipment at the Ione rate center will no longer operate as a remote and that POTC is uncertain what effect that may have on the Ione POI. If, as a result of the switch conversion, POTC is no longer able to interconnect with Eltopia at the Ione POI, POTC will provide notice to Eltopia, and the Parties will negotiate in good faith the location of a replacement POI.

14.2.3 Each Party will deliver its Traffic to the POI, except as provided in 14.2.5 below.

14.2.4 Regardless of how one-way or two-way Interconnection Facilities are provisioned (e.g., owned, leased or obtained pursuant to tariff, etc.) each Party is individually responsible to provide facilities to the POI that are necessary for routing, transporting, measuring, and billing Traffic from the other Party's network and for delivering Traffic to the other Party's network in a mutually acceptable format and in a manner that neither destroys nor degrades the normal quality of service.

14.2.5 The Parties agree to continue an existing arrangement in which Traffic in the local calling area that includes the Cusick and Newport rate centers is exchanged using the existing EAS connection between POTC's Cusick switch and Verizon Northwest's Newport switch. Should either Party desire that such Traffic begin to be routed through the Ione POI or a new direct connection, the Parties agree to negotiate in good faith such an arrangement.

#### 14.3. Technical Requirements for Interconnection

14.3.1. The Parties agree to utilize SS7 Common Channel Signaling ("CCS") between their respective networks. Both Parties will provide CCS connectivity in accordance with accepted industry practice and standard technical specifications. For all Traffic exchanged, the Parties agree to cooperate with one another on the exchange of all appropriate unaltered CCS messages for call set-up, including without limitation ISDN User Part ("ISUP") and Transaction Capability User Part ("TCAP") messages to facilitate interoperability of CCS-based features and functions between their respective networks, including CLASS features and functions. All CCS signaling parameters, including, but not limited to the originating end user telephone number, will be provided by each Party in conjunction with all Traffic it exchanges to the extent required by industry standards. Each Party will transmit calling party number (CPN) as defined by FCC rules (47 C.F.R. 64.1601).

### 15. Compensation

#### 15.1. Interconnection Facilities

15.1.1. Compensation for Interconnection Facilities is separate and distinct from any transport and termination per minute of use charges or an otherwise agreed upon Bill and Keep arrangement.

15.2. Compensation for Transport and Termination of Traffic

15.2.1. The reciprocal compensation for the exchange of Traffic will be on a Bill and Keep basis.

15.3. Compensation for Toll Traffic

15.3.1. Compensation for the termination of toll traffic and the origination of 800 traffic between the Parties shall be based on applicable tariff access charges in accordance with FCC and Commission rules and regulations and consistent with the provisions of this Agreement.

15.3.2. Eltopia and POTC may provide jointly provisioned access to a third party interexchange carrier (IXC). Each Party will bill the IXC for the portion of jointly provisioned access service it provides to the IXC based on the Party's applicable tariff access charges.

16. Dialing Parity

16.1. Neither Party shall require its End User to dial more digits to call the other Party's End User than would be required to call any other End User within a given rate center.

17. Office Code Translations

17.1. It shall be the responsibility of each Party to program and update its own switches and network systems in accordance with the Local Exchange Routing Guide ("LERG") in order to recognize and route Traffic to the other Party's assigned NXX codes at all times.

17.2. Each Party will provide advance written notice to the other Party of any numbering resources obtained for use in Cusick, Ione, Metaline Falls, or Newport.

18. Local Number Portability

18.1. Local Number Portability (LNP) provides an End User the ability to retain its existing telephone number when changing from one telecommunications carrier to another.

18.2. The Parties recognize that some of the Traffic to be exchanged under this Agreement may be destined for telephone numbers that have been ported. The Parties shall provide LNP query, routing, and transport services in

accordance with orders, rules and regulations as prescribed by the FCC and the guidelines set forth by the North American Numbering Council ("NANC") which have been approved by the FCC.

- 18.3. When more than one carrier is involved in completing the call, the N-1 carrier has the responsibility to determine if a query is required, to launch the query, and to route the call to the appropriate switch or network in which the telephone number resides.
- 18.4. If a Party does not fulfill its N-1 carrier responsibility, the other Party shall perform queries on calls to telephone numbers with portable NXXs received from the N-1 carrier and route the call to the appropriate switch or network in which the telephone number resides. The N-1 carrier shall be responsible for payment of charges to the other Party for any queries, routing, and transport functions made on its behalf, including any reciprocal compensation assessed by the terminating carrier or transit charges assessed by a tandem provider.
- 18.5. The Parties will mutually provide LNP services to the extent required by law. LNP applies when an End User with an active account wishes to change carriers while retaining the telephone number or numbers associated with the account. LNP is also used with the provisioning of number pooling which the Parties will mutually provide in accordance with rules and regulations as prescribed by the appropriate regulatory bodies and using the industry guidelines set forth for number pooling.
- 18.6. Both Parties will cooperate to perform testing as specified in industry guidelines to ensure interoperability between networks and systems. Each Party shall inform the other Party of any system updates that may affect the other Party's network and each Party shall, at the other Party's request, perform tests to validate the operation of the network.
- 18.7. The Parties agree that Traffic will be routed via a Location Routing Number ("LRN") assigned in accordance with industry guidelines.
19. 911 Requirements / Master Street Address Guide (MSAG)
  - 19.1. Each Party or its agent shall provide initial and ongoing updates of that Party's End Users 911 Records that are in valid electronic format based upon established NENA standards.
  - 19.2. Each Party is solely responsible for the receipt and transmission of 911/E911 Traffic originated by it. The Parties acknowledge and affirm that calls to 911/E911 shall not ordinarily be routed over the interconnection trunk group(s) identified in and required under this Agreement.



20. Multiple Counterparts

20.1. This Agreement may be executed in counterparts and each of which shall be an original and all of which shall constitute one and the same instrument and such counterparts shall together constitute one and the same instrument.

21. Entire Agreement

21.1. This Agreement, including all attachments and subordinate documents attached hereto or referenced herein, all of which are incorporated by reference, constitute the entire matter, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter.

22. Fraud

22.1 Neither Party shall bear responsibility for, nor be required to make adjustments to the other Party's account in cases of fraud by the other Party's end-user customers or on the other Party's end-user customer accounts. The Parties agree to reasonably cooperate with each other to detect, investigate, and prevent fraud and to reasonably cooperate with law enforcement investigations concerning fraudulent use of the other Party's services or network.

23. Subsequent Law

23.1 The terms and conditions of this Agreement shall be subject to any and all applicable final, effective, unstayed laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed final, effective, unstayed law, rule, or regulation, the Parties agree to modify, in writing, the term(s) and condition(s) of this Agreement that are revised, modified or reversed by such final, effective, unstayed law, rule or regulation to bring them into compliance with such final, effective, unstayed law, rule, or regulation. Further, to the extent such final, effective, unstayed law, rule, or regulation allows one or both Parties the choice to operate, voluntarily, in a manner contrary to the current term(s) and condition(s) of this Agreement, the Parties agree to modify, in writing, the term(s) and condition(s) that are revised, modified or reversed by such final, effective, unstayed law, rule or regulation, should one or both Parties choose to avail themselves of such final, effective, unstayed law, rule, or regulation. The Dispute Resolution provisions of Section 12 shall govern any disputes arising out of or relating to such modifications.

To the extent that subsequent applicable final, effective, unstayed laws, rules or regulations of Federal, State or local governmental authority require modification or negotiation of one or more terms of this Agreement, the Parties agree to begin negotiating such terms within twenty (20) business days after such subsequent change. If negotiations fail within forty (40) business days thereafter, this matter shall proceed to the Dispute Resolution procedures of Section 12.

#### 24. Impairment of Service

- 24.1 The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to their plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").
- 24.2 If either Party causes an Impairment of Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to remedy promptly the Impairment of Service, then the Impaired Party may at its option temporarily discontinue the use of the affected circuit, facility or equipment until the circumstance or condition giving rise to the Impairment of Service is eliminated or otherwise resolved.

#### 25. Trouble Reporting

- 25.1 In order to facilitate trouble reporting, each Party has established a single point of contact available 24 hours per day, seven days per week, at telephone numbers to be provided by the Parties. Each Party shall call the other at these respective telephone numbers to report trouble with connection facilities, trunks, and other interconnection arrangements, to inquire as to the status of trouble ticket numbers in progress, and to escalate trouble resolution.
- 25.2 Before either Party reports a trouble condition, it must first use its reasonable efforts to isolate the trouble to the other Party's facilities,

service, and arrangements. Each Party will advise the other of any critical nature of the inoperative facilities, service, and arrangements and any need for expedited clearance of trouble. In cases where a Party has indicated the essential or critical need for restoration of the facilities, services or arrangements, the other Party shall use its best efforts to expedite the clearance of trouble.

26. Prohibited Practices

- 26.1 Neither Party shall use voice-over-Internet-protocol technologies to avoid the payment of applicable terminating or originating access charges. The applicable terminating or originating access charges shall be determined as interstate or intrastate based upon the location of the originating calling party and the terminating called party, with the exception of VNXX Traffic as authorized by this Agreement.
- 26.2 Neither Party shall deliver interexchange traffic on the same trunks that the Party uses to deliver Traffic to the other Party. All forms of Traffic may be commingled on a single trunk.
- 26.3 Neither Party shall deliver Traffic through access/toll tandems or over access/toll trunks, unless such use of access/toll facilities is authorized by the terms of the applicable interstate or intrastate tariff.

27. Reservation of Rights

- 27.1 Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within Washington for purposes of establishing direct and/or indirect connections for the exchange of Traffic between their respective end-user customers. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements, and/or matters related to POTC's cost recovery covered in this Agreement. Nothing in this Agreement shall be construed to constitute a precedent or an agreement of the Parties for use in any context other than this Agreement.

28. POTC Status

- 28.1 POTC is a "rural telephone company" as that term is defined in the Act, 47 U.S.C. 153. Pursuant to Section 251(f)(1) of the Act, POTC is exempt from Section 251(c) of the Act. Notwithstanding such exemption, POTC

has entered into and accepted this Agreement for purposes of exchanging Traffic as defined herein, with Eltopia. POTC's execution of this Agreement does not in any way constitute a waiver or limitation of POTC's rights under Section 251(f)(1) or 251(f)(2) of the Act. Accordingly, POTC expressly reserves the right to assert its right to an exemption or waiver and modification of Section 251(c) of the Act, in response to other requests for interconnection by Eltopia or any other carrier. Pursuant to Section 251(f)(1) of the Act, Eltopia expressly reserves the right to make a bona fide request for interconnection, services, or network elements and to seek the termination of POTC's rural exemption.

IN WITNESS WHEREOF, the Parties agree that the effective date of this Agreement is the date first written above, and each Party warrants that it has caused this Agreement to be signed and delivered by its duly authorized representative.

By: Eltopia Communications, LLC

By: Pend Oreille Telephone Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



\_\_\_\_\_  
Signature

Mark R. Martell

\_\_\_\_\_  
Typed or Printed Name

Administrative Manager

\_\_\_\_\_  
Title

May 6, 2009

\_\_\_\_\_  
Date

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By: Eltopia Communications, LLC

By: Pend Oreille Telephone Company

Will J. MacHugh  
Signature

\_\_\_\_\_  
Signature

Will L. MacHugh  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

Vice President  
Title

\_\_\_\_\_  
Title

5/10/09  
Date

\_\_\_\_\_  
Date