FACILITY USE AGREEMENT

This agreement is entered into between the City of North Bonneville, Washington (hereinafter "City"), and Gorge Networks LLC, (hereinafter "GorgeNet"). The City of North Bonneville agrees to permit the use of a designated portion of its facilities (property and premises) commonly described as the Head-End Building (166 East Cascade Drive, North Bonneville, Washington) and associated tower subject to the following terms and conditions.

1. Term. The term of this Agreement shall be for the period beginning on September 1 2020 and continuing for the term of the franchise granted by the City to GorgeNet. This Agreement shall automatically terminate on the effective date of the termination of the franchise for any reason by either party.

2. Rental Charge: GorgeNet shall pay the City a base lease rate of $100.00 per month, plus Washington State Leasehold Excise Tax as established by RCW 82.29A, for the non-exclusive use of the facilities, exclusive of utility charges. Payments will be due and payable on or before the 15th day of each month this Agreement is in effect. This rate shall be shall be increased (or unchanged in the event of a negative change) by a percentage equal to any positive annual percentage change in the Consumer Price Index for Urban Wage Earners most recently published by the Bureau of Labor Statistics of the United States Department of Labor ("CPI-U") prior to the commencement of the next year of the Lease Term (as applicable), as compared to the CPI prior to the Lease Commencement Date or most recent anniversary thereof. In the event of a negative CPI-U change, the Base Rent shall adjust only when the CPI-U increases above the year just prior to the first year in which there was a CPI-U decrease, and then only to the extent of that change. In no event will the Base Rent decrease. All lease rates will be plus Washington State Leasehold Excise Taxes as established by RCW Ch. 82.29A, due and payable, in advance, without demand.

3. Utilities. In addition to the base lease, above, GorgeNet shall pay for electric utility costs of the Head End building and Tower, which shall be prorated for each tenant using those facilities.

4. Right of Refusal. The City shall provide first right of refusal to GorgeNet of any purchase and sale of the Head End Building, Tower, and/or land.

5. Default. GorgeNet shall be considered in default of this agreement if GorgeNet fails to comply with any of its duties under this Agreement, including its duty to make a monthly payment when due, and such failure continues for 30 days after the City notifies GorgeNet in writing of such failure. In the event of a default, the City may at its sole discretion terminate this agreement and GorgeNet shall thereafter promptly remove all equipment from the premises.

6. Use Of Premises. GorgeNet shall enjoy non-exclusive use of the land and premises for the purpose of providing cable internet services, but shall enjoy exclusive use of one room

in the Head End building. The City shall provide a locking door to this room. Equipment necessary for the operation of the cable internet system may be installed at GorgeNet's expense with prior permission from the City. The parties recognize that GorgeNet's cable internet system equipment is sensitive, and requires both a clean, stable power supply and adequate temperature regulation within a certain range. GorgeNet accepts the premises in its current condition and agrees that the power supply and HVAC system and regulation are currently adequate for its purposes. Should another tenant occupy space in the premises, it must be located outside the space provided to GorgeNet. The City and/or tenant will be responsible for providing adequate power and HVAC systems so as to not degrade or adversely affect the existing power supply and room temperature controls currently in place for GorgeNet.

7. Alterations. GorgeNet may make alterations to the site only after the City has approved the plans and specifications of such alterations. The City shall not unreasonably withhold such approval.

8. Maintenance.

a) The City shall keep the exterior of the premises including the foundation, walls, and roof and all fixtures and appliances in good repair.

b) GorgeNet shall keep said premises in as good condition as it was at the time of the commencement of occupancy and use, reasonable wear and tear excepted.

c) GorgeNet shall ensure that any storage of heavy equipment (such as trenchers, backhoes, etc.) upon the premises is be maintained in a clean and orderly fashion.

d) GorgeNet shall properly dispose of rubbish, garbage and waste in a clean and sanitary manner and assume all costs of extermination and fumigation for infestation of pests.

e) GorgeNet shall properly use and operate all fixtures and appliances.

f) GorgeNet shall not destroy, deface, damage, impair or remove any part of the premises, its appurtenances, facilities, equipment, furniture, furnishings, or appliances, nor permit any other person to do so.

g) GorgeNet shall not permit any nuisance or waste upon the premises.

h) GorgeNet shall not make any alterations to the premises or do or cause to be done any painting or wallpapering without prior consent of the City.

i) GorgeNet shall not allow any lien or encumbrance to be attached to the property.

9. Access. The City shall have the right to enter the premises without notice at any time to inspect the property, make repairs or alterations, or to supply services.

10. Personal Property. GorgeNet hereby agrees that all equipment and fixtures installed or stored on the site by GorgeNet constitute personal property, not real property, and shall continue to be personal property of GorgeNet. GorgeNet's equipment and fixtures shall remain GorgeNet's personal property, free from any lien of the city, and shall not be considered fixtures to the site. GorgeNet shall at all times be authorized to remove its equipment and fixtures from the premises, provided that such removal is accomplished without damage to the premises site or interference to the City's or other lessee's business.

11. Assignment/ Subletting. GorgeNet may assign this Agreement or sublet the premise or any portion thereof with the City's prior written consent, which consent shall not be unreasonably withheld.

12. Previous Agreements. This agreement supersedes and replaces in its entirety all existing lease or facility use agreements between the City and GorgeNet, including the existing lease agreement of the tower. The parties hereby release one another from any and all liabilities or claims related to any prior leases or facility use agreements between them.

13. Damage or Destruction. In case the premises shall be destroyed or damaged by fire or other casualties so as to be unusable, either party may terminate this Agreement. The City shall have no liability by reason of loss, damage, inconvenience, or annoyance arising from the necessity of repairing any portion of the building or its appurtenances.

14. Insurance. The City may carry insurance on the premises and improvements as it deems proper, but it is specifically understood and agreed that GorgeNet must obtain and maintain in force insurance coverage on its use of the premises and shall provide copies of such policies for the City's review and approval upon request. The City should be identified as an additional named insured under such policies. GorgeNet shall be responsible for insurance coverage for any of GorgeNet's equipment and shall indemnify and hold the City harmless against any loss, theft or destruction of GorgeNet's equipment or other property.

15. Indemnity. Each party shall save the other harmless from any liability by reason of personal injuries or property damage caused by its negligence of its officers, employees, or agents, in, on or about the premises. The City's obligation hereunder shall not extend to any cause, claims, or actions, which arise from GorgeNet's own negligence or its failure to comply with any provision of this Agreement.

16. Termination and Surrender.

a. At the termination of this Agreement, GorgeNet will surrender its use of the premises peaceably and shall immediately remove all of GorgeNet's property from the premises.

b. If either party fails to comply with any covenant, term or condition of this Agreement, the other party may, in addition to any other remedy authorized by law, terminate this Agreement. Provided, however, that either party shall give the other written notice specifying the breach claimed and give the other:

   i. Three days to quit the property if the breach involves the committing or permitting of waste upon the property; setting up or carrying on any unlawful business on the property; or erecting suffering or

permitting or maintaining any nuisance on the property.

ii. Thirty days to remedy any other default.

17. Litigation. In the event of litigation to enforce any of the terms of this Agreement, the prevailing party shall be entitled to costs, including reasonable attorney fees, incurred by the other. This agreement shall be construed under the laws of the State of Washington. All actions to enforce this agreement or arising out of this agreement shall be commenced in the Superior Court of Skamania County, Washington.

18. Notices. All notices or correspondence to be served upon the City or GorgeNet by the other party shall be in writing and delivered by first class mail, postage prepaid or by facsimile or by a national express mail service. Notices or correspondence to the city shall be addressed as follows:

Mayor
City of North Bonneville
P.O. Box 7
North Bonneville, WA 98639

Notices or correspondence to GorgeNet shall be addressed as follows: Gorge

Gorge Networks LLC
Attn: Dan Bubb, President
PO Box 1107
Hood River, OR 97031

The City or GorgeNet may designate such other address or addresses from time to time by giving written notice to the other as set forth above.

IN WITNESS WHEREOF, this Agreement is entered into as of this 13th day of October, 2020.

Mayor	Gorge Networks LLC
_____	_____
ATTEST:	APPROVED AS TO FORM:
_____	_____
Clerk	Attorney