



MASTER PRODUCTS AND SERVICES AGREEMENT

CUSTOMER PROFILE	BILLING CONTACT
Legal Business Name: <u>City of Redondo Beach</u>	Name: <u>Nicholette Garcia</u>
Phone #: <u>310-372-1171</u>	Title: <u>Accounting Technician</u>
Fax #: <u>310-937-6601</u>	Company (if different): _____
Address: <u>415 Diamond Street</u>	Email: <u>APmail@redondo.org</u>
Suite/Unit/Floor: _____	Phone #: <u>310-318-0601</u>
City: <u>Redondo Beach</u>	Alt Phone #: _____
State: <u>CA</u> Zip/Postal Code: <u>90277</u>	Fax #: <u>310-937-6666</u>
Federal Tax ID or EIN: <u>95-6000767</u>	Address: <u>415 Diamond Street</u>
DUN & Bradstreet #: <u>074151986</u>	Suite/Unit/Floor: <u>Door 1</u>
# of Employees: <u>769</u>	City: <u>Redondo Beach</u>
Legal Structure: Sole Proprietorship Corporation Partnership LLC LLP	State: <u>CA</u> Zip/Postal Code: <u>90277</u>

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions together with all Supplements, Order Form(s), Exhibits and other addenda attached hereto from time to time constitute the **Master Products and Services Agreement** ("Agreement") which is effective as of the last date of execution below ("Effective Date") by and between Race Telecommunications, Inc.. ("Race"), a California corporation, and Customer. Race and Customer are collectively referred to as the "Parties" or individually as a "Party".

1. DEFINITIONS

"Commencement Date" means the date upon which Race begins to provide an ordered Product or Service as more fully described in the relevant Supplement or Order Form.

"Customer Location" refers to a location designated in an Order Form for connection to the Race Network.

"Race Network" means, collectively, the fiber optic network, system capacity and related facilities (including, without limitation, routers, switches and communication channels) owned or controlled by Race to the extent it applies to the Product or Service.

"Order Form" refers to any, mutually executed, product order ("Product Order"), service order ("Service Order"), estimate ("Estimate"), or statement of work ("Statement of Work") to these General Terms and Conditions and respective Supplement, detailing the Products or Services, the Term, Customer charges, the estimated Commencement Date and any other relevant terms agreed upon by the Parties.

"Products or Services" means the products or services provided by Race (including, without limitation, Leased Fiber, In-Building Fiber, Co-location, Bandwidth, Managed Services, Voice Services and Capacity) to Customer.

"Supplement" means a fully executed supplement to these General Terms and Conditions each containing additional terms and conditions that govern the related Products or Services provided by Race.

"Term" means the period of time in which Race provides Products or Services to Customer pursuant to an Order Form and any renewals thereto.

2. STRUCTURE OF AGREEMENT

From time to time, the Parties will execute one or more Supplement(s) and Order Forms for Race to provide Products or Services, each of which is automatically incorporated into this Agreement and subject to these General Terms and Conditions.

3. INVOICING AND PAYMENT

3.1. Installation Charge. If a non-recurring installation charge or setup fee ("Installation Charge") is specified in an Order Form, Race will invoice

Customer for the same upon the effective date of the Order Form ("Order Form Effective Date"), and unless otherwise specified in the applicable Order Form, Customer will pay such invoice within forty-five days of Customer's receipt of the Order Form.

3.2. Recurring Charge. If a recurring charge ("Recurring Charge") (e.g. Monthly Charge, Quarterly Charge, Annual Charge, etc.) is specified in an Order Form, Race will invoice Customer for and Customer will pay the Recurring Charge in advance for each period upon receipt of such invoice. Race will begin to invoice the Recurring Charge on the Commencement Date. Invoices for partial months will be pro-rated. Multiple types of Recurring Charge may be set forth in the Order Form.

3.3. Prepayment. Any prepayment ("Prepayment") specified in an Order Form, is payable within forty-five days of Customer's receipt of the Order Form. If a Prepayment is for a portion of a Term, the amount of such Prepayment will be applied as a credit to the final Recurring Charges at the end of such Term.

3.4. Additional Charges. If applicable, Race will invoice Customer and Customer will pay invoices for any additional charges for Products or Services which are specified in an Order Form.

3.5. Applicable Taxes. Race will invoice Customer and Customer will pay any and all applicable taxes ("Applicable Taxes") as more fully described in Section 4, below, with respect to specific Customer charges.

3.6. Late Payments. All invoices must be paid in accordance with their terms without setoff or deduction or services will be subject to interruption until payment is made in full.

3.7. U.S. Dollars. Unless otherwise specified on an Order Form, all payments must be made by Customer to Race in U.S. dollars.

4. APPLICABLE TAXES

4.1. Applicable Taxes. In addition to other amounts due hereunder, Customer shall be responsible for paying all Applicable Taxes. "Applicable Taxes" means all taxes, levies, fees, imposts, duties, charges, surcharges, assessments or withholdings of any kind or nature levied or imposed upon Race or Customer, arising from or relating to the provision by Race of the Services to Customer (including, without limitation, sales, excise taxes, universal service fees, any other FCC or state PUC fees, and any state or local utility or telecommunications taxes), together with any penalties, fines or interest (resulting from Customer's failure to pay Applicable Taxes hereunder after being invoiced for such) by any U.S. federal, state, provincial or local government, public authority, including its agencies, commissions and tribunals, or their designated agents, having jurisdiction

over this transaction. Customer shall not be responsible for and Applicable Taxes shall not include taxes on the property or income of Race.

4.2. Notwithstanding the foregoing, Customer may provide Race with a certificate evidencing Customer's exemption from payment of or liability for any Applicable Taxes.

5. TERM

5.1. This Agreement commences on the Effective Date, and continues through the latest expiration of all Order Form Term(s) subject to this Agreement, unless earlier terminated as provided herein.

5.2. The Term for each Order Form begins on the Commencement Date of the related Product or Service and remains in effect until the expiration of the initial period so specified. Upon expiration of the initial term, and provided that no type of Recurring Charge is fully prepaid, each Order Form will automatically renew for additional periods of one (1) year unless one Party provides the other written notice that it is terminating such Order Form not less than sixty (60) days' prior to the end of the Term then in effect.

5.3. If any order form is terminated by either party anytime after the start of service but prior to the expiration of the term provided herein, RACE shall be entitled to recover any installation and sign-up charges conditionally waived by RACE as noted on the Service Order and be liable on a prorated basis for any waived nonrecurring charges plus the total monthly charges for the unexpired portion of the service.

6. DEFAULT

The following events are "Events of Default", the occurrence of which gives the non-defaulting Party the right to terminate the affected Order Form(s), or the entire Agreement for a nonpayment default, by written notice following the expiration of any stated cure periods and pursue its remedies under the Agreement:

- a. Customer fails to fully pay any of the payments (including Early Termination Charges) required hereunder within thirty (30) days after receipt of written notice of such failure; or
- b. Except as provided in clause (a), above, the breach of any material term or condition of this Agreement (including Order Forms) and such breach remains uncured thirty (30) days after delivery to the breaching Party of written notice of such breach. If the breach is of a nature or involves circumstances reasonably requiring more than thirty (30) days to cure, the time period may be extended provided the breaching Party proceeds diligently to cure the breach;

7. REPRESENTATIONS AND WARRANTIES

7.1. Race warrants that any Products and Services to be provided to Customer will be at a professional level of quality conforming to generally accepted industry standards and in compliance in all material respects with all applicable laws and regulations. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, RACE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7.2. Each Party represents and warrants to the other that (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization, (ii) it has all requisite power and authority to enter into and perform its obligations under this Agreement and all Order Forms, (iii) it will comply with all applicable federal, state and local laws, statutes, rules and regulations in connection with the provision and use of the Products and Services and (iv) this Agreement and all Order Forms, when executed, are the legal, valid and binding obligation of such Party.

7.3. Customer acknowledges that Race has no ability to determine whether the communications traffic carried by the Products or Services utilizing the Race Network is jurisdictionally interstate or intrastate. Customer represents and warrants that the communications traffic to be carried by the Race Network shall be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed-use "10% Rule" (47 CFR 36.154, 4 FCC Rcd. 1352), unless Customer provides Race written notice otherwise. In either case, Customer will pay all relevant FCC and state Public Utilities Commission taxes and fees.

8. LIMITATION OF LIABILITY; INDEMNIFICATION

8.1. THE TOTAL LIABILITY OF EITHER PARTY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH AN ORDER FORM (EXCLUDING EARLY TERMINATION CHARGES (AS DEFINED IN THE RELATED SUPPLEMENT)) IS LIMITED TO AN AMOUNT EQUAL TO THE TOTAL CHARGES PAYABLE BY CUSTOMER DURING THE TERM SET FORTH THEREIN. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT

LIMITATION, LOSS OF PROFITS, REVENUE OR LOST BUSINESS OPPORTUNITIES (WHETHER ARISING OUT OF TRANSMISSION INTERRUPTIONS OR PROBLEMS, ANY INTERRUPTION OR DEGRADATION OF SERVICE OR OTHERWISE), WHETHER FORESEEABLE OR NOT, EVEN IF A PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF THE DAMAGE AND EVEN IF A PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT. THE LIMITATIONS SET FORTH IN THIS SECTION WILL APPLY TO CLAIMS OF CUSTOMER, WHETHER OCCASIONED BY ANY CONSTRUCTION, INSTALLATIONS, RELOCATIONS, SERVICE, REPAIR OR MAINTENANCE PERFORMED BY, OR FAILED TO BE PERFORMED BY RACE, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR STRICT LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF DATA OR TECHNOLOGY.

8.2. Race agrees to indemnify, defend and hold Customer, its officers, directors, employees, agents and contractors harmless from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees and expenses) by reason of any claims or actions by third parties against Customer for (i) bodily injury or death, and damage, loss or destruction of any real or tangible personal property, which third party claims arise out of or relate to Race's negligence, gross negligence, or willful misconduct or (ii) infringement or misappropriation by Race of any intellectual property rights under this Agreement.

8.3. Customer agrees to indemnify, defend and hold Race, its officers, directors, employees, agents and contractors harmless from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees and expenses) by reason of any claims or actions by third parties against Race for (i) bodily injury or death or damage, loss or destruction of any real or tangible personal property, which third party claims arise out of or relate to Customer's gross negligence or willful misconduct, (ii) infringement or misappropriation by Customer of any intellectual property rights under this Agreement, or (iii) Customer's or its customer's use of the Products or Services, including without limitation, defamation, libel, slander, obscenity, pornography, or violation of the rights of privacy or publicity, or spamming or any other tortuous or illegal conduct.

9. CONFIDENTIALITY; PUBLICITY

9.1. Confidentiality. Purposely Removed.

9.2. Publicity. Neither Party may issue any advertising or other publicity material using the other Party's name or marks or describing in any way the terms of this Agreement without first receiving the other Party's written consent as to form and content, which consent may not be unreasonably withheld, conditioned, or delayed.

10. ASSIGNMENT

Neither Party will assign or transfer this Agreement without the other Party's prior written consent, except that either Party may assign this Agreement upon notice and without the other Party's consent to a person, firm, corporation, partnership, association, trust or other entity (i) that controls, is controlled by or is under common control with the assigning Party or (ii) which purchases all or substantially all of its assets; provided that the assignee assumes all liabilities hereunder in writing prior to the effectiveness of such assignment. Any assignment or transfer without the required consent is void and is considered a material breach of this Agreement. Upon any permitted assignment, the assigning Party will remain jointly and severally responsible for the performance under this Agreement, unless released in writing by the other Party, and this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

11. NON-SOLICITATION

From the date of the last engagement and for one year thereafter, neither party will solicit for employment nor hire any employee or contractor of other. (Neither an unsolicited request by an employee or contractor for employment, nor a response by an employee or contractor to a generally published advertisement shall be considered a solicitation pursuant to this section.) Other than provided herein, neither party will solicit, directly or indirectly, any employee or contractor of other and in no event, hire an employee, agent or independent contractor of other, through any means, including the hiring of an employee, agent or independent contractor by a competitor of the other, where the hired person has served as an independent contractor, subcontractor or other capacity for the other, within the period described to herein, without the other party's prior written consent. In the event a party breaches the above, they shall immediately pay as liquidated damages to other an amount equal to 1.5 times the relevant person's then current annual compensation (or the

amount paid to or on behalf of the person during the last 12 months in the case of an independent contractor).

12. FORCE MAJEURE

Neither party will be considered in breach of this Agreement nor liable under this Agreement for any delays, failures to perform, damages or losses, or any consequence thereof, caused by or attributable to an event of "Force Majeure," which is defined as any cause beyond the reasonable control of the party claiming relief, including without limitation the action by a governmental authority (such as a moratorium on any activities related to this Agreement or changes in government codes, ordinances, laws, rules, regulations, or restrictions occurring after the Effective Date), labor strike, flood, earthquake, fire, lightning, epidemic, war, act of terrorism, riot, civil disturbance, act of God, sabotage, fiber cut caused by a third-party or failure of a third party to recognize a permit, authorization, right-of-way, easement, right, license or other agreement obtained by Race to construct and operate its facilities or network.

13. NOTICES

All notices, including but not limited to, demands, requests and other communications required or permitted hereunder (not including invoices) must be in writing and will be deemed given: (i) when delivered in person, (ii) one (1) business day after deposit with an overnight delivery service for next day delivery, or (iii) three (3) business days after deposit in the United States mail, postage prepaid, registered or certified mail, return receipt requested, and addressed to the recipient Party at the address set forth on first page hereof. In addition, Race may send Customer notices, other than notices for default or termination, to Customer's email address as contained on Race's customer contact list. Such email notification is deemed delivered on the day sent unless returned to sender.

14. MISCELLANEOUS

14.1. Governing Law. This Agreement will be interpreted and construed in accordance with the internal laws of the State of California without giving effect to its principles of conflicts of laws. This Agreement and the duties and obligations of the Parties hereunder shall be enforceable against any of the Parties in the courts of California.

14.2. Survival. The Parties' respective representations, warranties, and covenants, together with obligations of indemnification, confidentiality and limitations on liability will survive the expiration, termination or rescission of this Agreement and continue in full force and effect.

14.3. No Third-Party Beneficiaries. The covenants, undertakings, and agreements set forth in this Agreement are solely for the benefit of and enforceable by the Parties or their respective successors or permitted assigns.

14.4. Relationship of the Parties. The relationship between the Parties hereunder is not that of partners or agents for one another and nothing contained in this Agreement may not be deemed to constitute a partnership, joint venture or agency agreement between them.

14.5. Remedies Not Exclusive. Except as otherwise expressly provided, the rights and remedies set forth in this Agreement are in addition to, and cumulative of, all other rights and remedies at law or in equity.

14.6. Headings; Severability. The headings in this Agreement are strictly for convenience and do not amplify or limit any of the terms, provisions or conditions hereof. In the event any term of this Agreement is held invalid, illegal or unenforceable, in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement will be in any way affected.

14.7. No Implied Waiver. No failure to exercise and no delay in exercising, on the part of either Party, any right, power or privilege hereunder will operate as a waiver, except as expressly provided herein.

14.8. Execution and Counterparts. This Agreement may be executed in counterparts, including by facsimile transmission, each of which when executed and delivered is an original, but all the counterparts together constitute the same document.

14.9. Order of Precedence. If any conflict or contradiction exists between these General Terms and Conditions and a Supplement, the terms of a Supplement will control. If any conflict or contradiction exists between a Supplement and the terms of an Order Form, the terms of the Order Form will control. If any conflict or contradiction exists between these General Terms and Conditions and the terms of an Order Form, the terms of the Order Form will control.

15. ENTIRE AGREEMENT; AMENDMENT; EXECUTION

This Agreement, including all Supplements, Order Forms, Exhibits and addenda attached hereto is the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior negotiations, understandings and agreements, whether oral or written. This Agreement may be amended only by a written instrument executed by the Parties.

The Parties have executed this Agreement as of the last date of execution below.

RACE TELECOMMUNICATIONS, INC.

CUSTOMER

BY: _____

BY: _____

Print Name: _____

Print Name: William C. Brand

Title: _____

Title: Mayor

Date: _____

Date: May 19, 2020

APPROVED

BY: _____

Print Name: Jill Buchholz, Risk Manager

APPROVED AS TO FORM:

BY: _____

Print Name: Michael W. Webb, City Attorney

AUTHORIZED CONTACTS

PRIMARY CONTACT Name: <u>Christopher Benson</u> Title: <u>Information Technology Director</u> Company (if different): _____ Email: <u>chris.benson@redondo.org</u> Phone #: <u>310-318-0658</u> Alt Phone #: _____ Fax #: <u>310-937-6601</u> Address: <u>415 Diamond Street</u> Suite/Unit/Floor: _____ City: <u>Redondo Beach</u> State: <u>CA</u> Zip/Postal Code: <u>90277</u>	TECHNICAL CONTACT Name: <u>Same as Primary</u> Title: _____ Company (if different): _____ Email: _____ Phone #: _____ Alt Phone #: _____ Fax #: _____ Address: _____ Suite/Unit/Floor: _____ City: _____ State: _____ Zip/Postal Code: _____
OTHER CONTACT Name: <u>Matt Ruhland</u> Title: <u>IT Operations Supervisor</u> Company (if different): _____ Email: <u>matt.ruhland@redondo.org</u> Phone #: <u>310-318-0658</u> Alt Phone #: _____ Fax #: <u>310-937-6601</u> Address: <u>415 Diamond Street</u> Suite/Unit/Floor: _____ City: <u>Redondo Beach</u> State: <u>CA</u> Zip/Postal Code: <u>90277</u>	OTHER CONTACT Name: _____ Title: _____ Company (if different): _____ Email: _____ Phone #: _____ Alt Phone #: _____ Fax #: _____ Address: _____ Suite/Unit/Floor: _____ City: _____ State: _____ Zip/Postal Code: _____
OTHER CONTACT Name: _____ Title: _____ Company (if different): _____ Email: _____ Phone #: _____ Alt Phone #: _____ Fax #: _____ Address: _____ Suite/Unit/Floor: _____ City: _____ State: _____ Zip/Postal Code: _____	OTHER CONTACT Name: _____ Title: _____ Company (if different): _____ Email: _____ Phone #: _____ Alt Phone #: _____ Fax #: _____ Address: _____ Suite/Unit/Floor: _____ City: _____ State: _____ Zip/Postal Code: _____



Estimate for City of Redondo Beach

Prepared on 05/01/2020 Quote #9022 V2
Service Address: 332 Carnelian Street, Redondo Beach, CA; 90278

TRANSPORT SERVICES

	Term	Qty.	Setup	Monthly				Setup	Monthly
1GB Transport	36m	1		900.00				0.00	900.00
Loc A: 332 Carnelian Street; Redondo Beach								0.00	0.00
Loc B: 2000 Artesia Blvd; Redondo Beach, CA; 90278								0.00	0.00
*60m Term option								0.00	0.00
*Transports with in the SBCCOG								0.00	0.00
* Base monthly package fees DO NOT include federal or state taxes and fees.									

OTHER SERVICES-IP services, Telephony, Data center services

								0.00	
								0.00	
								0.00	
								0.00	
								0.00	

* Notes:

SUBTOTAL \$0.00

TOTALS ONE-TIME \$0.00 MONTHLY \$900.00



Estimate for City of Redondo Beach

Prepared on 05/01/2020 Quote #9020 V2
Service Address: 332 Carnelian Street, Redondo Beach, CA; 90278

DEDICATED INTERNET SERVICES

	Term	Qty.	Setup	Monthly				Setup	Monthly
Dedicated Internet DIA GIG (1000Mbps/1000Mbps)	36m			1,000.00				0.00	0.00
Dedicated Internet DIA 2 GIG (2000Mbps/2000Mbps)	36m	1		2,000.00				0.00	2,000.00
Dedicated Internet DIA 10 GIG (10000Mbps/10000Mbps)	36m			2,750.00				0.00	0.00
*60m Term options									
* Base monthly package fees DO NOT include federal or state taxes and fees.									
								SUBTOTAL	\$0.00 \$2,000.00

OTHER SERVICES-IP services, Telephony, Data center services

								0.00	
								0.00	
								0.00	
								0.00	
								0.00	

* Notes:

SUBTOTAL \$0.00

TOTALS ONE-TIME MONTHLY
\$0.00 \$2,000.00