

FACILITY USE AGREEMENT

This agreement is entered into as of this 14th day of February 2019 between KITTCOM and Kittitas County Fire District 2 (Kittitas Valley Fire and Rescue {KVFR}).

RECITALS

1. KVFR owns a fire station located at 400 East Mountain View –Station2-9. KVFR has determined that a portion of the station identified as certain portions of the Network Equipment Room and certain portions of the EOC Communications Closet are temporarily surplus to the needs of KVFR.
2. KITTCOM provides services that benefit KVFR and KITTCOM has a long term temporary need for the space.

AGREEMENT

1. **Use of certain portions of the Network Equipment Room and certain portions of the EOC Communications Closet by KITTCOM.** KVFR agrees to allow the KITTCOM the nonexclusive use of certain portions of the Network Equipment Room and certain portions of the EOC Communications Closet space for the following purposes:
 - 1.1. The installation and operation of network, telephone, radio, status monitoring, backup power, information technology equipment and associated hardware. This includes supporting cabling, AC power for the prior, and the use of certain available existing exterior antenna attachment space. Physical installations and changes the physical installations shall be coordinated with KVFR.
 - 1.2. As a “Point of Presence” to meet and interconnect with other entities that also have a presence on the fire station property.
2. **No shared property or shared use.** The parties agree that KITTCOM’s rights are limited to the uses specified in Paragraph 1 of this Agreement and that KITTCOM has no right to use other portions of the Station or the right to use any KVFR property stored in the Station.
3. **Security and Building Access.** Authorized personnel of KITTCOM shall have access to the Station on a twenty-four hour per day, seven day per week basis. KITTCOM agrees that if KITTCOM or KITTCOM personnel are negligent in the use and occupation of the Station and if such negligence is the cause of damage to the facility or damage to or loss of KVFR property located in the Station, that KITTCOM shall be solely responsible for such damages or loss.
4. **Term.** This Agreement shall be effective on the date of mutual execution and shall continue until terminated in accordance with paragraph 5.
5. **Termination.** Either party may terminate this agreement with 1 year written advance notice. In addition, KVFR may terminate this Agreement with 90 days written notice in the event KITTCOM is in breach of any term of this Agreement.

6. **Consideration.** The consideration for this Agreement is the benefit to KVFR of improving EOC operations, public safety call answering, public safety dispatching, and fire station alerting, and KITTCOM's agreement to indemnify and hold KVFR harmless in the manner specified in Paragraph 7.
7. **Indemnification/Hold Harmless.** To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from against any and all claims, damages, losses and expenses including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

In the event of any concurrent act or omission of the parties, each party shall pay its proportionate share of any damages awarded. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

8. Insurance.

- 8.1. Each party shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death) and/or property damage (including all real and personal property located on or in the Station) arising at the Station or arising out of the parties performance of their obligations under this agreement by its elected officials, officers, employees and agents. The limit of liability should not be less than one million (\$1,000,000.00) dollars for each occurrence and two million (\$2,000,000.00) dollars aggregate. Participation in a self insured governmental risk pool will satisfy the insurance requirements herein.
- 8.2. KVFR shall maintain an insurance policy on the Property in the amount of the replacement cost, for damage from fire; earthquake; and other perils.
- 8.3. KITTCOM shall be responsible for maintaining its own fire and hazard insurance on KITTCOM owned personal property located in the Station

9. Miscellaneous.

- 9.1. **Benefits.** This agreement is entered into for the benefit of the parties to this agreement only and shall confer no benefits, direct or implied, on any third persons.
- 9.2. **Assignment.** KITTCOM shall not assign its rights under this Agreement without the prior written consent of KVFR.

9.3. Entire Agreement/Modification. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations or discussions with respect thereto. This Agreement may be amended or modified by written instrument signed by the Parties.

9.4. Notice. All communications regarding this Agreement shall be sent to the parties at the parties regular business address unless notified to the contrary. Any written notice hereunder shall become effective upon personal service or three (3) business days after the date of mailing by first class or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.


KITTITAS VALLEY FIRE & RESCUE

By:  _____

Print Name: John Sinclair
Fire Chief

DATE: 2-14-19

KITTCOM

By:  _____

Print Name: Geoff Scherer

DATE: 2/14/19