



MEMORANDUM OF UNDERSTANDING

This memorandum of understanding (“MOU”) is entered into this ____ day of _____, 2017, by and between the _____ Municipal Light Plant (“MLP”), a Massachusetts municipal light department of the Town of _____ (“Town”) established pursuant to the provisions of M.G.L. c. 164 with offices at _____ and WiredWest Communications Cooperative Corporation (“WiredWest”), a municipal light plant cooperative established pursuant to the provisions of M.G.L. c. 164, § 47C, with a principal place of business at 99 Main Street, Northampton MA 01060 (collectively, the “Parties”).

WHEREAS, WiredWest was established for the benefit of its members in 2011;

WHEREAS, MLP is a member of WiredWest;

WHEREAS, MLP plans to construct a fiber network in the Town (“Network”) for the purpose of providing certain Internet-related services to the residences, institutions, and businesses located therein (“Customers”);

WHEREAS, WiredWest wishes to provide certain services to MLP and other MLPs seeking to obtain Internet-related services, and their Customers, in the role of “shared services and operations manager,” and MLP wishes to participate in such services from WiredWest in connection with the operation of the Network and the provision of Internet-related service to Customers (hereinafter, “Services”);

WHEREAS, the Parties intend to negotiate and execute a shared services and operations management agreement (“Agreement”) concurrently with MLP’s planned design and construction of the Network;

WHEREAS, MLP is in the process of procuring or has procured design and engineering services necessary for construction of the Network;

WHEREAS, MLP expects the Network to become operational within twenty-four months from the date of this MOU;

WHEREAS, WiredWest is in the process of negotiating for certain support services with a subcontractor in connection with its role as shared services manager for MLP’s Network; and

WHEREAS, the Parties wish to memorialize their understandings regarding the general terms and conditions of the Services to be provided by WiredWest.

WHEREAS, MLP desires to participate with other MLPs in the WiredWest Regional Broadband Solution for interconnecting and managing the networks of participating MLPs, and for delivering broadband and other services to customers in the towns of said MLPs.

WHEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is understood and agreed as follows:

1. Purpose; Exclusivity: The Parties wish to continue negotiating the Agreement while MLP undertakes steps necessary for the build-out of the Network. In executing this MOU, the Parties agree in principle that the Agreement will contain commercial provisions substantially similar to those attached to this MOU as Exhibit 1 – Term Sheet. The MLP agrees to negotiate exclusively and in good faith with WiredWest to finalize and execute the Agreement during the Term as defined below. The MLP acknowledges that WiredWest will undertake memoranda of understanding with other MLPs with the goal of negotiating agreements with them on substantially similar terms as those attached in Exhibit 1. WiredWest agrees that in the event more favorable terms are negotiated with other member MLPs, those terms will apply to all MLPs entering agreements for the Services.
2. Conditions: This MOU shall go into effect on or before December 15, 2017 at such time and not until all of the following conditions have been met:
 - a. MLPs signing such an MOU shall together represent a combined total of at least five thousand (5,000) premises in their Towns;
 - b. The Town of each such signatory MLP shall have entered into a contract with the Massachusetts Executive Office of Housing and Economic Development for a grant toward the design, engineering and construction of a fiber broadband network in that Town; and
 - c. WiredWest shall have entered into a contract with a subcontractor to provide network operations and broadband services in connection with WiredWest's role as shared services manager.
3. Term; Termination: This MOU shall expire upon the execution of the Agreement by both Parties or on October 1, 2018, whichever is earlier. The Term of this Agreement may be extended only by mutual agreement of the Parties. If, after the execution of this MOU, the construction of the Network by MLP is cancelled, or the Town withdraws or is removed from membership in WiredWest, then this MOU shall terminate, and all duties, liabilities and obligations of the Parties hereunder shall be deemed terminated.
4. Notice: Any notice required under this MOU shall be delivered to a party at the addresses set forth in the first paragraph above.
5. Representations: The Parties represent they have the power and authority to enter into this MOU and perform their respective obligations hereunder.
6. Entire Agreement; Governing Law: This MOU takes precedence over all prior agreements, written or oral, between the parties, and shall be governed by the laws of the Commonwealth of Massachusetts.

David Dvore 9/8/2017 6:32 PM

Formatted: Font color: Red



IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals.

for MLP

By: _____

Title:

for WiredWest

By: _____

Title:

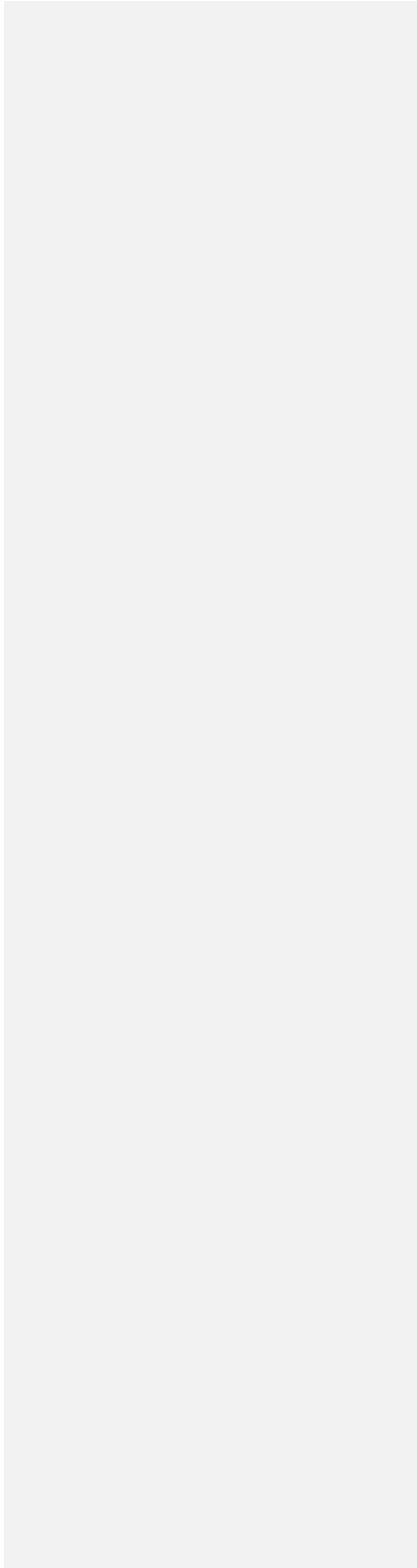


EXHIBIT 1

TERM SHEET
SHARED SERVICES MANAGEMENT AGREEMENT
(“SERVICE AGREEMENT”) BETWEEN WIREDWEST AND MLP

1. Service Provider	WiredWest
2. Participant	[MLP]
3. Description of Services to be Provided	<p>Wired West will provide MLP with the following “Services”:</p> <ul style="list-style-type: none"> ● <i>“Operations & Maintenance Service” (“O&M Service”)</i>: WiredWest will operate and maintain the fiber network in MLP’s territory and perform necessary repairs to network components. O&M Service includes covering all costs related to maintenance and repair of MLP’s outside plant / inside plant, and WiredWest’s backhaul circuits and associated equipment. ● <i>“Plant Management”</i>: WiredWest will manage and pay for pole licensing, pole bonding and insurance on behalf of MLP. In addition, WiredWest will pay for and manage all backhaul, electricity, and HVAC maintenance and other Network-related costs. ● <i>“Retail Service”</i>: WiredWest will provide the following to Customers: broadband-based Internet access service; Voice over Internet Protocol (“VoIP”) telephone service; associated equipment (“Retail Services”). Additional broadcast television services and other Internet-based services may be provided as it becomes available. ● <i>“Customer Billing Services”</i>: WiredWest will provide all billing and collection functions associated with the provision of services to MLP’s customers. ● <i>“Customer Communication”</i>: WiredWest will manage all Customer communications. ● <i>“Customer Tech Support”</i>: Technical support will be provided by WiredWest regarding issues MLP’s customers may have with Retail Service. ● <i>“Compliance Service”</i>: WiredWest is responsible for maintaining compliance, on MLP’s behalf, with all applicable state and federal laws and regulations and filings, including

	remittance of taxes/fees.
4. Term	<ul style="list-style-type: none"> • <i>“Agreement Effective Date”</i>: Ninety (90) days before the date upon which MLP intends to turn over Network Operations to WiredWest (see description of “Retail Services” above). • <i>“Agreement Initial Term”</i>: From Agreement Effective Date and continuing for five (5) years thereafter, unless terminated earlier in accordance with the provisions of the Service Agreement. If MLP decides not to renew after the Initial Term, six (6) months’ notice is required prior to expiration of the Agreement Initial Term. • <i>“Agreement Renewal Term”</i>: The Service Agreement will automatically renew thereafter for additional three (3) year terms, unless six (6) months’ notice of termination is provided by MLP prior to the expiration of the then-current Term.
5. Rate	<p>Initial monthly residential rates per subscriber (“Monthly Rate”) billed to Customers each month in advance based upon a minimum Network-wide Take Rate (as defined below) of 50% are as follows:</p> <p style="padding-left: 40px;">Economy (25/25 Mbps) - \$59 Standard (1/1 Gig) - \$75 VoIP Phone (optional) - \$19</p> <p>Part time residential Customers will have the ability to start and stop internet service at no additional charge.</p>
6. Revenue Sharing	<p><i>“Revenue Sharing”</i>: The WiredWest Board of Directors may decide to allocate a portion of excess revenues for distribution to WiredWest Member MLPs at the WiredWest Annual Meeting. The distributions will be proportional to the gross revenues generated by the Customers in each WiredWest Member MLP. A WiredWest Member MLP’s town must meet a minimum 50% Take Rate to be eligible to participate in Revenue Sharing.</p>
7. Default, Termination, Force Majeure, Insurance, Notice, Audit/Records	<p>Standard commercial terms and conditions regarding default for non-payment, termination (however, there shall be no termination for convenience), force majeure, insurance, notice and auditing/records access to be negotiated.</p>

David Dvore 9/8/2017 6:33 PM
Formatted: Font color: Red

8. Dispute Resolution	Disputes between the Parties regarding the provision of Services shall be handled by the executive officers of the respective parties on an informal basis; after expiration of sixty (60) days if no resolution is reached, the Parties may pursue any legal and equitable remedies available to them in a court of competent jurisdiction.
9. Take Rate	The Take Rate is calculated as the percentage of the Premises passed in MLP's town that are taking any service from WiredWest. A Premise taking any service from WiredWest is a subscriber.
10. Premise	<p>A premise is any dwelling unit or place of business that is not coded with a rating code of U for uninhabitable. Where a single organization occupies two or more contiguous parcels, they shall be counted as one premise. Using the Property Type Classification Codes published by the Division of Local Services of the Massachusetts Department of Revenue the following are considered Premises, as the term is used herein:</p> <ul style="list-style-type: none"> 101 Single Family 102 Condominium 103 Mobile Home 104 Two-Family is two premises 105 Three-Family is three premises 109 Multiple Houses on one parcel - each discrete living unit counts as one premise 111 Four to Eight Units - each unit counts as one premise 112 More than Eight Units - each unit counts as one premise 12 Non-Transient Group Quarters - each count as one premise 14 Child Care Facility - counts as one premise 30 Transient Group Quarters - each count as one premise 31 Storage Warehouses and Distribution Facilities - each count as one premise except 317 Farm Buildings - barns, silo, utility shed, etc. which do not count as a premise. 32 Retail Trade (Automotive, Marine Vehicles Sales and Service, etc.) - each unit counts as one premise 33 Retail Trade - each unit counts as one premise 34 Office Building - each unit(s) within the building occupied by a single company counts as one premise 35 Public Service Properties - each count as one premise 36 Cultural and Entertainment Properties - each count as one premise. 37 Indoor Recreational Facilities - each count as one premise 38 Outdoor Recreational Properties - each count as one premise

David Dvore 9/8/2017 6:34 PM

Formatted: Font color: Red

	<p>40 Manufacturing and Processing - each count as one premise 900 United States Government property where business is conducted is counted as one premise 91 Commonwealth of Massachusetts – Reimbursable Land where business is conducted is counted as one premise 92 Commonwealth of Massachusetts – Non Reimbursable where business is conducted is counted as one premise 94 Educational Private except 946 Vacant each count as one premise 95 Charitable except 950 Vacant and 952 Auxiliary Use - each count as one premise 96 Religious Groups - each count as one premise 97 Authorities - each count as one premise</p>
--	---