

# Media Link Telecom, LLC Contract Agreement



## Aransas Pass Independent School District

Contract for Self-Provisioned WAN Services



**DIRECT INTERNET ACCESS and/or WIDE AREA NETWORK and/or  
SELF-PROVISIONED TELECOMMUNICATIONS SERVICE AGREEMENT**

This Telecommunications Service Agreement (the "Agreement") is entered into as of this \_\_\_\_ day of February, 2024 (the "Effective Date"), by and between Media Link Telecom, LLC, SPIN 143049077 d.b.a. **MEDIA LINK TELECOM** ("MEDIA LINK"), a limited liability company organized under the laws of the Arkansas, with its principal place of business located at **203 Specialty Lane, Scott LA 70583**, and **Aransas Pass Independent School District** (the "CUSTOMER"), with its principal place of business located at **748 W Goodnight Avenue, Aransas Pass TX 78336-2442**. This Agreement sets forth the terms and conditions under which MEDIA LINK will deploy and provide certain telecommunications and related services described herein (the "Services") for the CUSTOMER and the CUSTOMER's employees, agents and students. MEDIA LINK and the CUSTOMER may be individually referred to herein as "party" or collectively as "parties." For the purposes of this contract the terms related to Self-Provisioned are located in Section III (F)(G), IV (A)(1),(4), VII (B), XI.

**I. DEFINITIONS**

"**USAC**" shall mean the Universal Service Administrative Company that administers the Universal Service Fund under the Federal Telecommunications Act of 1996, including the Schools and Libraries Division ("SLD") thereof.

"**BEAR Form**" shall mean USAC Billed Entity Applicant Reimbursement Form (FCC Form 472).

"**Certification**" shall mean the verification by MEDIA LINK, as acknowledged by the CUSTOMER, that the Services meet the performance requirements set forth in Attachment A.

"**Deficient Minutes**" shall be the total number of minutes in a calendar month that are in excess of the number of minutes of path non-availability permitted by the terms of the Services level standards that MEDIA LINK is required to meet under the terms of this Agreement.

"**Deficiency Credit**" shall mean an amount equal to the total number of Deficient Minutes in the calendar month for which such Deficiency Credit is sought multiplied by a fraction of which the numerator is the Monthly Service Fee and the denominator is the number of minutes in the relevant month.

"**Infrastructure**" shall mean the MEDIA LINK-owned service delivery infrastructure deployed and maintained by MEDIA LINK and used in the provision of the Services to the CUSTOMER.

"**Service Locations**" shall mean the location(s) specified in Attachment A at which Service and Infrastructure is deployed.

"**Non-Recurring Charge**" shall mean that portion of the total charge for the provision of the Services under this Agreement that is designated as the non-recurring charge listed on Attachment A for the use of the Infrastructure.

"**Monthly Service Fee**" shall mean the monthly service charge listed on Attachment A during the initial Term and any extension hereof contemplated by Section 9 of this Agreement. Following the initial Term, and the expiration of any such extensions, the "Monthly Service Fee" shall mean the current month to month service rate set by MEDIA LINK upon thirty (30) days prior written notice to the CUSTOMER.

**"Outage Event"** shall mean any outage or other loss of the Services, other than any outage that is:

- (1) not reported by the CUSTOMER to MEDIA LINK within five (5) days of occurrence;
- (2) less than one (1) hour in duration;
- (3) attributable to MEDIA LINK's scheduled network maintenance;
- (4) attributable to failure or outage of related telephone circuits (whether ordered by MEDIA LINK or the CUSTOMER);
- (5) a result from the CUSTOMER's applications, equipment or facilities;
- (6) a result from any act or omission of the CUSTOMER or any user of the CUSTOMER's equipment or account;
- (7) due to or occasioned by any riots, wars, acts of enemies, national emergency, acts of vandalism, strikes, floods, fires, hurricanes, tornados, acts of God, or by any other cause not within the control of MEDIA LINK; that by the exercise of reasonable diligence MEDIA LINK is unable to prevent;
- (8) a result from MEDIA LINK not having been granted site access by the CUSTOMER; or
- (9) a result from the CUSTOMER'S unauthorized use of equipment or the Services.

**"Site Access"** shall mean twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year ("24x7x365") access to the CUSTOMER premise(s) provided to MEDIA LINK for routine or emergency maintenance of the MEDIA LINK network.

**"Service Window"** shall mean 7:00 a.m. through 5:00 p.m. local time where the Services are being provided, Monday through Friday, excluding federal holidays and other non-workdays.

**"Self-Provisioned Network"** shall mean complete applicant ownership of a high-speed broadband network. The applicant hires a vendor to construct the network or a portion of the network, and thereafter owns and maintains that network or portion, including all the fiber strands and conduit.

## II. TERMS AND CONDITIONS

- (A) **Services.** Subject to and in accordance with the terms and conditions of this Agreement, MEDIA LINK shall provide to the CUSTOMER at mutually-agreeable the CUSTOMER'S designated locations the Services as defined in Attachment A hereto.
- (B) **Deployment and Access.** MEDIA LINK, its agent(s) or contractor(s) shall schedule deployment meetings with the CUSTOMER. MEDIA LINK shall deploy the MEDIA LINK-owned service Infrastructure; the CUSTOMER's appointed representative must be present on a regular basis during deployment to be performed by MEDIA LINK. MEDIA LINK assumes no liability for any or all files, data, or other information that may be lost on the CUSTOMER'S computer system during the deployment process and the CUSTOMER agrees to hold MEDIA LINK harmless for all any or all such lost files, data and other information. After deployment, and during the Term of this Agreement, the CUSTOMER shall provide MEDIA LINK with 24x7x365 access to the CUSTOMER's premise(s) to inspect, repair and maintain MEDIA LINK's Infrastructure. For Direct Internet Access and Both Lit and Dark Wide Area Networks, upon termination or expiration of this Agreement or disconnection of the Services, the CUSTOMER shall be obligated to return the Infrastructure to MEDIA LINK or provide MEDIA LINK with access to the CUSTOMER's premise(s) to recover such Infrastructure as MEDIA LINK in its sole discretion shall decide. MEDIA LINK shall not be held liable for, nor will MEDIA LINK restore or reconfigure the CUSTOMER's new or existing network components, after de-deployment. Even if the Infrastructure (or any portion of the Infrastructure) is or becomes physically attached in any manner to real estate at the Service Location (including any building on such real estate), in no event will the Infrastructure be deemed to be affixed to or as a part of such real estate. Rather, the Infrastructure is and shall remain MEDIA LINK's personal property. Throughout the useful life of the

Infrastructure, the CUSTOMER shall supply (or cause to be supplied) electricity to that Infrastructure and the CUSTOMER grants MEDIA LINK a non-exclusive, non-revocable license and easement to use those parcels of real property that MEDIA LINK deems necessary to install, operate and maintain fiber optic cable thereon and to place certain buildings or enclosures thereon and such infrastructure as MEDIA LINK determines may be necessary or compatible with the conduct of MEDIA LINK's business. In addition, the CUSTOMER grants to MEDIA LINK the non-exclusive right to deploy transmission cables and lines between the CUSTOMER's property line and the Service Locations in connection with MEDIA LINK's use, maintenance, and operation of the Infrastructure. The license or easement granted shall include and also be classified, and documented, if necessary, as a leasehold interest for the limited purpose of MEDIA LINK gaining access to the CUSTOMER's property to construct, maintain, modify, and service MEDIA LINK-owned and/or provided Infrastructure, thus enabling MEDIA LINK to comply with State and local construction laws and contractor requirements. As a common carrier, MEDIA LINK may utilize all the MEDIA LINK-owned Infrastructure for internal communications and for the management and maintenance of its network. It is expressly understood that all rights granted to MEDIA LINK under this license are irrevocable until termination of this Agreement, any Amendment thereto, or the provision of Services. MEDIA LINK may use the Infrastructure and real property for any activity in connection with the provision of other communication services as MEDIA LINK determines may be necessary or compatible with the conduct of MEDIA LINK's business. MEDIA LINK may make any substitutions to or modifications of the Infrastructure as it determines may be necessary or compatible with the conduct of MEDIA LINK's business.

- (C) **Governmental Approval.** MEDIA LINK shall use commercially reasonable efforts to procure, process, or to receive any governmental licenses, permits, consents or approvals necessary for the deployment of the Infrastructure ("Authorizations"). The CUSTOMER shall cooperate fully with MEDIA LINK in order to secure any such Authorizations. In the event that MEDIA LINK is unable to secure any such Authorizations within a reasonable time and at a reasonable cost (as determined by MEDIA LINK in its reasonable judgment), MEDIA LINK may terminate this Agreement by notifying the CUSTOMER. All work hereunder which is required by the law of the state within which the CUSTOMER is located to be performed by a licensed contractor shall be performed by an appropriately licensed contractor.
- (D) **Changes in Deployment.** Attachment A includes a network design that MEDIA LINK has determined is necessary to provide the Services to the CUSTOMER as required by this Agreement. In the event that the CUSTOMER requests MEDIA LINK modify the design, then the CUSTOMER shall be responsible for all costs and related charges associated with any such request.
- (E) **Change Order.** Any changes requested or required by the CUSTOMER that differ from the network design specified in Attachment A must be properly authorized in a written directive from the CUSTOMER. Any change is subject to the network design limitations and the CUSTOMER shall pay, as a relocation or reconfiguration fee, MEDIA LINK's actual out-of-pocket cost and the cost of all labor and services of any such relocation or reconfiguration ("Costs") plus an additional twenty percent (20%) of the Costs.
- (F) **Scalable Broadband Services.** MEDIA LINK's network may be expanded to include additional locations and capacity increased at any time during the Term of this Agreement to meet the CUSTOMER's requirements. the CUSTOMER shall request specific service upgrades based on pricing quoted at time of request. the CUSTOMER may add sites (subject to changes in pricing and/or fees) at any time during the Term of this Agreement.

### III. SERVICE LEVELS, SUPPORT, MAINTENANCE, and INDEMNIFICATION<sup>1</sup>

- (A) **Availability Commitment.** MEDIA LINK custom engineers each network solution up to 99.99% availability. MEDIA LINK shall use commercially reasonable efforts to maintain Services availability for the CUSTOMER 100% of the time, except during Outage Events. At the CUSTOMER's request, MEDIA LINK shall calculate the Deficiency Credit for any calendar month. MEDIA LINK shall credit to the CUSTOMER's account as a refund the Deficiency Credit upon written/email request by the CUSTOMER.

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<sup>1</sup> Inapplicable to unmanaged dark fiber services.

Credit Schedule for Service		
Circuit Availability		Amount of Credit (as a % of the Eligible Circuit Charges for the Affected Circuit)
Upper Level	Lower Level	
100%	99.999%	0%
< 99.999%	99.99%	5%
< 99.99%	99.9%	10%
< 99.9%	99.5%	25%
< 99.5%	0%	50%

- (B) **Latency and Jitter Commitment<sup>2</sup>.** MEDIA LINK's goal is for round-trip transmissions between designated end-points to average ten (10) milliseconds or less except during Outage Events ("Latency Commitment"). The foregoing Latency Commitment is measured by averaging sample measurements taken during the Service Window between hub routers. Upon written request of the CUSTOMER, for each minute in the Service Window during a calendar month for which MEDIA LINK fails to satisfy its Latency Commitment, MEDIA LINK shall credit to the CUSTOMER's account as a refund the total number of latency minutes divided by the total number of minutes during the Service Window in that month. MEDIA LINK'S Jitter commitment is < 2 milliseconds one way.
- (C) **Packet Loss Commitment<sup>3</sup>.** MEDIA LINK's network packet loss between designated end-points shall be limited to 0.1% or less each day except during Outage Events ("Packet Loss Commitment"). Packet loss is measured by standard, industry-accepted methods and measured during the Service Window between designated end-points. Upon written request of the CUSTOMER, for each minute in the Service Window for which MEDIA LINK fails to satisfy its Packet Loss Commitment during a calendar month, MEDIA LINK shall refund the total number of minutes where there was a packet loss of more than .1% divided by the total number of minutes during the Service Window in that month.
- (D) **CUSTOMER Reporting Commitment.** MEDIA LINK shall provide the CUSTOMER at least forty-eight (48) hours advance notice of scheduled outages for network maintenance. The standard weekly maintenance window is Monday through Sunday from 12:01 a.m. to 6:00 a.m. CST time. Notice of other scheduled maintenance outages will be provided to the CUSTOMER's designated point of contact by telephone, e-mail, fax, or pager as elected by MEDIA LINK.
- (E) **Credit Limit.** In no event shall the CUSTOMER's total credits for any calendar month exceed the Monthly Service Fee.
- (F) **Support.** MEDIA LINK shall, at its option and convenience, repair or replace any Infrastructure not functioning in accordance with MEDIA LINK'S contracted specifications for the Services. MEDIA LINK shall not provide technical support, maintenance, repair or deployment service for the CUSTOMER's software, hardware or equipment unless MEDIA LINK, in its sole discretion, agrees to do so in a separate written contract. MEDIA LINK shall provide the CUSTOMER support for use of the Services only as, when, and to the extent MEDIA LINK deems appropriate from time to time in its sole discretion. The CUSTOMER support will be available on a commercially reasonable basis via telephone, via electronic mail or through Media Link Telecom web portal at <http://medialinktelecom.com/contact-us/>. Inquiries through the website are directed to the NOC and are monitored 24x7 ("Internet Site"). Emailing Media Link technical support at [support@medialinktelecom.com](mailto:support@medialinktelecom.com). Telephone numbers for such the CUSTOMER support are posted on the MEDIA LINK Internet Site and are included in Section 7 of this Agreement. If the CUSTOMER's use of the Services requires that MEDIA LINK visit the CUSTOMER's premises for assistance, repair, deployment or connection, MEDIA LINK shall be entitled to charge the CUSTOMER MEDIA LINK's then prevailing labor rates and related costs for each such visit, and the CUSTOMER agrees to pay MEDIA LINK such charges. MEDIA LINK does not undertake to correct or repair and shall have no responsibility for the correction or repair of, software, hardware or equipment that MEDIA LINK does not supply. MEDIA LINK will undertake commercially reasonable network management, traffic analysis, operational procedures, and user policies to support the service level standards provided in Section 2.

<sup>2</sup> Inapplicable to unmanaged dark fiber services.

<sup>3</sup> Inapplicable to unmanaged dark fiber services.

For Self-Provisioned Networks in which the CUSTOMER has agreed to allow MEDIA LINK to maintain said Self-Provisioned Network during the agreed upon term of the Maintenance Period, it shall be MEDIA LINK's responsibility to:

- (1) add the Network to the Texas 811 fiber database;
  - (2) actively monitor locate requests from Texas 811;
  - (3) mark the buried fiber optic facilities using industry standard marking techniques; and/or
  - (4) repair damages to the fiber optic network. Repair costs associated with damage restoration on fiber either improperly or not marked by MEDIA LINK will be the sole responsibility of MEDIA LINK. Repair costs associated with damage restoration on fiber properly marked by MEDIA LINK will be billed to the CUSTOMER.
- (G) **Response Times.** MEDIA LINK shall provide the CUSTOMER support service contact point(s). Loss of Service (LOS) events will be acted upon immediately with a tech on-site time in less than 2 hours after NOC notification. Cable restoration crews will be on-site within 4 hours of the LOS event and NOC notification. For Self-Provisioned Networks, it shall be the CUSTOMER's responsibility to notify Media Link Telecom of outage of LOS events. Upon receipt of the CUSTOMER outage notification, and verification that the LOS is not power or equipment related, Media Link Telecom shall deploy a Fiber Optic Technician to determine the cause of said outage using industry standard techniques.
- (H) **Indemnification.** MEDIA LINK agrees to indemnify and hold harmless the CUSTOMER, and its board members, employees, agents and representatives (collectively, "CUSTOMER Indemnities") against any and all costs, claims, liabilities or expenses that any of the CUSTOMER Indemnities may incur as a result of, or arising out of, or related to MEDIA LINK'S willful, negligent, tortious or criminal acts or omissions. In the event of any claim, which, if true, would be subject to indemnification hereunder, the CUSTOMER or the affected CUSTOMER Indemnities shall notify MEDIA LINK and MEDIA LINK shall cooperate in their defense at MEDIA LINK's cost and expense.

#### IV. CUSTOMER'S OBLIGATIONS

(A) **Payment.**

- (1) **Non-Recurring Charge.** Upon Certification of the deployment of the Infrastructure, MEDIA LINK shall invoice the CUSTOMER the applicable percentage of the Monthly Recurring Costs specified in Attachment A, and as dictated by the USAC SPI payment guidelines. For Self-Provisioned Networks, MEDIA LINK shall invoice the CUSTOMER the entire amount of the Non-Recurring Charge upon Certification of the deployment of the Infrastructure. the CUSTOMER shall pay the Non-Recurring Charge within thirty (30) days of the invoice. If applicable, MEDIA LINK will invoice the CUSTOMER on a per site basis until all sites are operational.
- (2) **Monthly Service Fee.** MEDIA LINK shall invoice the CUSTOMER each month in advance for the applicable percentage of the Monthly Recurring Costs as shown in Attachment A of this Service Agreement, and as dictated by the USAC SPI payment guidelines. the CUSTOMER shall pay the Monthly Service Fee within thirty (30) days of the invoice. If applicable, MEDIA LINK will invoice the CUSTOMER on a per site basis until all sites are operational.
- (3) **Responsibility.** The CUSTOMER is ultimately responsible. NOTWITHSTANDING ANYTHING TO THE CONTRARY, the CUSTOMER IS RESPONSIBLE FOR PAYMENT OF ALL FEES INCLUDING ANY DISCOUNTED AMOUNTS OWED BY USAC.
- (4) **Failure To Pay.** If the CUSTOMER fails to pay the Monthly Service Fee within thirty (30) calendar days of the due date, MEDIA LINK may impose a late fee or disconnect the Services, or both, in its sole discretion. For Self-Provisioned Networks, if the CUSTOMER fails to pay

the Monthly Service Fee within thirty (30) calendar days of the due date, MEDIA LINK may elect to discontinue Maintenance operations of the Network.

- (5) Re-connect. If the CUSTOMER disconnects the Services or if the CUSTOMER'S Services are disconnected due to nonpayment or other breach of this Agreement, and if MEDIA LINK subsequently agrees to reconnect the Services, the CUSTOMER may be charged a fee for reconnecting and redeploying the Services. Such fee shall be equal to one hundred percent (100%) of the then applicable Monthly Service Fee.
  - (6) Charges for Other Services or Goods. From time to time, the CUSTOMER may decide to select additional services or purchase additional goods offered by MEDIA LINK or by third parties. The Monthly Service Fee does not cover any such services and goods and the CUSTOMER shall be charged separately for them. The CUSTOMER agrees to pay for such other services and goods that it selects or purchases.
- (B) **Utilities**. The CUSTOMER shall provide electrical services to the MEDIA LINK Infrastructure as required by MEDIA LINK.
  - (C) **Current Address and Information**. The CUSTOMER is required, and agrees, to keep MEDIA LINK notified, in a timely manner, of any changes in the information the CUSTOMER provides to MEDIA LINK, including information provided when the CUSTOMER initiates use of the Services.
  - (D) **Assignment or Sharing of Service**. The CUSTOMER may not resell, share, sublicense or otherwise distribute the Services, or any portion thereof, to any third party without the prior written consent of MEDIA LINK.
  - (E) **School/Facility Closure**. The CUSTOMER shall immediately notify MEDIA LINK if the CUSTOMER becomes aware that the school or facility governed by this Agreement will be closed prior to the Term of this Agreement or any extension. the CUSTOMER has the duty to notify MEDIA LINK as soon as the CUSTOMER receives such information. the CUSTOMER shall be responsible for all remaining monthly recurring costs and fees associated with the school or facility for the remainder of the Service Term or any then current Extension Term.

## V. MEDIA LINK'S OBLIGATIONS

Effective July 1, 2017, MEDIA LINK will no longer be involved in the BEAR payments process. The CUSTOMER may file BEAR forms online in the E-rate Productivity Center (EPC). Billed entities will receive payment directly to their bank account. In order to begin direct BEAR payments, the CUSTOMER must have completed a FCC Form 498 to obtain an applicant 498 ID.

## VI. CUSTOMER'S WARRANTIES, REPRESENTATIONS, and INDEMNIFICATION

The CUSTOMER warrants and represents that the CUSTOMER shall use the Services only for the originally intended purpose(s), in accordance with this Agreement, all FCC and USAC rules and regulations, and all applicable laws. The CUSTOMER shall make all payments required herein plus any and all applicable taxes. The CUSTOMER warrants that all funds due from the CUSTOMER hereunder have been allocated for the uses contemplated in this Agreement, or if they have not been allocated, the CUSTOMER believes that such funds will be allocated on an annual basis for the Term of the contract and any corresponding extension or renewal). Furthermore, the CUSTOMER believes there is no current basis that such funds will not be allocated, and that the CUSTOMER has taken every necessary step to assure the availability of the CUSTOMER funds hereunder.

**VII. MEDIA LINK'S OWNERSHIP OF SERVICE INFRASTRUCTURE, HARDWARE, AND APPURTENANCES**

- (A) **Infrastructure, Hardware, and Appurtenances.** The infrastructure, hardware, and appurtenances, including but not limited to, fiber optic cabling and apertures to be located on the CUSTOMER's premises by MEDIA LINK, to provide the Services under this Agreement, are and shall remain the property of MEDIA LINK. The exception to this is listed below. Additionally, such of these items as MEDIA LINK may request shall be returned to MEDIA LINK in good and working condition upon the termination or expiration of this Agreement or the disconnection of the CUSTOMER's Services. The CUSTOMER shall use reasonable care to avoid damaging any and all Infrastructure and hardware components of the MEDIA LINK deployment, and shall not alter, modify, sell, license, lease, assign, encumber, relocate, move or tamper with any of the same. Additionally, the CUSTOMER shall be responsible for all costs of repair or replacement of items returned damaged or in poor working condition due to the CUSTOMER's negligence or failure to properly care for said Infrastructure, hardware or appurtenances. MEDIA LINK reserves the right to make modifications to the Infrastructure for purposes of providing services to other entities. In the event that MEDIA LINK elects to leave any Infrastructure on the CUSTOMER's premises, after such termination or expiration hereof, the CUSTOMER and MEDIA LINK must mutually agree on the electrical service provided by the CUSTOMER, or if the CUSTOMER grants MEDIA LINK an exclusive license to maintain and access such Infrastructure for the useful life of same and also agrees to allow MEDIA LINK to purchase electrical service to maintain such Infrastructure at market price for the actual cost of such electrical service used. MEDIA LINK shall continue to maintain all insurances required hereunder during the duration of this exclusive license.
- (B) **Self-Provisioned Networks.** The ownership of the Infrastructure, hardware, and appurtenances, including but not limited to, duct, fiber optic cabling and apertures to be located on the CUSTOMER premises will be transferred to the CUSTOMER upon completion of the Self-Provisioned Network. Successful completion shall be defined as an operational fiber optic network with complete end-to-end connectivity between locations as depicted in Attachment B. Upon transfer of ownership of the Self-Provisioned Network, MEDIA LINK shall not be responsible for the routine operations of the network to include, but not limited to, deployment of network equipment, transceivers, or electronic monitoring of the Self-Provisioned Network.

**VIII. CONTACT INFORMATION**

- (A) **Notices.** All notices, invoices and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been given only if and when:
- (1) personally delivered (including by means of a messenger service);
  - (2) by United States first class mail postage prepaid (registered or certified) return receipt requested; or
  - (3) delivered (and receipted for) by an overnight delivery service, in each case addressed to the address set forth in the first paragraph of this Agreement.
- (B) **Billing Information, Questions or Concerns.** If the CUSTOMER has questions or concerns, costs the CUSTOMER might incur in using the Services, or with the CUSTOMER'S particular account, the CUSTOMER may contact MEDIA LINK at **1-337-573-0200**.
- (C) **General Information.** For general information about MEDIA LINK and MEDIA LINK's services, the CUSTOMER may visit the MEDIA LINK Internet Site at [www.medialinktelecom.com](http://www.medialinktelecom.com) or contact MEDIA LINK at **1-337-573-0200**.
- (D) **CUSTOMER Support and Service.** For the CUSTOMER service and support, the CUSTOMER may contact MEDIA LINK via telephone, via electronic mail or via the MEDIA LINK Internet Site. The CUSTOMER shall visit the MEDIA LINK Internet Site for up-to-date contact



information. Media Link Telecom web portal at <http://medialinktelecom.com/contact-us/>. Inquiries through the website are directed to the NOC and are monitored 24x7 ("Internet Site"). Emailing Media Link technical support at [support@medialinktelecom.com](mailto:support@medialinktelecom.com)

## IX. DISCLAIMERS AND LIMITATION OF MEDIA LINK'S LIABILITY

### (A) CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT:

- (1) THE SERVICES, SOFTWARE, DATA AND ANY OTHER SERVICES, SOFTWARE OR INFRASTRUCTURE PROVIDED BY MEDIA LINK UNDER THIS AGREEMENT ARE NOT GUARANTEED TO BE ERROR FREE, UNINTERRUPTED, SECURE OR ALWAYS AVAILABLE OR AVAILABLE WITH SUFFICIENT CAPACITY;
- (2) THE USE OF THE SERVICES, THE INTERNET, AND ANY SOFTWARE OR INFRASTRUCTURE PROVIDED BY MEDIA LINK IS AT the CUSTOMER'S SOLE RISK; AND
- (3) ANY AND ALL MEDIA LINK SERVICES AND PRODUCTS ARE PROVIDED "AS IS AND AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN WARRANTIES WHICH CANNOT LEGALLY BE EXCLUDED. MEDIA LINK MAKES NO WARRANTY THAT THE SERVICE WILL WORK ON THE CUSTOMER'S PARTICULAR COMPUTER, NETWORK OR COMPUTER SYSTEM EXCEPT AS DEFINED BY THE IEEE STANDARD 802.3 DEFINING THE PHYSICAL LAYER AND TRANSPORT LAYER OF ETHERNET.

### (B) CUSTOMER FURTHER EXPRESSLY ACKNOWLEDGES AND AGREES THAT:

- (1) MEDIA LINK SHALL HAVE NO RESPONSIBILITY FOR DAMAGE OR DESTRUCTION TO the CUSTOMER'S COMPUTER OR NETWORK SYSTEM, DATA, INFORMATION OR INFRASTRUCTURE UNLESS THROUGH NEGLIGENCE ON BEHALF OF MEDIA LINK;
- (2) MEDIA LINK HAS NO RESPONSIBILITY WHATSOEVER FOR ANY THIRD-PARTY CONTENT, DATA, INFORMATION, PROGRAMS OR OTHER MATERIAL THAT the CUSTOMER MAY USE WITH OR ACCESS USING THE SERVICES;
- (3) IT IS SOLELY THE CUSTOMER'S RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS AND USEFULNESS OF ALL OPINIONS, ADVICE, SERVICES, MERCHANDISE AND OTHER INFORMATION PROVIDED THROUGH THE SERVICE OR ON THE INTERNET GENERALLY; AND
- (4) BECAUSE SOME STATES AND OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO the CUSTOMER AND IN SUCH STATES OR OTHER JURISDICTIONS MEDIA LINK'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## X. TERM & TERMINATION - DIRECT INTERNET ACCESS AND WIDE AREA NETWORK SERVICES

- (A) **Service Term.** The initial term of this Agreement shall begin on the Effective Date. The initial term of Services under this Agreement (the "Term") shall begin when the Services commence (which is defined as; all circuits are turned over, accepted) and, unless earlier terminated as hereinafter provided, shall expire on the twelfth (12<sup>th</sup>) month succeeding Service commencement ("Expiration Date"). The Agreement shall be coterminous with the Expiration Date set forth above. Upon commencement of Services, the CUSTOMER is responsible for and shall provide USAC with the Agreement termination date (within 10 days thereof) via the applicable form(s).

- (B) **Extension of Term.** The initial Term or any subsequent term, may be extended by exercising any of the following options:
- (1) The CUSTOMER has the option to extend for four (4) extension periods of one (1) year each ("Extension Term"), through the provision of written notice to MEDIA LINK not less than one hundred eighty (180) days before the Expiration Date or the end of the Extension Term. The Monthly Service Fee may be adjusted as of the first day of any Extension Term (the "Adjustment Date") by mutual agreement, in writing, by the parties no later than 180 days prior to the Expiration Date or the end of the Extension Term; or
  - (2) The CUSTOMER may extend the initial contract Term, or any Extension Term if such extension is necessary, to make the of this agreement coincide with the "funding year" or implementation period" as defined by E-Rate rules.
- (B) **Termination by the CUSTOMER.** The parties further acknowledge and agree that if the CUSTOMER terminates this Agreement after the network is deployed without cause, the CUSTOMER shall pay MEDIA LINK the cost to de-deploy the MEDIA LINK-owned Infrastructure.
- (C) **Termination by the CUSTOMER.** If MEDIA LINK repeatedly and persistently fails to substantially provide the Services as required by the terms of this Agreement, the CUSTOMER may terminate this Agreement by written notice to MEDIA LINK. The CUSTOMER shall give MEDIA LINK ninety (90) days written notice of such intention to terminate and provides MEDIA LINK an opportunity to cure any such default. In the event that MEDIA LINK commences to cure and diligently pursues cure during that ninety (90) day period, then the CUSTOMER may not terminate this Agreement.
- (D) **Termination by MEDIA LINK.** If the CUSTOMER breaches this Agreement and following a minimum thirty (30) day written notice to the CUSTOMER, MEDIA LINK reserves the right in its discretion to suspend or terminate this Agreement and to disconnect the Services, in whole or in part, with just cause as provided for by this Agreement, and providing the cause has been fully declared to the CUSTOMER, allowing the CUSTOMER the thirty (30) days to cure said cause. In addition, the CUSTOMER, shall pay MEDIA LINK the cost to de-deploy the Media Link-owned Infrastructure, and the CUSTOMER shall be liable for all remaining monthly recurring costs and fees for the remainder of the Service Term or any then current Extension Term.
- (E) **Termination by MEDIA LINK.** If MEDIA LINK is unable to secure lease, licenses, easements, right of ways, pole attachments or other necessary requirements or provision a third-party intermediary site under commercially reasonable terms and conditions as determined in the sole discretion of MEDIA LINK, and the site in question is essential to providing the Services, MEDIA LINK may terminate this Agreement in part or whole.

## **XI. TERM AND TERMINATION. SELF-PROVISIONED NETWORKS**

- (A) **Services Term.** The initial term of this Agreement shall begin on **January 1, 2024, through June 30, 2025.** The initial term of Services under this Agreement (the "Term") shall begin when the Services commence (which is defined as; all Dark Fibers are installed and tested end-to-end and accepted).
- (B) **Termination by the CUSTOMER.** The parties further acknowledge and agree that if the CUSTOMER terminates this Agreement after the network is deployed, without cause, the CUSTOMER shall pay MEDIA LINK the cost to de-deploy the MEDIA LINK-owned Infrastructure.
- (C) **Termination by the CUSTOMER.** If MEDIA LINK repeatedly and persistently fails to substantially provide the Services as required by the terms of this Agreement, the CUSTOMER may terminate this Agreement by written notice to MEDIA LINK. the CUSTOMER shall give MEDIA LINK ninety (90) days written notice of such intention to terminate and an opportunity to cure any such default. In the event that MEDIA LINK commences to cure and diligently pursues cure during that ninety (90) day period, then the CUSTOMER may not terminate this Agreement.

- (D) **Termination by MEDIA LINK.** If the CUSTOMER breaches this Agreement, and following a minimum thirty (30) day written notice to the CUSTOMER, MEDIA LINK reserves the right in its discretion to suspend or terminate this Agreement and to disconnect the Services, in whole or in part, with just cause as provided for by this Agreement, and providing the cause has been fully declared to the CUSTOMER, allowing the CUSTOMER the thirty (30) days to cure said cause. In addition, the CUSTOMER, shall pay MEDIA LINK the cost to de-deploy the Media Link-owned Infrastructure, and the CUSTOMER shall be liable for all remaining monthly recurring costs and fees for the remainder of the Service Term or any then current Extension Term.
- (E) **Termination by MEDIA LINK.** If MEDIA LINK is unable to secure lease, licenses, easements, right of ways, pole attachments or other necessary requirements or provision a third-party intermediary site under commercially reasonable terms and conditions as determined in the sole discretion of MEDIA LINK, and the site in question is essential to providing the Services, MEDIA LINK may terminate this Agreement in part or whole.
- (F) **Governing Law.** This Agreement shall be governed by the laws of the State of Texas without regard to its conflict of laws principles.
- (G) **Mediation.** In the event of an alleged breach of this Agreement by MEDIA LINK or the CUSTOMER or in the event of any other dispute arising out of this Agreement and involving MEDIA LINK and the CUSTOMER such breach or dispute may, by mutual agreement, initially shall be submitted to nonbinding mediation prior to the institution of any litigation. The parties agree to utilize the services of a retired judge, or other qualified mediator mutually acceptable to both parties.

## XII. MISCELLANEOUS

- (A) **Entire Telecommunications Service Agreement.** The *supplemental terms and conditions* portion of the CUSTOMER's request for proposal (RFP No. 230001104), is incorporated herein by this reference. This Agreement constitutes the entire agreement between the parties on the subject matter hereof and may be amended or modified solely by written agreement signed by each of the parties hereto. For purposes of clarification, with regards to the subject matter hereof, the parties acknowledge that any RFP, including MEDIA LINK's response to the same, is specifically superseded by the terms contained herein.
- (B) **No Third-Party Beneficiaries.** This Agreement is not intended to confer and does not confer any rights or remedies upon any person or entity other than the parties to this Agreement and the MEDIA LINK Indemnified Parties.
- (C) **Lowest Corresponding Price ("LCP").** The Services provided under this Agreement have been awarded under a competitive bid process and involved the filing of an FCC Form 470, thus meet the FCC/USAC requirements for LCP.
- (D) **Severability.** If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties and the remaining portions shall remain in full force and effect.
- (E) **No Assignment.** The CUSTOMER may not assign this Agreement and the CUSTOMER'S rights and obligations under this Agreement may not be assigned in whole or in part without MEDIA LINK's prior written consent. MEDIA LINK may freely assign this Agreement.
- (F) **CUSTOMER Contact.** The CUSTOMER shall designate a Representative who shall have the authority to represent and bind the CUSTOMER in all of its dealings with MEDIA LINK and shall serve as a contact person in the event that MEDIA LINK needs to contact the CUSTOMER for any reason. Representative's contact information is as follows:

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_  
 Email: \_\_\_\_\_

- (G) **Replacement of the CUSTOMER Representative.** In the event that the CUSTOMER replaces Representative, the CUSTOMER shall appoint a new Representative and provide MEDIA LINK written notice of such change and the new Representative's contact information within five (5) days.
- (H) **Site Specific Services.** The Services are provided to the sites initially selected by the CUSTOMER and reflected on Attachment A. the CUSTOMER may not transfer the Services to another location without MEDIA LINK's prior written consent (even if the CUSTOMER moves to a new place of business).
- (I) **Information Availability.** MEDIA LINK shall have no obligation to make any specific information, data, service, programs, newsgroups, or other material available through the Services and may block any such material in its sole discretion.
- (J) **Policies.** MEDIA LINK's Privacy Policy, Acceptable Use Policy and other policies set forth on the MEDIA LINK Internet Site from time to time are incorporated herein by reference and are an integral part of this Service Agreement.
- (K) **Remedies Non-Exclusive.** Wherever a remedy is expressly provided to either party hereunder, such remedy is intended to add rather than to restrict all of MEDIA LINK's remedies in law and equity.
- (L) **No Waiver.** If either party fails, at any time, to enforce any right or remedy available to it under this Agreement, that failure will not be construed to be a waiver of the right or remedy with respect to that or any other breach or failure by the other party. Any waiver must be in writing and signed by the parties.
- (M) **Counterparts.** This Agreement may be executed in separate original counterparts, each of which is deemed to be an original and all of which taken together shall constitute one and the same Agreement.

BY SIGNING BELOW, I AUTHORIZE DEPLOYMENT AND ACKNOWLEDGE THAT I HAVE READ, FULLY UNDERSTAND, AND AGREE TO ALL OF THE PRECEEDING TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT AND THE POLICIES INCORPORATED HEREIN BY REFERENCE.

The Aransas Pass Independent School District

Media Link Telecom, LLC


\_\_\_\_\_  
 Typed Name

Blaine Moreau  
 Typed Name

\_\_\_\_\_  
 Title

Vice President of Operations & General Manager  
 Title

\_\_\_\_\_  
 Signature

  
 Signature

\_\_\_\_\_  
 Date

1/31/2024  
 Date

## ATTACHMENT A

The deployment of the Services set forth herein are subject to but not limited to the procurement of leases, licenses, easements, right of ways, pole attachments, and other ancillary requirements. In the event, MEDIA LINK is not able, through no fault of its own, to procure the ancillary requirements in a commercially reasonable time and manner, MEDIA LINK reserves the right to modify the network as MEDIA LINK deems appropriate.

### Aransas Pass Independent School District

#### Pricing- Self-Provisioned WAN Service

School Name	Contract Length	Bandwidth (WAN)	NRC	Special Const.	MRC
Aransas Pass NOC (HUB)	N/A	N/A	\$39,399.00	\$0.00	\$0.00
Faulk Elementary	N/A	N/A	\$39,399.00	\$0.00	\$0.00
Kieberger Elementary	N/A	N/A	\$39,399.00	\$0.00	\$0.00
Aransas Pass High	N/A	N/A	\$39,399.00	\$0.00	\$0.00
AC Blunt Middle	N/A	N/A	\$39,399.00	\$0.00	\$0.00
Charlie Marshall Elementary	N/A	N/A	\$39,399.00	\$0.00	\$0.00
<b>Total ISD before USAC Discount</b>			<b>\$236,394.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

Notes:

- Includes 12 Dark SM fibers from each edge site back to Hub. Price does not include network equipment required to light fibers. SFP+ 10Gbps modules are available upon request.
- Price includes as-built plans in .kmz format showing depths (accurate to +/- 3") and lat/long at 10-ft intervals (accurate to 15cm).
- Price does not include maintenance of the fiber after installation to include entry to TX811 One Call database, marking as needed, or repair if needed.
- Includes R&R and disposal of approx 7,715' existing aerial fiber.
- Includes an additional handhole, splice closure and conduit entry at Bus Barn.
- Price does **not** include new fiber between Faulk Elem and High School – Existing Fiber.

#### **ADDITIONAL INFORMATION REGARDING FIBER:**

Approximate total feet of the Project	15,720 ft.
Average cost per foot	\$15.04 / ft.
Breakdown & Pricing of items requested	See the table above and corresponding Notes.
Upload & Download Speed in Mbps	N/A – Self-Provisioned is determined by the ISD's network equipment. Unlimited bandwidth.

**Attachment B**  
**NETWORK Proposed Fiber Route**

*Network Design **subject to change** upon final engineering.*



**Attachment C**  
**Media Link Telecom Maintenance Specifications**

MEDIA LINK's Self-Provisioned proposal includes all costs associated with maintaining the fiber for the term of the contract.

- Fiber restoration supplies and spares will be made available to local technicians for prompt repair following unscheduled outages.
- MEDIA LINK will add the proposed fiber routes to the Texas One Call database immediately upon commencement of construction, listing MEDIA LINK Telecom as owner of the facility. Upon cancellation of the Contract by the CUSTOMER following the term of the Contract, MEDIA LINK will transfer the ownership of the fiber route to the CUSTOMER. MEDIA LINK will furnish to the CUSTOMER an accurate As-Built map of the Self-Provisioned Network.
- MEDIA LINK's NOC will monitor, on a 24x7x365 basis, all locate request tickets, and dispatch local field locate technicians to mark the cable as required.
- MEDIA LINK will perform, at a minimum, semi-annual visual inspections of both aerial and OSP facilities, to include handhole lids, lashing and cable marker poles. These reports will be made available to the District. Annual cable testing will be performed by OTDR method, and the results made available to the District.
- Loss of Service (LOS) events will be acted upon immediately, with a tech on-site time in less than 2 hours after NOC notification. Cable restoration crews will be on-site within 4 hours of the LOS event and NOC notification.

## Attachment D

### SUPPLEMENTAL TERMS AND CONDITIONS

#### Self-Provisioned Networks

The prices in this contract are based on the following assumptions:

- IT Director and/or Superintendent have authority to approve work plans and Infrastructure locations.
- CUSTOMER provides assistance and support for zoning and building permits as required by the local municipalities.
- CUSTOMER provides site access as required by MEDIA LINK personnel and contractors and provides contact names, phone numbers, fax numbers and e-mail addresses.
- CUSTOMER provides a free and clear path from the exterior of the building to interior Infrastructure location(s) for all coaxial cable and other necessary cable/wire runs including, but not limited to, building penetrations, inside conduit and proper authorizations from the building owner.
- CUSTOMER provides unobstructed access to the grounds, interior and roof top(s) for Infrastructure location and construction regardless of building ownership. Infrastructure may include, but not be limited to fiber mounting structures, cabinets and wall racks.
- As indicated in this Agreement, there is no contractual, technical, or other limitation that would prevent MEDIA LINK from using its network Infrastructure in part or for other customers.
- Contract is contingent upon funding by the E-Rate program and February Board approval.

#### Additional Notes on E-Rate Eligible Services for Self-Provisioned Networks

- All Infrastructure utilized in the provision of this service belongs to the CUSTOMER following acceptance of the network.
- All on premise Infrastructure which is used by MEDIA LINK to provide Services listed above is provided by MEDIA LINK and not by another service provider. For Self-Provisioned Networks, on premise infrastructure is limited to Fiber Termination Panels.
- As clearly indicated in this Agreement, responsibility for maintaining the Infrastructure rests solely with MEDIA LINK and not with another service provider provided that the CUSTOMER enters into a separate Maintenance and Operations contract with MEDIA LINK
- CUSTOMER's Local Area Network, if any, is functional without dependence on MEDIA LINK's Infrastructure.
- This Agreement is contingent upon funding by the E-Rate program.
- MEDIA LINK to provide all necessary permitting/engineering and is ultimately held responsible for the final path.
- Contract is contingent upon funding by the E-Rate program and February Board approval.