

---

# Media Link Telecom, LLC Contract Agreement



Gregory-Portland Independent School District

Contract for Lit Fiber Services

FCC Form 470 # 220010780



## DIRECT INTERNET ACCESS and WIDE AREA NETWORK TELECOMMUNICATIONS SERVICE AGREEMENT

This Telecommunications Service Agreement (the "Agreement") is entered into as of this 1st day of July, 2022 (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 **Gregory-Portland ISD** ("CUSTOMER"), with its principal place of business located at **1200 Broadway St, Portland, TX 78374**. 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 CUSTOMER'S employees, agents and students. MEDIA LINK and CUSTOMER may be individually referred to herein as "party" or collectively as "parties."

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

"Outage Event" shall mean any outage or other loss of the Services, other than any outage that (i) is not reported by CUSTOMER to MEDIA LINK within five (5) days of occurrence, (ii) is less than one (1) hour in duration, (iii) is attributable to MEDIA LINK's scheduled network maintenance, (iv) is attributable to failure or outage of related telephone circuits (whether ordered by MEDIA LINK or CUSTOMER), (v) results from CUSTOMER's applications, equipment or facilities, (vi) results from any act or omission of CUSTOMER or any user of CUSTOMER's equipment or account, or (vii) is 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, (viii) results from MEDIA LINK not having been granted site access by the CUSTOMER, or (ix) results from 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 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-work days.

## TERMS AND CONDITIONS

### 1. The Service, Deployment and Access.

- (a) The Services. Subject to and in accordance with the terms and conditions of this Agreement, MEDIA LINK shall provide to CUSTOMER at mutually-agreeable CUSTOMER'S designated locations the Services as defined in Attachment A hereto.
- (b) Deployment. 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. 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 files, data, or other information that may be lost on CUSTOMER'S computer system during the deployment process and CUSTOMER agrees to hold MEDIA LINK harmless for all such lost files, data and other information. After deployment and during the Term of this Agreement, CUSTOMER shall provide MEDIA LINK with 24x7x365 access to CUSTOMER'S premise(s) to inspect, repair and maintain MEDIA LINK's Infrastructure. Upon termination or expiration of this Agreement, or disconnection of the Services, CUSTOMER shall be obligated to return the Infrastructure to MEDIA LINK or to provide MEDIA LINK with access to 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. Alternatively, as a common carrier, MEDIA LINK may opt to leave the Infrastructure at the Service Locations. In such event, MEDIA LINK may continue to make any substitutions to or modifications of and maintain the Infrastructure. The Infrastructure shall not be for the exclusive use of the CUSTOMER, but may be used by MEDIA LINK as MEDIA LINK shall decide. Throughout the useful life of the Infrastructure, CUSTOMER shall supply (or cause to be supplied) electricity to that Infrastructure and CUSTOMER grants MEDIA LINK an 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, CUSTOMER grants to MEDIA LINK an 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 CUSTOMER 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 of the MEDIA LINK-owned Infrastructure to serve other customers, and for internal communications 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 thirty years after the expiration or earlier 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. In addition, MEDIA LINK may lease capacity on its Infrastructure to a third party.
- (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"). 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 CUSTOMER. All work hereunder which is required by the law of the state within which 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 network design that MEDIA LINK has determined is necessary to provide the Services to CUSTOMER as required by this Agreement. In the event that CUSTOMER requests that MEDIA LINK modify that design then 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 CUSTOMER. Any change is subject to the network design limitations and 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 CUSTOMER's requirements. CUSTOMER shall request specific service upgrades based on pricing quoted at time of request. CUSTOMER may add sites (subject to changes in pricing and/or fees) at any time during the Term of this Agreement.

**2. MEDIA LINK Service Levels, Support, Maintenance and Indemnification.**

- (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 CUSTOMER's request, MEDIA LINK shall calculate the Deficiency Credit for any calendar month. MEDIA LINK shall credit to CUSTOMER's account as a refund the Deficiency Credit upon written/email request by CUSTOMER.

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 (inapplicable to unmanaged dark fiber services).** 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 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 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 (inapplicable to unmanaged dark fiber services).** 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 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 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 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 CUSTOMER's total credits for any calendar month exceed the Monthly Service Fee.
- (f) **MEDIA LINK 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 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 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. 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 CUSTOMER support are posted on the MEDIA LINK Internet Site and are included in Section 7 of this Agreement. If CUSTOMER'S use of the Services requires that MEDIA LINK visit CUSTOMER'S premises for assistance, repair, deployment or connection, MEDIA LINK shall be entitled to charge CUSTOMER MEDIA LINK's then prevailing labor rates and related costs for each such visit, and 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 this Section 2.
- (g) **MEDIA LINK Response Times.** MEDIA LINK shall provide a CUSTOMER support service contact point. 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
- (h) **Indemnification.** MEDIA LINK agrees to indemnify and hold harmless 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, 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.

### 3. CUSTOMER'S Obligations.

- (a) **Payment.**
  - i. **Non-Recurring Charge.** Upon Certification of the deployment of the Infrastructure, MEDIA LINK shall invoice CUSTOMER the applicable percentage of the Monthly Recurring Costs specified in Attachment A, and as dictated by the USAC SPI payment guidelines. CUSTOMER shall pay the Non-Recurring Charge within thirty (30) days of the invoice. If applicable, MEDIA LINK will invoice CUSTOMER on a per site basis until all sites are operational.
  - ii. **Monthly Service Fee.** MEDIA LINK shall invoice 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. CUSTOMER shall pay the Monthly Service Fee within thirty (30) days of the invoice. If applicable, MEDIA LINK will invoice CUSTOMER on a per site basis until all sites are operational.
  - iii. **CUSTOMER Ultimately Responsible.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, CUSTOMER IS RESPONSIBLE FOR PAYMENT OF ALL FEES INCLUDING ANY DISCOUNT AMOUNTS OWED BY USAC.
  - iv. **Failure To Pay.** If 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.
  - v. **Re-connect.** If CUSTOMER disconnects the Services or if CUSTOMER'S Services are disconnected due to nonpayment or other breach of this Agreement, and if MEDIA LINK subsequently agrees to reconnect the Services, 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.

- vi. Charges for other services or goods. From time to time 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. CUSTOMER agrees to pay for such other services and goods that it selects or purchases.
  - vii. Taxes, Fees and Surcharges. Except for taxes based on MEDIA LINK'S net income, all applicable federal, state or local taxes and fees, including without limitation all use, sales, excise, commercial, gross receipts, privilege, right-of-way, occupation, surcharges, or other similar taxes, license fees, miscellaneous fees, and surcharges, whether charged to or against MEDIA LINK or CUSTOMER (collectively, the "Taxes"), will be payable by CUSTOMER, including, without limitation, any cost recovery fee which will represent an accurate and non-inflated recovery of MEDIA LINK's, or any underlying provider's, miscellaneous tax, surcharge, and fee payments to federal, state or local governmental authorities associated with the provision of the Services (including any WAN facilities) by MEDIA LINK to CUSTOMER pursuant to this Agreement. CUSTOMER shall be required to provide documentation evidencing its exemption from any such Taxes. CUSTOMER acknowledges and certifies that, for the duration of the Term, the interstate traffic (including Internet and international traffic) will constitute ten percent (10%) or less of the total traffic on the fiber network that has been provided by MEDIA LINK.
- (b) Utilities. CUSTOMER shall provide electrical services to the MEDIA LINK Infrastructure as required by MEDIA LINK.
  - (c) Current address and information. CUSTOMER is required, and agrees, to keep MEDIA LINK notified in a timely manner of any changes in the information CUSTOMER provides to MEDIA LINK, including information provided when CUSTOMER initiates use of the Services.
  - (d) Assignment or Sharing of Service. 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. CUSTOMER shall immediately notify MEDIA LINK if 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. CUSTOMER has the duty to notify MEDIA LINK as soon as CUSTOMER receives such information. 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.

#### **4. MEDIA LINK Obligations.**

- (a) Payment. Effective 1 July, 2017 MEDIA LINK will no longer be involved in the BEAR payments process. 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, CUSTOMER must have completed a FCC Form 498 to obtain an applicant 498 ID.
- (b) MEDIA LINK shall invoice the Texas Teleconnect Fund (CTF) for the applicable portion of CUSTOMER'S reimbursement directly.

#### **5. CUSTOMER'S Warranties, Representations and Indemnification.**

- (a) Warranties and Representations. CUSTOMER warrants and represents that 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, and CUSTOMER shall make all payments required herein plus any and all applicable Taxes. CUSTOMER warrants that all funds due from CUSTOMER hereunder have been allocated for the uses contemplated in this Agreement or if they have not been allocated, CUSTOMER believes that such funds will be allocated (on an annual basis for the Term of the contract and any corresponding extension or renewal), that there is no current basis to believe that such funds will not be allocated and that CUSTOMER has taken every necessary step to assure the availability of CUSTOMER funds hereunder.
- (b) **CUSTOMER Indemnification.** To the fullest extent allowed by law, CUSTOMER agrees to indemnify and hold harmless MEDIA LINK, its parent, subsidiaries and affiliates, assigns and the members, officers, directors, employees, contractors, agents and representatives of MEDIA LINK and its subsidiaries and affiliates (together "MEDIA LINK Indemnities") against any and all costs, claims, liabilities or expenses any of the MEDIA LINK Indemnities may incur as a result of, or arising out of, or



related to: (i) CUSTOMER'S breach of this Agreement or of CUSTOMER'S warranties and representations made herein; (ii) CUSTOMER'S willful, negligent, tortious or criminal acts or omissions; (iii) any improper use of CUSTOMER'S password, name or user name; or (iv) CUSTOMER'S violation of any third party's rights. In the event of any claim, which, if true, would be subject to indemnification hereunder, MEDIA LINK or the affected MEDIA LINK Indemnities shall notify CUSTOMER and CUSTOMER shall cooperate in their defense at CUSTOMER'S sole cost and expense. As part of CUSTOMER'S indemnification obligations, CUSTOMER shall reimburse MEDIA LINK for any costs that MEDIA LINK incurs, including complaint fees charged by jurisdictional authorities, network or service providers, and investigation expenses, due to complaints filed regarding CUSTOMER'S activity (or activity for which CUSTOMER is responsible) in using the Services.

#### **6. MEDIA LINK's Ownership of Service Infrastructure, Hardware and Appurtenances.**

- a) The Infrastructure, hardware and appurtenances (to include, but not limited to, fiber optic cabling and apertures) to be located on CUSTOMER 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 in subsection (b). 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 CUSTOMER'S Services. 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, CUSTOMER shall be responsible for all costs of repair or replacement of items returned damaged or in poor working condition due to 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, 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.

#### **7. Contact Us.**

- (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: (i) personally delivered (including by means of a messenger service), or (ii) by United States first class mail postage prepaid (registered or certified) return receipt requested, or (iii) when 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 CUSTOMER has questions or concerns or simply would like more information about the costs CUSTOMER might incur in using the Services or with CUSTOMER'S particular account, CUSTOMER may contact MEDIA LINK at **1-844-363-3426**
- (c) General Information. For general information about MEDIA LINK and MEDIA LINK's services, CUSTOMER may visit the MEDIA LINK Internet Site or contact MEDIA LINK at **1-844-363-3426**
- (d) CUSTOMER Support and Service. For CUSTOMER service and support, CUSTOMER may contact MEDIA LINK via telephone, via electronic mail or via the MEDIA LINK Internet Site. 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)

#### **8. Disclaimers and Limitation of MEDIA LINK's Liability.**

- (a) CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) 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; (ii) THE USE OF THE SERVICES, THE INTERNET, AND ANY SOFTWARE OR INFRASTRUCTURE PROVIDED BY MEDIA LINK IS AT CUSTOMER'S SOLE RISK; AND (iii) 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 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. CUSTOMER FURTHER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) MEDIA LINK SHALL HAVE NO RESPONSIBILITY FOR DAMAGE OR DESTRUCTION TO CUSTOMER'S COMPUTER OR NETWORK SYSTEM, DATA, INFORMATION OR INFRASTRUCTURE UNLESS THROUGH NEGLIGENCE ON BEHALF OF MEDIA LINK; (ii) MEDIA LINK HAS NO RESPONSIBILITY WHATSOEVER FOR ANY THIRD-PARTY CONTENT,

DATA, INFORMATION, PROGRAMS OR OTHER MATERIAL THAT CUSTOMER MAY USE WITH OR ACCESS USING THE SERVICES; (iii) 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 (iv) IN NO EVENT SHALL MEDIA LINK BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, ACTUAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS OF ANY KIND WHATSOEVER) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE DEPLOYMENT, USE, MAINTENANCE, FAILURE, REMOVAL OR OPERATION OF THE SERVICES, SOFTWARE OR INFRASTRUCTURE PROVIDED BY MEDIA LINK, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF MEDIA LINK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. 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 CUSTOMER AND IN SUCH STATES OR OTHER JURISDICTIONS MEDIA LINK'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

- (b) SUBJECT TO THE FOREGOING, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) MEDIA LINK'S MAXIMUM LIABILITY TO CUSTOMER UNDER THIS AGREEMENT OR ARISING OUT OF OR RELATED TO THE SERVICES WILL BE THE AGGREGATE AMOUNT CUSTOMER HAS ACTUALLY PAID TO MEDIA LINK FOR THE SERVICE; (ii) MEDIA LINK HAS ESTABLISHED ITS PRICING FOR THE SERVICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES; AND (iii) THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THIS TELECOMMUNICATIONS SERVICE AGREEMENT SHALL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED THEIR ESSENTIAL PURPOSE. THE FOREGOING IS SUBJECT ONLY TO THE SPECIFIC SERVICE LEVEL STANDARDS AND REMEDIES SET FORTH IN SECTION 2 ABOVE.

## 9. Term and Termination.

- (a) Services 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, 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:
- (i) CUSTOMER has the option to extend for **two (2) 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
  - (ii) 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.

- (c) Termination by CUSTOMER. The parties further acknowledge and agree that if the CUSTOMER terminates this Agreement after the network is deployed, CUSTOMER shall pay MEDIA LINK the cost to de-deploy the MEDIA LINK-owned Infrastructure. In addition, the CUSTOMER shall pay all remaining monthly costs and fees due through the end of the contract Term. In such event this Agreement will terminate on the last day of the fiscal period for which commitments were received. CUSTOMER also agrees to not procure services from any other provider which are similar or analogous to services provided under this Agreement for the entire unexpired initial Term of this Agreement.
- (d) Termination by CUSTOMER. If MEDIA LINK repeatedly and persistently fails to substantially provide the Services as required by the terms of this Agreement, CUSTOMER may terminate this Agreement by written notice to MEDIA LINK. 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 CUSTOMER may not terminate this Agreement.
- (e) Termination by MEDIA LINK. If CUSTOMER breaches this Agreement, and following a minimum thirty (30) day written notice to 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, CUSTOMER, shall pay MEDIA LINK the cost to de-deploy the Media Link-owned Infrastructure, and 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.
- (f) 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.
- (g) Termination of Agreement in Order to Seek Alternate Services. In the event that this Agreement is terminated under Section 9(c) or 9(e), CUSTOMER shall not procure services from any other provider which are similar or analogous to the Services provided under this Agreement for the remainder of the Initial or any then in effect Extension Term of this Agreement.

**10. Governing Law.** This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws principles.

**11. Mediation.** In the event of an alleged breach of this Agreement by MEDIA LINK or CUSTOMER or in the event of any other dispute arising out of this Agreement and involving MEDIA LINK and CUSTOMER such breach or dispute 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.

**12. Miscellaneous.**

- (a) Entire Telecommunications Service Agreement. The *supplemental terms and conditions* portion of the CUSTOMER's request for proposal (RFP No. 15-15), as provided in Attachment B, 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. CUSTOMER may not assign this Agreement and 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. 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: \_\_\_\_\_

E-mail: \_\_\_\_\_

- (g) Replacement of CUSTOMER Representative. In the event that CUSTOMER replaces Representative, 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 CUSTOMER and reflected on Attachment A. CUSTOMER may not transfer the Services to another location without MEDIA LINK's prior written consent (even if 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.
- U) 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 MEDIA LINK hereunder, such remedy is intended to add rather than to restrict all of MEDIA LINK's remedies in law and equity.
- Ø) No Waiver. If MEDIA LINK 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 CUSTOMER. Any waiver must be in writing and signed by MEDIA LINK.
- (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.

Gregory-Portland Independent School District

Media Link Telecom, LLC

Michelle Cavazos  
Name

Blaine Moreau  
Name

Superintendent  
Title

Vice President-Operations  
Title

Michelle Cavazos  
Signature

Blaine Moreau  
Signature

3/2/2022  
Date

3/4/2022  
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.

### **Gregory-Portland Independent School District**

<b>School Name</b>	<b>Contract Length</b>	<b>Bandwidth Direct Internet Access (DIA)</b>	<b>Bandwidth (WAN)</b>	<b>NRC</b>	<b>Special Const.</b>	<b>MRC</b>
Gregory-Portland Technology-Data Center	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.88
WC Andrews Elementary School	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.88
TM Clark Elementary	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.88
Administration Offices	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.88
Administration Annex	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.87
SF Austin	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.87
East Cliff Elementary	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.87
Student Support Services	12 month	N/A	10-Gig	\$0.00	\$0.00	\$999.87
<b>Totals</b>						<b>\$7,999.00</b>

## **Attachment B**

### **Media Link Telecom Maintenance Specifications**

Media Link Telecom's lit fiber proposal includes all costs associated with maintaining the fiber and NID devices.

- Equipment 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.
- Media Link Telecom'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, monthly 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.
- In the event of hardware failure, "hot swap replacement" within 24 hours of the reported failure.
- Equipment maintenance, to include filter changing if required, will be performed on a semi-annual basis.
- Firmware updates and other network equipment maintenance will be scheduled in advance with the District.



---

## Attachment C

### Media Link Telecom Technical Support Specifications

Technical support to the District will be available 24x7x365 by contacting:

- Media Link NOC at toll free 844-363-3426. The NOC is manned by experienced network engineers and technicians responsible for taking trouble calls, deciding best action course, dispatching, or escalating if required.
- Through the Media Link Telecom web portal at <http://medialinktelecom.com/contact/>. Inquiries through the website are directed to the NOC and are monitored 24x7.
- Emailing Media Link technical support at [support@medialinktelecom.com](mailto:support@medialinktelecom.com).

Following unscheduled network outages, Media Link customers should contact the Media Link Network Operations Center at 844-363-3426.

1. All calls to the Media Link NOC will be immediately issued a ticket number for internal tracking. This ticket number will be given to the customer for follow up calls if required.
2. The following customer information, at a minimum will be asked of the customer:
  - Name
  - Call back number
  - Existing ticket number (if applicable)
  - Location or service, and whether caller is on-site
  - Contract Number (if applicable)
  - Description of outage or trouble
  - Verification of commercial power at the Media Link NID
3. The NOC representative will make a determination as to the most appropriate response to the issue based on network monitoring and caller information. Appropriate escalation to Media Link personnel will be taken as required. Priority Level of the outage is assigned.
4. Response decision will be relayed to the caller for approval or feedback.
5. Ticket updates will be sent to the customer via phone or email during the network outage. The update interval will be discussed with the customer.
6. If the outage is determined to not be customer power related, the NOC will notify Media Link Operations of the outage within 5 minutes of ticket generation.
7. Media Link Operations will decide on a course of action based on the following data:
  - Current weather conditions at customer location. Disaster recovery operations will be initiated following severe weather events.
  - Proximity of digging contractors in the vicinity of Media Link facilities. If it is determined by researching dig requests that a fiber damage has likely occurred, Operations will either dispatch a restoration crew, or contact local assets for assistance. Response time shall be less than 2 hours. Circuit restoration times following OSP damages are controlled by severity, location, and employee safety.
  - Performance and monitoring processes. Spare SPFs, jumpers and other critical telecommunications parts will be made available to local technicians. Availability and access to Media Link equipment will be coordinated with the customer.

Priority Level	Criteria	Response Time	MTTR Goal	Ticket Updates
Level 1 "Critical"	a. Total Loss of Service b. Service disruption to the point of where the Customer is unable to use the service	15 minutes to respond to customer with a trouble ticket # and information	Less than 4 hours	Constantly as milestones are met
Level 2 "Major"	Service degraded but usable	15 minutes to respond to customer with a trouble ticket # and information	Less than 4 hours	Constantly as milestones are met
Level 3 "Minor"	A problem that does not impact Service	On an alert from the Customer		As milestones are met

**Attachment D**

