



**FLOYD COUNTY BOARD OF EDUCATION**  
**Stephen A. Trimble, Interim Superintendent**  
**106 North Front Avenue**  
**Prestonsburg, Kentucky 41653**  
**Telephone (606) 886-2354 Fax (606) 886-8862**  
**[www.floyd.kyschools.us](http://www.floyd.kyschools.us)**

**Sherry Robinson- Chair - District 5**  
**Dr. Chandra Varia, Vice-Chair - District 2**  
**Linda C. Gearheart, Member - District 1**  
**William Newsome, Jr., Member - District 3**  
**Rhonda Meade, Member - District 4**

**Date:** March 16, 2018

**Consent Item:** Retroactive approval of the Suddenlink agreement with the Floyd County Schools.

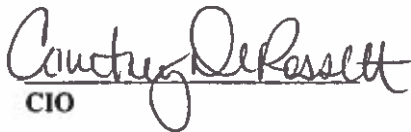
**Applicable Statute or Regulation:** BOE Policy 01.11 General Powers and Duties of the Board.

**Fiscal Impact:** General Fund

**Background and Major Policy Implications:** Service providers and agreements are approved by the Board of Education.

**Recommended Action:** Approve Agreement.

**Contact Person:** Courtney DeRossett

  
CIO

  
Superintendent



Account Rep	MELISSA WRIGHT	System Address	Suddenlink Business Office
Phone Number	(304) 760-8807		50 River Walk Plaza
Fax Number	(813) 356-0909		South Charleston, WV 25303

Customer Information		Authorized Customer Representative	
Account Number	100-7169104-01	Full Name	WESLEY TURNER
Legal Company Name	FLOYD COUNTY SCHOOLS	Telephone	(606) 886-4548
Street Address	106 N FRONT AVE	Fax	
City/State/Zip	PRESTONSBURG, KY 41653	Email Address	wesley.turner@floyd.kyschools.us
Billing Address		Federal Tax ID	61-6001347
City/State/Zip		Requested Delivery Date	07/01/2018
If Bar or Restaurant account, notate occupancy (1-50; 51-100; 101-150; 151-200; 201-300; 301-500; 501+)			

Taxes and Fees Not Included					
Service Description	Quantity	Unit Price	Term (Months)	Monthly Recurring (video rates subject to no more than 10% annual increases)	One Time Activation & Setup Fees
Business Internet 50/8	1	\$79.95	36 Months	\$79.95	
Business Internet Modem Rental	1	\$5.00	36 Months	\$5.00	
Totals				\$84.95	\$29.95

\*download and upload speeds are maximum speeds; they may vary and are not guaranteed

Equipment Charges			
Description	Quantity	Unit Price	Total Fee

**Special Conditions (for point to point and multipoint services, include the addresses of all circuit termination locations)**

Suddenlink KY SPIN 143030633

Customer has the option to upgrade speed throughout term of contract

**Promotion Details****NOTICE REGARDING 911 SERVICES**

While your Suddenlink Phone Service may be supported by a battery backup, it is electrically powered. In the event of a power outage or Suddenlink network failure, 911 services will not be available. If you move the phone service equipment, the 911 service may not function properly and emergency operators will not be able to identify the caller's location.

By signing this Agreement; (i) you represent that you are the Customer or Customer's authorized agent; (ii) you agree that you have received a copy of and have been given an opportunity to review this Commercial Service Order and the Commercial Service Agreement, of which this Service Order is a part; (iii) you agree to the terms and conditions of the Commercial Service Agreement; (iv) you acknowledge that you have read and understood the Notice Regarding 911 Services above; and (v) you acknowledge that THIS BUSINESS SERVICE AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES. This Agreement shall not be deemed effective until it has been executed by both parties. Final proposed prices in this Agreement are valid for 30 business days from the date below of the Suddenlink signatory. The prices are firm for the term of this Agreement when signed below by the Customer and by Suddenlink.

  
Customer Authorized Signature

Date

Print Name

Title

Ceque! Communications, LLC dba Suddenlink Communications,  
on behalf of its affiliates providing services hereunder ("Suddenlink")

Date

Print Name

Title

## Commercial Service Agreement

### TERMS OF SERVICE APPLICABLE TO ANY AND ALL SERVICE(S)

Customer, identified in the Service Order (defined in paragraph 1 below), understands and agrees that this Commercial Service Agreement, together with the Service Order, and Annex (collectively, the "Agreement") applies to each and every communication service provided to Customer by Suddenlink Communications ("Suddenlink") ("Service(s)"), which may include, without limitation, cable television service ("Video Service"), high speed data service ("High Speed Internet Service"), voice service ("Phone Service") and Suddenlink equipment ("Equipment"). This Commercial Service Agreement, along with the Annex, each as may be updated from time to time, can be found on our website at [www.suddenlink.com](http://www.suddenlink.com).

1. **Agreement.** This Agreement shall be effective upon execution by the parties, and Services shall be provided for the term set forth in the Commercial Service Order. Customer agrees to be bound to this Agreement by: (i) executing a copy of the Commercial Service Order presented to Customer at the time of installation ("Service Order"), (ii) ordering a Service, or (iii) using one or more Services at Customer's location. Suddenlink may, in its sole discretion, change, modify, add or remove portions of this Agreement at any time by giving Customer notice in accordance with this Agreement. Customer's continued use of the Services following such notice shall be deemed as Customer's acceptance to any revision in this Agreement. If Customer does not agree to the revised Agreement, Customer must immediately notify Suddenlink of Customer's intent to terminate Service and return all Equipment.

2. **Services and Use.** Suddenlink shall use reasonable efforts to make the Services available by any requested service date. Suddenlink shall not be liable for any damages whatsoever resulting from delays in meeting any service dates due to delays resulting from construction or for reasons beyond its control. The parties acknowledge and agree that, except for Web hosting, if applicable, and as otherwise set forth in the Commercial Services Order, Customer may only use the Services for its own commercial purposes and not that of any third party. Customer shall not resell the Services. Customer shall be responsible for any software and content displayed and distributed by Customer or Customer's web hosting customers, if any. Unless otherwise expressly set forth in the Commercial Service Order, Customer acknowledges that pay per view events and premium video and audio services may not be available, and, if provided, may be subject to additional charges beyond the base rate. Suddenlink shall provide Customer with the Services and Equipment identified on Customer's Commercial Service Order; provided, however, if Suddenlink determines that Customer's location is not serviceable under Suddenlink's normal installation guidelines, Suddenlink may terminate this Agreement. Unless provided otherwise herein, Suddenlink shall use reasonable efforts to maintain the Services in accordance with applicable performance standards, however, Suddenlink shall have no responsibility for the maintenance or repair of networks, facilities and equipment not furnished by Suddenlink.

3. **Payment.** Customer shall pay all monthly service charges, plus non-recurring, one-time set-up, installation and/or construction charges as set forth on the Commercial Service Order. Unless stated otherwise on the Commercial Service Order, Monthly Recurring Charges/Access Charges ("MRCs") for services provided hereunder ("Services") shall begin upon, and Non Recurring Charge/One-time Activation and Set-up Fees ("NRCs") if any shall be due upon, the commencement of Services. Any amount not received by the due date will be subject to additional fees as set forth below. If applicable to the Service, Customer shall pay sales, use, gross receipts, excise, access, universal service fund assessments, 911 fees, franchise fees, bypass or other local, state and Federal taxes or charges imposed on the use of the Services. Taxes will be separately stated on the Customer's invoice. Unpaid balances shall be subject to interest or late charges at the maximum rate allowed by law. Failure to pay the total balance when due may be grounds for Suddenlink to impose an administrative fee ("Administrative Fee") in accordance with

applicable law. Any Administrative Fee imposed on Customer is intended to be a reasonable advance estimate of costs of managing past due accounts. Suddenlink does not extend credit to Suddenlink's Customers and the Administrative Fee is not interest, a credit service charge or a finance charge. Failure to receive a bill does not release Customer from Customer's obligation to pay. Failure to pay the total balance when due shall constitute a breach of this Agreement and may be grounds for termination of Service, removal of Equipment from Customer's premises and/or imposition of an administrative fee ("Administrative Fee") in accordance with applicable law.

4. **Additional Fees.** In addition to MRCs, NRCs, late charges, interest, and any Administrative Fee, additional fees may be imposed, including fees for returned checks, charge card chargeback, early termination, reconnection and service calls. Additional charges, including attorney fees, may also be imposed if collection activities are required to recover past due balances. A list of fees is available on Suddenlink's website ([www.suddenlink.com](http://www.suddenlink.com)) ("Schedule of Fees"). Suddenlink reserves the right to amend or change the Schedule of Fees from time to time by posting the changes on Suddenlink's website.

5. **Term, Early Termination.** The term of the Service Order shall commence on the date that any Service commences and shall terminate upon the expiration or earlier termination of the Agreement Term set forth on the Service Order. If a Service Order does not specify a term of service, the Agreement Term shall be one (1) year from the date that any Service commences. Upon the expiration of the Term, each Service Order(s) shall automatically renew for successive periods of one (1) year each ("Renewal Term(s)"), unless prior notice of non-renewal is delivered by either party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the initial Service Term and from time to time therein, Suddenlink may, modify the charges for HSI and/or Video Services to reflect then-current prevailing pricing subject to thirty (30) days prior notice. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing for the remainder of the Renewal Term. If Customer cancels, terminates or downgrades the Service before the completion of the term shown on the Commercial Service Order (the "Term"), or prior to the term of any promotional offer, Customer agrees to pay Suddenlink all sums, which shall become due and owing as of the effective date of the cancellation or termination, including: (i) all non-recurring charges reasonably expended by Suddenlink to establish service to Customer and not remunerated, (ii) any disconnection, early cancellation or termination charges reasonably incurred and paid by Suddenlink to third parties on behalf of Customer, and (iii) all recurring charges for the remaining balance of the Term or term of the promotional offer.

Notwithstanding the foregoing, if the Floyd County School Board fails to appropriate funds or if funds are not otherwise made available, including the loss of SLD funding, for continued performance by Customer for any funding year during the Term of this Agreement, succeeding the first funding period, the Agreement may be cancelled by Customer upon written notice prior to the

beginning of the funding year for which funds were not appropriated or otherwise made available. The effect of termination of the Agreement under this section will be to discharge both Suddenlink and Customer from future performance of the Agreement. Notwithstanding anything to the contrary in this Agreement, including any of the foregoing, upon such a termination, Customer shall be liable to Suddenlink to the fullest extent permitted by law including Suddenlink's actual damages including any and all unpaid non-recurring charges, any unpaid past due balance(s), and the reasonable value of any unreimbursed costs (exclusive of recurring charges related to the ongoing maintenance and upkeep of the facilities). Customer shall reimburse Suddenlink in such amount as soon as reasonably practicable after such a termination. Customer acknowledges and agrees that Suddenlink is investing significant sums into the infrastructure necessary for the provision of the Services hereunder, and a termination by Customer hereunder will significantly damage Suddenlink. Customer shall notify Suddenlink in writing as soon as it has knowledge that funds may not be available for the continuation of the Agreement for each succeeding funding years beyond the first year.

6. **Disputed Charges.** Customer must notify Suddenlink in writing of billing errors disputes or requests for credit within thirty (30) days after Customer receives the bill for which correction of an error or credit is sought. The date of the dispute shall be the date Suddenlink receives sufficient documentation to enable Suddenlink to investigate the dispute. The date of the resolution is the date Suddenlink completes its investigation and notifies the Customer of the disposition of the dispute.

7. **Default.** If Customer fails to comply with any material provision of this Agreement, including, but not limited to failure to make payment as specified, then Suddenlink, at its sole option, may elect to pursue one or more of the following courses of action upon proper notice to Customer as required by applicable law: (i) terminate service whereupon all sums then due and payable shall become immediately due and payable, (ii) suspend all or any part of Services, and/or (iii) pursue any other remedies, including reasonable attorneys' fees, as may be provided at law or in equity, including the applicable termination liabilities.

8. **LIMITATION OF LIABILITY.** EXCEPT FOR ANY REFUNDS OR CREDITS AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SUDDENLINK, ITS OFFICERS, SHAREHOLDERS, DIRECTORS, EMPLOYEES, AFFILIATES, VENDORS, CARRIER PARTNERS, CONTENT PROVIDERS AND OTHER PERSONS OR ENTITIES INVOLVED IN PROVIDING THE SERVICES OR EQUIPMENT (COLLECTIVELY, THE "SUDDENLINK PARTIES") SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, COST OR EXPENSE INCLUDING DIRECT, SPECIAL, INDIRECT, INCIDENTAL, TREBLE, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES OR DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, EARNINGS, BUSINESS OPPORTUNITIES, LOSS OF DATA, PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR LEGAL FEES AND EXPENSES, SOUGHT BY CUSTOMER OR ANYONE ELSE USING CUSTOMER'S SERVICE ACCOUNT, AND/OR USE OF THE EQUIPMENT OR OTHERWISE ARISING IN CONNECTION WITH THE INSTALLATION, MAINTENANCE, FAILURE, REMOVAL OR USE OF SERVICES AND/OR EQUIPMENT OR CUSTOMER'S RELIANCE ON THE SERVICES AND/OR EQUIPMENT, INCLUDING WITHOUT

LIMITATION ANY LIABILITY THAT ARISES DIRECTLY OR INDIRECTLY OUT OF THE USE OR INABILITY TO USE THE SERVICES (INCLUDING THE INABILITY TO ACCESS EMERGENCY 911 OR E911 SERVICES), MISTAKES, OMISSIONS, INTERRUPTIONS, FAILURE OR MALFUNCTION, DELETION OR CORRUPTION OF FILES, WORK STOPPAGE, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN INSTALLATION, FAILURE TO MAINTAIN PROPER STANDARDS OF OPERATION, FAILURE TO EXERCISE REASONABLE SUPERVISION, DELAYS IN TRANSMISSION, BREACH OF WARRANTY OR FAILURE OF PERFORMANCE OF THE SERVICES AND/OR EQUIPMENT; OR RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, ANY ALLEGATION, CLAIM, SUIT OR OTHER PROCEEDING RELATING TO SERVICES AND/OR EQUIPMENT, OR THE INFRINGEMENT OF THE COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY, OR OTHER INTELLECTUAL PROPERTY RIGHTS OR CONTRACTUAL RIGHTS OF ANY THIRD PARTY. SUDDENLINK'S MAXIMUM LIABILITY TO CUSTOMER ARISING UNDER THIS AGREEMENT SHALL BE THE LESSER OF \$5,000.00 OR THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SERVICES HEREUNDER FOR THE RESPECTIVE REGULAR BILLING PERIOD.

9. **WARRANTIES.** CUSTOMER AGREES THAT THE SERVICES AND EQUIPMENT ARE PROVIDED BY SUDDENLINK ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXCEPT AS PROVIDED HEREIN, THERE ARE NO AGREEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE SERVICES. SERVICES PROVIDED ARE A BEST EFFORTS SERVICE AND SUDDENLINK DOES NOT WARRANT THAT THE SERVICES, EQUIPMENT OR SOFTWARE SHALL BE ERROR-FREE OR WITHOUT INTERRUPTION. SUDDENLINK MAKES NO WARRANTY AS TO TRANSMISSION OR UPSTREAM OR DOWNSTREAM SPEEDS OF THE NETWORK. ALL USE OF THE SERVICES ARE PROVIDED AT CUSTOMER'S SOLE RISK AND CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR CUSTOMER'S OR ANY USER'S USE OF THE SERVICES. THE SUDDENLINK PARTIES MAKE NO WARRANTIES THAT THE SERVICE, EQUIPMENT OR SOFTWARE ARE COMPATIBLE WITH ANY CUSTOMER EQUIPMENT AND ARE NOT RESPONSIBLE OR LIABLE FOR ANY LOSS OR IMPAIRMENT OF SERVICE DUE IN WHOLE OR IN PART TO CUSTOMER EQUIPMENT. THE SUDDENLINK PARTIES MAKE NO WARRANTY AS TO THE SECURITY OF CUSTOMER'S COMMUNICATIONS VIA SUDDENLINK'S FACILITIES OR SERVICES, OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR CUSTOMER'S COMMUNICATIONS. CUSTOMER AGREES THAT CUSTOMER HAS THE SOLE RESPONSIBILITY TO SECURE CUSTOMER'S COMMUNICATIONS AND THAT THE SUDDENLINK PARTIES WILL NOT BE LIABLE FOR ANY LOSS ASSOCIATED WITH SUCH UNAUTHORIZED ACCESS.

10. **Indemnity.** Customer shall indemnify and hold Suddenlink and its respective affiliates, subcontractors, employees or agents harmless

(including payment of reasonable attorneys fees) from and against any claim, actions or demands relating to or arising out of or related in any way to Customer's use of the Service, any other person's use of the Customer's account, the placement or presence or removal of Suddenlink's Equipment, facilities and associated wiring on Customer's premises including without limitation (i) any content or software displayed, distributed or otherwise disseminated by the Customer, its employees, or users of the Services, (ii) any claim that Customer's use of the Service including the registration and maintenance of Customer's selected domain name(s), infringes on the patent, copyright, trademark or other intellectual property right of any third party; (iii) any malicious act or act in violation of any laws committed by Customer, its employees or users using the Services; and/or (iv) violation by Customer, its employees or authorized users of the Suddenlink AUP.

**11. Miscellaneous.** This Agreement, any document referenced herein, and the AUP constitute the entire agreement between Suddenlink and Customer for the Services and equipment provided herein. The invalidity or unenforceability of any term or condition of this Agreement shall not affect the validity or enforceability of any other provision. This Agreement may be modified, waived or amended only by a written instrument signed by the parties; provided Suddenlink may modify the AUP and if Customer continues to use the Service, Customer shall be bound by such AUP as modified. The rights and obligations of the parties under this Agreement shall be governed by the laws of the State of Kentucky. The failure by either party to exercise one or more rights provided in this Agreement shall not be deemed a waiver of the right to exercise such right in the future. Notices required by this Agreement shall be in writing and shall be delivered either by personal delivery or by mail. If delivered by mail, notices shall be sent by any overnight mail service with proof of receipt; or by certified or registered mail, return receipt requested; with all postage and charges prepaid. All notices and other written communications under this Agreement shall be addressed to the parties at the addresses on the first page of this Agreement, or as specified by subsequent written notice delivered by the party whose address has changed. The failure of Suddenlink to enforce this Agreement and any of its components, for whatever reason, shall not constitute a waiver of any right of Suddenlink or the ability to assert or enforce such right at any time in the future. All representations, warranties, indemnifications, dispute resolution provisions and limitations of liability contained in this Agreement shall survive the termination of this Agreement, as well as any other obligations of the parties hereunder which, by their terms, would be expected to survive such termination or which relate to the period prior to termination (including legal conditions, payment, and Suddenlink rights and the rights of others).

**12. Regulatory Authority-Force Majeure.** This Agreement and the obligations of the parties shall be subject to modification to comply with all applicable laws, regulations, court rulings, and administrative orders, as amended. In no event shall either party have any claim against the other for failure of performance if such failure is caused by acts of God, natural disasters including fire, flood, or winds, civil or military action, including riots, civil insurrections or acts of terrorists or the taking of property by condemnation. Suddenlink may, in its sole discretion, immediately terminate this Agreement, in whole or in part, in the event there is a material change in any law, rule, regulation, Force Majeure event, or judgment of any court or government agency, and that change affects Suddenlink's ability to provide the Services herein.

**13. ARBITRATION.** CUSTOMER AND SUDDENLINK AGREE THAT ANY CLAIM, DISPUTE OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT INCLUDING ANY OF ITS COMPONENTS, THE SERVICES OR EQUIPMENT PROVIDED BY SUDDENLINK OR ANY ORAL OR WRITTEN STATEMENTS, ADVERTISEMENTS OR PROMOTIONS RELATING TO THIS AGREEMENT OR TO THE SERVICES OR EQUIPMENT (COLLECTIVELY, "CLAIM") SHALL BE RESOLVED THROUGH ARBITRATION. ALL ARBITRATION SHALL BE INITIATED AND CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES AND MEDIATION PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). THE AAA SHALL APPOINT THE ARBITRATOR. ARBITRATION MUST BE INITIATED BY CUSTOMER WITHIN ONE (1) YEAR OF THE DATE OF THE OCCURRENCE OF THE EVENT OR FACTS GIVING RISE TO THE DISPUTE (EXCEPT FOR BILLING DISPUTES WHICH MUST BE INITIATED WITHIN THIRTY (30) DAYS). CUSTOMER WAIVES ANY CLAIM NOT FILED IN ACCORDANCE WITH THE PREVIOUS SENTENCE. THE PARTY INITIATING ARBITRATION SHALL GIVE NOTICE TO THE OTHER PARTY BY MAILING A COPY OF THE REQUEST FOR ARBITRATION TO THE OTHER PARTY AT THE ADDRESSES ON THE SERVICE ORDER. ALL PARTIES TO THE ARBITRATION MUST BE INDIVIDUALLY NAMED AND THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS ACTION OR CONSOLIDATED BASIS OR THROUGH A REPRESENTATIVE, UNLESS APPLICABLE STATE LAW MANDATES OTHERWISE. ARBITRATION OF CLAIMS WILL BE CONDUCTED IN SUCH FORUM AND PURSUANT TO SUCH LAWS AND RULES RELATED TO COMMERCIAL ARBITRATION IN THE STATE OF KENTUCKY THAT ARE IN EFFECT ON THE DATE OF THE NOTICE TO ARBITRATE.



## **Commercial Service Agreement - Annex**

This Annex, together with the Service Order, Annex, & E-Rate Rider, shall be referred herein as the Agreement ("Agreement"). This Annex applies to the applicable Services used by the Customer. Sections 1-17 shall apply generally to all Services. Sections 18-24 shall apply specifically to Video Service, Sections 25-47 shall apply to High Speed Internet Service and Sections 48-52 shall apply to Phone Service.

1. **Access to Customer Premises.** Customer grants Suddenlink and its employees, representatives and/or agents the right to enter Customer's premises and access Equipment, the wiring within Customer's premises and Customer's computer(s) to install, connect, inspect, maintain, repair, replace, disconnect, remove or alter the Equipment, check for signal leakage, or install or deliver Suddenlink provided software ("Software"). Customer shall cooperate in providing such access upon request of Suddenlink. If Customer is not the legal owner of the premises, Customer warrants that Customer has obtained or possesses the legal authority of the owner to authorize Suddenlink personnel and/or its agents to enter the premises for the purposes described herein.

2. **Creditworthiness and Security Deposits.** At any time during the Term, Customer agrees that Suddenlink may verify Customer's credit standing with credit reporting agencies in accordance with applicable laws and require a deposit based on Customer's credit standing or past payment history with Suddenlink. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. Security deposits paid by Customer for Equipment or Services may be used, to the extent permitted by law, to offset any unpaid balance or charges after termination of Service. Customer shall remain liable for any outstanding balances after the security deposit has been applied. Further terms and conditions of the security deposit may be contained in the deposit receipt given to Customer at the time the security deposit is collected. No interest shall be paid on any security deposits.

3. **Adjustments or Refunds.** Adjustments or refunds, if any, to Customer's bill shall be an amount no greater than the pro-rata part of the monthly charges applicable to the interrupted Service and associated Equipment charges for the period of time during which the Service is interrupted. Such adjustment or refund will be accomplished by a credit on a subsequent bill for Service. Unless otherwise required by applicable law, in the event any amounts owed by Suddenlink to Customer are not claimed by Customer within one year of the date on which the amount became payable to Customer, Customer shall forfeit all rights to the refund and all such amounts shall become the property of Suddenlink. In addition, no credit allowance will be made for:

- a. interruptions of Service due to the negligence of or noncompliance with the provisions of the Agreement by Customer or any person authorized by customer to use the Service;
- b. interruptions of Service due to the negligence of any person other than Suddenlink including, but not limited to, the other common carriers connected to the Suddenlink's facilities;
- c. interruptions of Service due to the failure or malfunction of Customer owned equipment or third party equipment;

- d. interruptions of Service during any period in which Suddenlink is not given full and free access to its facilities and Equipment for the purpose of investigating and correcting interruptions,
- e. interruptions of Service during a period in which Customer continues to use the Service on an impaired basis;
- f. interruptions of Service less than thirty (30) minutes' duration;
- g. interruptions during any period when the interruption is due to implementation of a Customer order for a change in Service arrangements;
- h. interruptions of Service due to circumstances or causes beyond the control of Suddenlink.

4. **Equipment And Software.** Any network facilities, Software, cabling or Equipment installed or provided by Suddenlink will remain the property of Suddenlink. Customer will acquire no ownership or other interest in the network facilities, cabling, Software or Equipment by virtue of payments made pursuant to this Agreement or by the attachment of any portion of the network facilities, cabling or Equipment to Customer's premises.

4.1. **Misuse of Equipment.** Customer will not open, alter, misuse, or tamper with the Equipment. Customer will not remove Equipment from the location where Equipment was installed. Customer will not remove any markings or labels from the Equipment. Customer agrees to safeguard the Equipment from loss or damage of any kind, and (except for any self installation procedures approved by Suddenlink) will not permit anyone other than a Suddenlink authorized representative to perform any work on the Equipment.

4.2. **Return of Equipment.** If Customer's Service is terminated or cancelled (for whatever reason), Customer agrees that Customer no longer has the right to keep or use the Equipment and Customer must promptly return the Equipment. The Equipment must be returned to Suddenlink in the same condition as when received, ordinary wear and tear excepted. If Customer fails to return the Equipment, Customer will pay any expenses Suddenlink incurs in retrieving the Equipment. Failure of Suddenlink to remove the Equipment does not mean that Suddenlink has abandoned the Equipment. Suddenlink may continue to charge Customer a monthly Service fee until any remaining Equipment is returned, collected by Suddenlink or fully paid for by Customer.

4.3. **Damaged or Lost Equipment.** If the Equipment is damaged by Customer, destroyed, lost or stolen while in Customer's possession, Customer is responsible for the cost of repair or replacement of the Equipment.

4.4. **Operation of Equipment.** The Customer agrees to operate any Equipment in accordance with instructions of Suddenlink or Suddenlink's agent. Failure to do so will relieve the Suddenlink Parties of liability for interruption of Service and may make the Customer responsible for damage to Equipment.

4.5. **Tests and Inspections.** Upon reasonable notification to the Customer, and at a reasonable time, Suddenlink may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth herein.

4.6. **Software.** Customer agrees to comply with the terms and conditions of any Software license agreement provided with the Software. The Software shall be used solely in connection with the Services and Customer will not modify, disassemble, translate or reverse engineer, the Software. If Customer's Service is terminated, Customer will promptly return or destroy all Software provided by Suddenlink and any related written materials. Suddenlink will have the right to upgrade, modify and enhance the Equipment and Software from time to time through "uploads."

5. **Service Date and Term.** This Agreement shall be effective upon execution by the parties. Services shall be provided for the applicable term set forth Commercial Service Order. Suddenlink shall use reasonable efforts to make the Services available by the requested service date. Suddenlink shall not be liable for any damages whatsoever resulting from delays in meeting any service dates due to delays resulting from construction or for reasons beyond its control.

6. **Access/Customer Responsibilities.** Customer grants Suddenlink and its employees, representatives and/or agents all necessary rights of access within the Customer's premises, including space for cables, conduits, and equipment, and Customer's computer(s), as necessary to install, repair, inspect, maintain, replace or remove any and all facilities, equipment and software provided by Suddenlink. Customer shall provide a secured space with electrical power, climate control and protection against fire, vandalism, and other casualty for Suddenlink's equipment. Customer is responsible for ensuring that Customer's equipment is compatible for the Services selected and with the Suddenlink network.

7. **Equipment.** Suddenlink shall install equipment necessary to furnish the Services to Customer. Customer shall use the equipment only for the purpose of receiving the Services. Customer shall not make any connections to the equipment which are not expressly authorized in writing by Suddenlink or permit tampering, altering or repair of the equipment by any person, including removing markings or labels, other than Suddenlink's authorized personnel. Customer shall not modify or relocate equipment installed by Suddenlink or install any other equipment, including servers in connection with data/Internet without the prior written consent of Suddenlink. Unless otherwise stated in the Commercial Service Order, Customer agrees that Suddenlink shall retain all rights, title and interest to facilities and equipment installed by Suddenlink hereunder and that Customer shall not create or permit to be created any liens or encumbrances on such equipment. At the expiration or termination of this Agreement, Customer shall return Suddenlink's equipment in good condition, ordinary wear and tear resulting from proper use excepted. If

Customer fails to return the Equipment, Customer will pay any expenses Suddenlink incurs in retrieving the Equipment. Failure of Suddenlink to remove the Equipment does not mean that Suddenlink has abandoned the Equipment. Suddenlink may continue to charge Customer a monthly Service fee until any remaining Equipment is returned, collected by Suddenlink or fully paid for by Customer. Customer is responsible for damage to any Suddenlink equipment. Internal Wiring shall not be considered equipment and shall become the property of Customer upon initiation of Service.

8. **Equipment And Software.** Any network facilities, Software, cabling or Equipment installed or provided by Suddenlink will remain the property of Suddenlink. Customer will acquire no ownership or other interest in the network facilities, cabling, Software or Equipment by virtue of payments made pursuant to this Agreement or by the attachment of any portion of the network facilities, cabling or Equipment to Customer's premises.

Customer agrees to comply with the terms and conditions of any Software license agreement provided with the Software. The Software shall be used solely in connection with the Services and Customer will not modify, disassemble, translate or reverse engineer, the Software. If Customer's Service is terminated, Customer will promptly return or destroy all Software provided by Suddenlink and any related written materials. Suddenlink will have the right to upgrade, modify and enhance the Equipment and Software from time to time through "uploads."

9. **Resale of Service.** Except for Web Hosting and as expressly provided in the Commercial Service Order, Customer may not sell, resell sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof any portion of the Service to any other party. Customer shall be responsible for any software and content displayed and distributed by Customer or Customer's web hosting customers, if any. Customer acknowledges that pay per view events will not be available, and if provided, may be subject to additional charges beyond the base rate. Customer may not sell, resell, sublease,

10. **Termination.** Customer may terminate video, data, Internet, web hosting and/or web conferencing Services before the end of the Term in accordance with Section 5 of the Commercial Service Agreement. Any termination by Customer must be in writing. Suddenlink may terminate this Agreement immediately at any time, without prior notice, if Customer or a User fails to fully comply with the terms of this Agreement, including failure to pay any amounts when due, its components and, to the extent not allowed or contemplated under this Agreement or the AUP or for any other reason or no reason. If Suddenlink terminates Service due to a violation of this Agreement or Suddenlink's policies, Customer may be subject to additional fees and charges, including disconnect and termination fees and Suddenlink may also exercise other rights and remedies available under law. Failure to pay the total balance when due shall constitute a breach of this Agreement and may be grounds for termination of Service and removal of Equipment from Customer's premises.

11. **Assignment.** Customer may not assign, in whole or in part, this Agreement without the prior written consent of Suddenlink, which consent may be withheld in Suddenlink's discretion. Suddenlink may

assign, in whole or in part, this Agreement, and Service may be provided by one or more legally authorized Suddenlink affiliates.

**12. Viruses, Content, Customer Information.** Software or content obtained from the use of Service may contain viruses or other harmful features and Customer is solely responsible for protecting its equipment and software from such matters. Through the use of the Service, Customer may obtain or discover content that is offensive or illegal and Customer assumes the risk and is solely responsible for its access to such content. Suddenlink may disclose Customer information to law enforcement or to any Suddenlink affiliate.

**13. IP Address and Domain Name Registration.** Suddenlink will allocate IP addresses to Customer according to InterNIC guidelines. All IP addresses assigned by Suddenlink must be relinquished by Customer upon the expiration, termination or cancellation of this Agreement. IP address shall be subject to the IP policy in the AUP. If Customer requests, Suddenlink will register an available domain name on behalf of Customer, and such registration shall be subject to rules promulgated by the applicable domain name registrar, which may be amended from time to time. Customer is responsible for payment and maintenance of domain name registration.

**14. Software License.** Suddenlink grants Customer a limited, nonexclusive, nontransferable and non-assignable license to install and use as provided herein (i) Suddenlink access software, as well as software from our licensors that Suddenlink incorporates into its access software), (ii) all associated user documentation and (iii) any updates thereto (the "Software"). Customer's use of the Software is governed by these terms and conditions. All rights title and interest to the Software, including associated intellectual property rights, are and will remain with Suddenlink and Suddenlink's licensors. Customer may not decompile, reverse engineer, distribute, translate any part of Software. Customer acknowledges that the Software, and any accompanying documentation and/or technical information, may be subject to applicable export control laws and regulations of the . Customer agrees not to export or re-export the Software, directly or indirectly, to any countries that are subject to export restrictions.

**15. Web Hosting Servers.** Suddenlink reserves the right to select the server for Customer's web site for best performance. The Customer understands that the Services provided by Suddenlink may be provided on a shared server. This means that one web site cannot be permitted to overwhelm the server with heavy CPU usage, for example from the use of highly active CGI scripts or chat scripts. If the Customer's web site overwhelms the server and causes complaints from other users, the Customer has outgrown the realm of shared services and will be required by Suddenlink to relocate its web site. If the Customer refuses to comply with this Section, then Suddenlink has the right to terminate the Services. Suddenlink will use reasonable efforts to maintain a full time Internet presence for the Customer. Customer hereby acknowledges that the network may, at various time intervals, be down due, but not restricted to, utility interruption, maintenance equipment failure, natural disaster, acts of God, or human error and Suddenlink shall not be liable to customer for such outages or server downtime.

**16. E-Rate Customers.** This paragraph applies only to educational institutions or libraries seeking reimbursement under the Federal

Universal Service Fund. Customer shall apply annually to the Schools and Libraries Division, "SLD" for E-Rate funding and Customer shall designate Suddenlink as its provider of Services. Customer shall also provide Suddenlink with all documentation that is in response to all queries, inquiries and requests as part of the Program Integrity Assurance (PIA) process within three (3) business days of receipt and/or delivery thereof. Customer also acknowledges that increases and decreases in funding for Services may occur from the SLD. If Customer is denied SLD funding for any reason, Suddenlink may then elect to decrease the level of Services provided to Customer. If full E-Rate funding is not received within 6 months of application date, or by the opening of the application window for the following funding year, then Suddenlink may terminate the Agreement without further liability to Suddenlink or the Customer.

**17. Bundled Packages.** In consideration for Customer's purchase of the bundled package of two or more services and only with respect to that period time during which Customer continues to purchase such bundle, Suddenlink shall continue to apply a discount to the Services ordered under this Service Order. Such discount has been applied to the Services included in bundled pricing offer and is reflected in the monthly services fees for such Services contained in this Service Order. For purposes of clarification, in the event Suddenlink's provision to Customer of one or more of the bundled Service components is discontinued or otherwise terminated for any reason, the pricing for the remaining Service components listed above shall revert to Suddenlink's a la carte pricing for such Services in effect at the time of the discontinuation or termination. Termination liabilities applicable to the Services under the Service Agreement shall otherwise remain unchanged.

**TERMS OF SERVICE APPLICABLE ONLY TO THE PROVISION OF CABLE TELEVISION SERVICE (VIDEO AND MUSIC SERVICES).** In addition to all other relevant terms provided in this Agreement, as part of Customer's use of such Video Service, Customer further understands and agrees that:

**18. Use of Services.** The programs, content and other service provided through Suddenlink's Video Service must be utilized for use solely at the locations identified on the Commercial Service Order, for purposes limited to other authorized activities and display on no more than the number of televisions/workstations/receivers at the Customer Locations as disclosed on the Service Order, provided that Customer may not directly or indirectly charge any fee as a condition to viewing the Service; permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the Services (or any part thereof) unless Customer can demonstrate to the reasonable satisfaction of Suddenlink that Customer or a third-party has obtained a then-current music license permitting such activity; insert any commercial announcements into the Services or interrupt any performance of the Services for the making of any commercial announcements; and that the Video Service is not duplicated, redistributed or accessed in violation of any applicable law.

**19. Programming Content.** Customer understands and agrees that by using the Video Service, Customer or Users may be exposed to materials or content that may be offensive, sexually explicit or objectionable to Customer. Parental control devices are available upon Customer's request for use with the Video Service to block certain programming and/or filter certain content. The Suddenlink



Parties make no representation or warranty regarding the effectiveness of such parental control devices. Under no circumstances will the Suddenlink Parties be liable in any way for any claims, losses, actions, suits, proceedings, or any damages relating to any programming content provided with the Video Service.

20. **Security.** Suddenlink has no obligation to track the Video Services provided to Customer; however, as a part of the provision of Service and in order to protect from unauthorized reception of Service, Suddenlink may track through its cable television system the channel or Service selections indicated by Customer or other information necessary to satisfy any law or regulation to properly operate the Video Services and/or to protect Suddenlink, its cable television system, Services, Equipment and/or Customers.

21. **Signal Level.** To maintain legal requirements for minimal signal levels at Customer's terminal, no more than one television or cable programming viewing device may be connected to a single cable receptacle.

22. **Outages.** Subject to applicable law, a credit may be given for qualifying outages. If there is a known Video Service interruption in excess of 24 consecutive hours (or in excess of such lesser time period pursuant to local law), Suddenlink, upon prompt notification of such failure or interruption by Customer, may either provide Customer with a pro-rata credit relating to such failure or interruption, or at Suddenlink's discretion, in lieu of the credit, provide alternative programming during any program interruption.

23. **Music Rights Fees.** In all cases, Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI") and SESAC, Inc. ("SESAC") or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate in connection with Customer's transmission, retransmission, communication, distribution, performance or other use of the Services, whenever and wherever applicable.

24. **Premium and Pay-Per-View.** Customer may not exhibit any premium Services such as HBO or Showtime in any public or common viewing area. Customer may not order or request Pay-Per-View (PPV) programming for receipt, exhibition or taping in a commercial establishment. Customer may not exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Suddenlink's prior written consent.

**TERMS OF SERVICE APPLICABLE ONLY TO THE PROVISION OF HIGH SPEED INTERNET SERVICE.** In addition to all other relevant terms provided in this Agreement, a Customer who uses Suddenlink's High Speed Internet Service, which may include Internet access services, on line video services, e-mail services, e-commerce, online content, features and other online services under the control of Suddenlink or its affiliates understands and agrees that:

25. **Additional Services.** The High Speed Internet Service provided to customer allows access to certain Suddenlink proprietary Services,

in addition to other services or features available over the Internet. Customer understands that he/she may incur additional charges while using these other services or while engaging in forms of e-commerce. All such charges shall be paid by Customer and are not the responsibility of Suddenlink.

26. **Authorized Connections.** Suddenlink agrees to provide Customer with the number and type of High Speed Internet Service connection(s), e-mail addresses, and other appurtenances at the Customer Locations as stated on the Commercial Service Order. Customer shall not exceed the number, types or location of such authorized connections.

27. **Peripheral Equipment.** Customer understands and agrees that, to be operational, the High Speed Internet Service may require additional equipment, whether wired or wireless. If Suddenlink is providing Customer with a cable modem and/or base station, the cable modem shall remain Equipment. If Customer has purchased a cable modem (whether from Suddenlink or from a third party) the cable modem shall be Customer Equipment. Customer represents that it owns the Customer Equipment or otherwise has the right to use such equipment in connection with the High Speed Internet Service. Suddenlink shall have no obligation to provide, maintain or service the Customer Equipment. Customer agrees not to use the Equipment for any purpose other than to use the High Speed Internet Service pursuant to this Agreement.

28. **Minimum Equipment.** Customer agrees that the Customer Equipment utilizing the High Speed Internet Service must meet the minimum computer requirements outlined in the informational literature Suddenlink has provided and as may be amended from time to time. If Customer proceeds with the installation of or uses the High Speed Internet Service utilizing Customer Equipment that does not meet the minimum requirements (a "Non-Recommended Configuration"), Customer agrees that (i) Customer will not be entitled to customer support from Suddenlink relating to any issues other than the quality of the signal delivered to the Customer's receptacle, and (ii) Customer understands and agrees that Customer may not be able to successfully install, access, operate, or use the High Speed Internet Service with the Non-Recommended Configuration. CUSTOMER ACKNOWLEDGES THAT ANY INSTALLATION, ACCESS, OPERATION OR USE OF NON-RECOMMENDED CONFIGURATIONS COULD CAUSE DAMAGE TO CUSTOMER EQUIPMENT, INCLUDING, WITHOUT LIMITATION, CUSTOMER'S COMPUTER, PERIPHERALS, SOFTWARE, OR DATA. NEITHER SUDDENLINK NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY SUCH FAILURE OR DAMAGE. The foregoing limitation of liability is in addition to and shall not limit any other limitation of liability set forth in this Agreement.

29. **Upgrades.** Customer acknowledges that the Equipment is merely a means through which the High Speed Internet Service is provided by Suddenlink and may be removed or changed by Suddenlink at its discretion as it deems appropriate, including through "uploads" to Customer's computer(s) or otherwise. Whether the cable modem is owned by Customer or Suddenlink, Suddenlink shall have the unrestricted right, but not the obligation, to upgrade the firmware in the cable modem at any time that Suddenlink, in its sole discretion, determines it is necessary or desirable. Customer assumes all

responsibility for any degradation in or problems from the failure to upgrade. Suddenlink does not represent, warrant or covenant that installation and modifications of peripheral devices, including Network cards, computer equipment, software, computer files and other system configuration files necessary to operate the High Speed Internet Service will not disrupt or delay the normal operations of Customer's computer device(s) or associated equipment. Suddenlink shall have no liability whatsoever for any loss, damage or outage resulting from the above. Upon Customer request and, at Suddenlink's sole discretion, for an additional charge, Suddenlink or its agents may install certain software, an extra cable receptacle, a cable modem and associated equipment for operation of the High Speed Internet Service. If installed by Suddenlink, Suddenlink shall use reasonable efforts to install the High Speed Internet Service to a fully operational status.

30. **Back-Up.** Customer agrees to either back-up all existing computer files prior to installation of any Equipment to Customer's computing device or accept sole responsibility for lost or damaged files, data or programs. In all events, Suddenlink shall have no liability whatsoever for any damage or loss or destruction of any of Customer's software, files, data or peripherals.

31. **Prohibited Uses.** Customer shall not and shall not allow others to use the High Speed Internet Service to:

- (i) violate Suddenlink's AUP that is provided to Customer and/or posted on Suddenlink's web site from time to time in accordance with the AUP;
- (ii) invade another person's privacy or security;
- (iii) restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy the Internet, including any features or activities on the Internet, any Equipment, the High Speed Internet Service or features of the High Speed Internet Service(s);
- (iv) create any unusually large burden on the network, including, without limitation, posting or transmitting any information or software that contains a virus, lock, key, bomb, worm, Trojan horse or other harmful or debilitating feature; distribute mass or unsolicited e-mail, including commercial advertising, announcements or junk mail; or otherwise generate large levels of traffic sufficient to impede other's ability to send or receive information;
- (v) unlawfully use, possess, post, transmit or disseminate obscene, profane, or pornographic material, other content or material that is unlawful, threatening, abusive, libelous, slanderous, defamatory, encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law or regulation;
- (vi) access any computer, software, data, any confidential or proprietary content or copyrighted, trademarked or patent protected material without the knowledge and consent of the owner of such content or material;
- (vii) use, create, access, post, upload or download tools or features that cause impairment, restriction or destruction to any content, material, device or system, the High Speed Internet Service or Equipment;

(viii) copy, distribute or sublicense any Software, except as expressly permitted in writing by Suddenlink;

(ix) disrupt any backbone network nodes or network service used by Suddenlink;

(x) interfere with computer networking or other services to or from any Internet user, host or network, including but not limited to denial of service attacks, overloading a service, improper seizure or abuse of operator privileges ("hacking") or attempting to "crash" a host or service;

(xi) unless expressly provided in the Customer Service Order, operate a server in connection with the Services, including FTP, IRC, SMTP, POP, HTTP, SOCKS, SQUID, DNS or any multi-user forums;

(xii) port scan any computer, device or any other person without knowledge or consent of such person, nor use any tools to facilitate such scans;

(xiii) impersonate any person or entity or forge anyone else's digital or manual signature.

32. **Termination.** In addition to Suddenlink's termination rights set out elsewhere in this Agreement, Suddenlink may terminate all Services, including the High Speed Internet Service if Suddenlink reasonably believes that Customer has engaged in or is engaging in any of these prohibited activities and Suddenlink reserves the right to pursue any damages or remedies from such activities, including any direct or indirect costs, expenses or fees incurred by Suddenlink and/or its affiliates. Following the termination of Customer's High Speed Internet Service account for any reason, Suddenlink is authorized to delete any files, programs, data, e-mail addresses and e-mail messages associated with such account. Such deletion may include Customer forfeiting his/her account user names, all e-mail, IP and web space addresses. Any incoming e-mail to Customer's canceled account(s) will not be forwarded to another account. Suddenlink shall have no liability whatsoever as the result of the loss or destruction of any information, data, names or addresses.

33. **Network.** Suddenlink utilizes a network that allows bi-directional access to the Internet. The network is not intended to protect Customers from hackers, viruses or other harmful elements that may result from participation in High Speed Internet Service, and as such, Customer should not rely on the network to provide such protection. Suddenlink may run third party virus check software or other protection measures over its network to scan e-mails or Internet activity; however, Suddenlink does not represent, warrant or covenant that such software will detect, repair or correct any or all viruses or other harmful code or software.

34. **E-mail.** Customer must adhere to the e-mail policies provided in the AUP. As part of Customer's use of High Speed Internet Service, Customer will be provided with the ability to set up mail addresses for the number of e-mail addresses specified on Customer's Service Order. Customer is responsible for the set-up and proper usage of these addresses. Unless expressly provided in the Customer Service Order, the total size of all e-mail addresses within Customer's account is limited to 2.5 megabytes of storage space on the network. Suddenlink reserves the right to modify, delete or correct any accounts that exceed the megabyte limitation, at Suddenlink's

sole discretion and without notice. To preserve e-mail for longer periods, Customer can set its e-mail account so that e-mail is automatically stored on Customer's computer's hard-drive when Customer opens it. Please check the Help section on Customer's e-mail access program (e.g., Outlook Express). Suddenlink reserves the right to reclaim any and all Suddenlink e-mail addresses from Customer after the termination or cancellation of High Speed Internet Service, regardless of the reason for such cancellation or termination.

**35. Security.** Suddenlink may provide, offer for sale or subscription, or otherwise make available, software or services for e-mail filtering, anti-virus scanning and other e-mail security solutions for the convenience of Customers. Suddenlink shall not be responsible for nor have any liability with regard to the e-mail that Customer or its authorized Users receive, nor for any loss or filtered e-mail, nor for the failure to prevent virus delivery or infection. Suddenlink Parties are not responsible or liable for the forwarding or inability to forward e-mail sent to any other e-mail account. E-mails sent to suspended or terminated accounts may be returned to sender, ignored, deleted or stored temporarily at Suddenlink's sole discretion.

**36. Personal Web Pages and Content.** Customer may create personal web pages. On such personal web pages, Customer can design, maintain, and publish texts, diagrams, illustrations, audio clips and related materials for access by a global audience. Customer is solely responsible for any information, materials or content that Customer publishes on its web pages or otherwise makes available on the Internet. Customer should take appropriate precautions to prevent minors from receiving inappropriate content. Suddenlink reserves the right to refuse to post and/or to remove any information, materials or content, in whole or in part, that it deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.

**37. Accuracy of Content.** Customer understands and agrees that by using the High Speed Internet Service, Customer and/or User may be exposed to materials or content that is offensive, indecent, sexually explicit, objectionable, or that may violate federal, state or local laws, rules or regulations or may violate the protected rights of the Customer or others. Customer also understands that the technical processing and transmission of the High Speed Internet Service, including Customer's content or material, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices; and that under no circumstances will the Suddenlink Parties be liable in any way for any claims, losses, actions, suits, proceedings, or any damages relating to any content, including, but not limited to, any errors or omissions in any content, access to such content or material by Customer or others, or incurred as a result of the use of any content posted, or otherwise transmitted via the High Speed Internet Service. Customer acknowledges that software programs claiming to be capable of restricting access to sexually explicit material on the Internet are commercially available. The Suddenlink Parties make no representation or warranty regarding the effectiveness of such programs.

**38. Scheduled Service repair, maintenance or upgrade.** Suddenlink may from time to time schedule Service repair, maintenance or upgrades to provide Customer with High Speed Internet Service. Customer shall not receive High Speed Internet Service credits for such scheduled repairs, maintenance or

upgrades. If there is a known and unscheduled High Speed Internet Service interruption in excess of 24 consecutive hours (or in excess of such lesser time period pursuant to local law), Suddenlink, upon prompt notification of such failure to interruption by Customer, may provide Customer with a pro-rata credit relating to such failure or interruption. Suddenlink Parties will not be liable for any direct, incidental or consequential damages or losses from any interruption in High Speed Internet Service.

**39. Changes to High Speed Internet Service.** Suddenlink may also, at any time and in its sole discretion, without notice, change, add to or remove portions of the High Speed Internet Service (including, without limitation, content, functionality, hours of availability, Equipment requirements, speed, upstream and downstream limitations, Service features, storage capacity, and protocol filtering) and/or institute or otherwise change fees and charges for the High Speed Internet Service. If Customer is dissatisfied with such changes or the High Speed Internet Service after such changes, Customer's only right and remedy is to cancel his/her subscription to the High Speed Internet Service.

**40. Service Usage.** Suddenlink has no obligation to track High Speed Internet Service usage of Customer; however, as a part of the provision of Service and in order to protect from unauthorized reception of Service, Suddenlink may track through its cable television system and/or network certain usage, usage patterns and/or selections indicated by Customer or other information necessary to satisfy any law or regulation to properly operate the High Speed Internet Service and/or to protect Suddenlink, its cable television system, network, Services, Equipment and/or Customers.

**41. Network Integrity.** Suddenlink reserves the right to protect the integrity of its network and resources by any means it deems appropriate. This includes, but is not limited to: port blocking, e-mail virus scanning, denying e-mail access or transmission, and putting limits on bandwidth and e-mail usage.

**42. Bandwidth, Data Storage and Other Limitations.** Customer agrees to comply with Suddenlink's bandwidth, data storage and other limitations of the High Speed Internet Service as established and modified by Suddenlink from time to time. Customer agrees that its bandwidth usage activity will not improperly restrict, inhibit or degrade any other user's use of the High Speed Internet Service, nor represent (in Suddenlink's sole judgment) an unusually large burden on the network. Customer also agrees that its activity will not restrict, inhibit, disrupt, degrade or impede Suddenlink's ability to deliver and track its High Speed Internet Service, backbone, network nodes and/or other network services.

**43. Sole Risk.** Use of the High Speed Internet Service provided by Suddenlink, in addition to third-party products or services provided by or accessed through the High Speed Internet Service or the Internet is at Customer's sole risk and Customer acknowledges that the High Speed Internet Service are provided "AS IS." Accordingly, any information sent through or over the network is sent at Customer's sole risk.

**44. Customer Security.** When Customer's computer device is connected to a cable modem, it constitutes a "local" segment of the network. All of Customer's traffic to or from this local segment will

be reflected by the cable modem in an unencrypted format onto the network (unless separate encryption technology is utilized) and will be subject to eavesdropping by third parties. Further, through the use of file and print sharing features, third parties outside of Customer's premises may be able to access Customer's computer devices across the network and access Customer's software, files and data. Any Customer who chooses to subscribe to the Suddenlink's High Speed Internet Service and enables capabilities such as file sharing, print sharing or other capabilities that allow third party computer access, does so at his/her own sole risk. Customer is solely responsible for any security devices Customer chooses to connect or install on his/her computer device, in addition to any transmissions to or from Customer or its authorized Users. Suddenlink Parties shall not be liable or responsible for any unauthorized sharing, access, eavesdropping or any associated risks.

**45. Enforcement of Policy and AUP.** Customer authorizes Suddenlink and its affiliates to cooperate with law enforcement authorities in the investigation or prosecution of criminal violations, and with system administrators at other Internet service providers or other network computing facilities to enforce this Agreement, the AUP and other applicable terms and conditions of the High Speed Internet Service. Such cooperation may include providing certain Customer identifying information to these parties.

**46. Customer's Agreement To Indemnify For Misuse.** MISUSE OR CERTAIN USE OF THE HIGH SPEED INTERNET SERVICE MAY RESULT IN CLAIMS BY THIRD PARTIES AGAINST SUDDENLINK AND/OR ITS AFFILIATES, MEMBERS, OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES AND CONTRACTORS. AS A PRACTICAL MATTER, SUDDENLINK CANNOT MONITOR OR CONTROL THE ACTIVITIES OF CUSTOMERS OR USERS TO PREVENT THESE CLAIMS. CUSTOMER AND EACH USER, JOINTLY AND SEVERALLY, AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS SUDDENLINK, ITS AFFILIATES AND THIRD PARTIES WHO CONTRIBUTE TO THE HIGH SPEED INTERNET SERVICE FROM ANY AND ALL CLAIMS, SUITS, PROCEEDINGS, INVESTIGATIONS, LIABILITIES, JUDGMENTS, LOSSES, DAMAGES, EXPENSES OR COST (INCLUDING ATTORNEYS' FEES AND INVESTIGATION EXPENSES) THAT DIRECTLY OR INDIRECTLY RESULT FROM, ARISE OUT OF OR RELATE TO: (I) ANY VIOLATION OF THIS AGREEMENT OR ANY APPLICABLE LAW BY THE CUSTOMER OR USER; (II) THE USE OF THE SERVICE, INTERNET OR THE POSTING, PLACEMENT OR TRANSMISSION OF ANY CONTENT, SOFTWARE OR OTHER MATERIALS BY THE CUSTOMER OR USER; (III) INFRINGEMENT OR VIOLATION OF ANY PERSON'S PROPERTY, CONTRACTUAL OR OTHER PROPRIETARY RIGHTS, INCLUDING COPYRIGHT, PATENT TRADE SECRET AND TRADEMARK RIGHTS; OR (IV) ANY ACTIVITY, OMISSION OR USE RELATED TO CUSTOMER'S HIGH SPEED INTERNET SERVICE ACCOUNT.

**47. Tracking Devices and Viruses.** Customer acknowledges that accessing certain websites through the High Speed Internet Service may result in "cookies" and other tracking devices to be entered in Customer's computer equipment and stored on Customer's browser. It is Customer's responsibility to disable the entry of "cookies" or other tracking devices following procedures, if

available, on Customer's browser. Customer further acknowledges that using the High Speed Internet Service may result in harmful viruses being downloaded and stored on Customer's computer. It is Customer's responsibility to protect Customer's computer and data from harmful viruses by installing firewall and other anti-virus software on Customer's computer.

**TERMS OF SERVICE APPLICABLE ONLY TO THE PROVISION OF SUDDENLINK PHONE SERVICE.** In addition to all other relevant terms provided in this Agreement, a Customer that uses Suddenlink's Phone Service understands and agrees to the following:

**48. Limitations of Phone Service.**

**48.1 Power/Network Outages.** Customer acknowledges and understands that the Phone Service will not work if any of the necessary Equipment is unplugged or otherwise disconnected from necessary power sources. Customer further acknowledges and understands that the Phone Service may not function in the event of power failure or if Customer's broadband cable connection is disrupted or not working properly. Should there be an interruption to the power supply to Customer's business, the Phone Service may be powered by backup battery supply, but the inclusion of a battery backup does not ensure that the Phone Service will work in all circumstances. In the event that there is a loss of power or other problem that disrupts Suddenlink's network, Phone Service will not be available until the network is restored. Cordless telephones powered by electricity will not function during a power outage, even if the Phone Service is functioning properly. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT SUDDENLINK DOES NOT GUARANTEE THAT E911 OR 911 DIALING WILL BE AVAILABLE IN THE EVENT OF A POWER FAILURE OR FAILURE OF THE SUDDENLINK NETWORK. Customer understands and acknowledges that Suddenlink Phone Service, including 911/E911, as well as all online features of Suddenlink Phone Service, where Suddenlink makes these features available, will be disabled if Customer's account is suspended or terminated.

**48.2 Enhanced 911 Service.** Enhanced 911 ("E911"), or 911 service is a feature of the Phone Service. Prior to initiation of Phone Service, Customer must provide Suddenlink the valid street address where the Phone Service will be utilized ("Registered Address"). Customer agrees not to move the telephone cable modem ("EMTA") from the location it was originally installed. IF CUSTOMER MOVES THE EMTA FROM THE REGISTERED ADDRESS, CUSTOMER'S PHONE SERVICE MAY NOT FUNCTION PROPERLY AND E911/911 OPERATORS WILL NOT BE ABLE TO IDENTIFY THE CORRECT LOCATION OF A CALLER IN THE EVENT OF AN EMERGENCY.

**48.3 Customer May Not "Opt-out" of Suddenlink's E911 Service.** Customer acknowledges that pursuant to federal law the provision of E911 or 911 service to Customer is provided as an express condition of Service by Suddenlink. As a result E911 or 911 service is not an optional feature and customer



may not "opt-out," or decline to accept, Suddenlink's E911 or 911 service.

**48.4 Resetting Equipment after a Power Failure.** A power failure or disruption in Service may require Customer to reset or reconfigure equipment prior to utilizing the Phone Service or E911 or 911 dialing. A power failure may also include a battery failure in the EMTA. If Customer experiences a battery failure in the EMTA, it will be Customer's responsibility to contact a Suddenlink customer service representative who will provide a replacement battery and installation instructions.

**48.5 Use of TDD or TTY Devices.** Customer acknowledges that E911/911 service may not be fully compatible with all types of TDD or TTY devices for the hearing impaired. Suddenlink does not guaranty or offer emergency services compatible with any TDD/TTY or other hearing impaired devices.

**48.6 Security Systems and other Non-voice Communications Equipment.** Customer acknowledges that the Phone Service may not be compatible with certain third party security, medical monitoring and other non-voice communications systems. It is the Customer's responsibility to test Customer's security, medical monitoring system or other non-voice communications system. Customer acknowledges that these systems may not function properly in the event of a power outage or disruption in Suddenlink's broadband network service.

**48.7 Calling Plans.** Customer expressly agrees that Customer will not have the option of subscribing to a "local only" or "long-distance only" service, nor will Customer be able to subscribe to a separate local, toll or long distance provider for use in conjunction with the Phone Service.

#### **49. Service Charges Related To Phone Service.**

**a. Usage-Based Charges.** In addition to Customers monthly recurring charges, Customer agrees to pay Suddenlink for all usage-based charges including, but not limited to, collect calls, charges for calls to Alaska and Hawaii, international calls, directory assistance, and/or Suddenlink assisted calls.

**b. Unlimited voice service.** Unlimited voice service, including unlimited long distance, are provided solely for live dialog between two individuals. Unlimited voice service may not be used for monitoring services, data transmissions, transmission of broadcasts, transmission of recorded material, or other connections that do not consist of uninterrupted live dialog between two individuals. If Suddenlink finds that you are using an unlimited voice service offering for other than live dialog between two individuals, Suddenlink may at its option terminate your service or change your plan to one with no unlimited usage components. Suddenlink will provide notice that it intends to take any of the above actions, and you may terminate the agreement.

**c. Taxes.** The Customer is responsible for the payment of any applicable sales, use, gross receipts, excise, access or

other local, state and federal taxes, fees or surcharges (however designated) based upon the provision of Phone Service, all of which will be separately designated on Customer's invoice. It shall be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

**d. Regulatory Fees.** Customer also agrees to pay any applicable fees or payment obligations in connection with the Phone Service that may be imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of the Phone Service and any regulatory fees that Suddenlink invoices Customer for to help defray Suddenlink's contribution to municipal, state and federal government programs in which Suddenlink participates, including but not limited to, universal service, telecom relay services for the visually/hearing impaired, 911/E911 programs and associated infrastructure. Suddenlink, in its sole discretion, has the right to determine what fees, taxes and surcharges are due by Customer and to collect and remit them to the governmental authority. The Suddenlink Parties shall in no way be liable to Customer for the collection or remittance of any fees, taxes and surcharges.

**e. Surcharges.** A surcharge may be imposed on charges for Phone Service originating from states which levy, or assert a claim of right to levy, a gross receipts tax on Suddenlink's operations in any such state, or a tax on interstate access charges incurred by Suddenlink for originating access to telephone exchanges in that state. This surcharge is based on state imposed receipts tax and other state taxes imposed directly or indirectly upon Suddenlink by virtue of, and measured by, the gross receipts or revenues of Suddenlink in that state and/or payment of interstate access charges in that state. Any applicable surcharge will be shown as a separate line item on the Customer's monthly invoice.

**f. Charges Caused by Third Parties.** Customer is responsible in all respects (including payment obligations) for all use of the Phone Service under Customer's account, whether or not Customer actually authorized the use. Customer will be responsible for ensuring that all use of the Phone Service under Customer's account fully complies with this Agreement.

**g. Casual Calling Charges.** Customer agrees to pay for any charges arising out of the use of any "casual calling" (e.g., 10-10-333) services provided by any third party.

**h. Pay-Per-Call/900 Calls.** It is Customer's sole responsibility to pay all charges or fees assessed by any pay-per-call service provider (if such service is available). Suddenlink does not assist such providers in billing or collecting for their services, and Suddenlink will not intervene on Customer's behalf in a billing dispute with pay-per-call providers.

**i. Wiring.** Customer agrees that Suddenlink and its authorized agents may disconnect Customer's existing service to the local telephone company, and that Suddenlink or its authorized agent may disconnect, rearrange, splice or otherwise manipulate the existing telephone wiring in or on Customer's premises in order to connect the premises to the Phone Service.



#### **50. Use of Phone Service.**

a. **Unlawful Use.** Customer will not use the Phone Service for any unlawful purpose, or for any use which Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits. Nor will Customer use any features, functions, or other inputs to the Phone Service (including the features, functions and services of a third party) for any unlawful purpose, or for any use which Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits. Suddenlink may terminate Customer's Phone Service without notice if Suddenlink finds, in Suddenlink's sole judgment, that Customer's use is unauthorized or fraudulent.

b. **Interference/Hazardous Conditions.** Suddenlink may shut down Customer's Phone Service without prior notice if Suddenlink finds, in Suddenlink's sole judgment, that Customer's use of the Service is causing interference to others or Customer has moved or tampered or allowed others to tamper with any Equipment. Suddenlink may also shut down Customer's Phone Service without prior notice if Suddenlink finds, in Suddenlink's sole judgment, that hazardous conditions exist that would make Customer's continued use of the Service unsafe.

51. **Incompatible Equipment and Services.** Customer acknowledges and understands that Phone Service may not support or be compatible with: (a) Non-recommended configurations including but not limited to MTAs not currently certified by Suddenlink as compatible with Phone Service; (b) Certain non-voice communications equipment, including certain makes or models of alarm and security systems, certain medical monitoring devices, certain fax machines, and certain "dial-up" modems; (c) Rotary-dial phone handsets, pulse-dial phone handsets, and models of other voice-related communications equipment such as private branch exchange (PBX) equipment, answering machines, and traditional Caller ID units. d) Casual/dial around (10-10) calling; 976, 900, 700, or 500 number calling; (e) 311, 511, or other x11 calling (other than 411, 611, 711, and 911); and (f) Other call types not expressly set forth in Suddenlink's product literature (e.g., outbound shore-to-ship calling).

#### **52. Phone Numbers/Portability.**

a. **Switching to Suddenlink from Another Provider.** If Customer is switching to Phone Service from another service provider, Customer may transfer Customer's existing phone number (if any) to the Phone Service, provided that the following conditions apply:

(i) Customer requests the phone number transfer when Customer places Customer's order for the Phone Service.

(ii) Customer provides complete and accurate information, including Customer's address, existing phone number and name of Customer's current service provider.

(iii) Customer's current service provider releases Customer's existing phone number, without delay and

without imposing non-industry-standard charges on Suddenlink.

(iv) Transfer of Customer's existing phone number to the Phone Service would not, in Suddenlink's sole discretion, violate applicable law or Suddenlink's processes and procedures.

b. Customer acknowledges and agrees that if Customer's EMTA is self-installed (where Suddenlink makes that option available) before the date that the number transfer becomes effective ("Port Effective Date"), Customer should keep Customer's current phone service until after the Port Effective Date, after which Customer will be able both to make and to receive calls using the Phone Service. Customer acknowledges and agrees that to avoid an interruption in telephone service, Customer must have the EMTA installed on or before the Port Effective Date. Customer's current telephone service for the number that Customer is transferring will be disconnected on the Port Effective Date; if Customer's EMTA is not yet activated, Customer will not have access to Phone Service. Suddenlink will provide Customer with an estimate of the Port Effective Date at the time of service ordering or via e-mail following Customer's completion of the ordering process.

**Commercial Service Agreement  
E-rate Rider**

**SERVICES AND/OR PRODUCTS SUBJECT TO UNIVERSAL SERVICES ("E-RATE") FUNDING.** This E-Rate Rider (this "Attachment"), entered into as of the date last signed below ("Effective Date"), is attached to and made part of the Commercial Services Agreement between Cebridge Telecom WV LLC dba Suddenlink ("Suddenlink") and Floyd County Schools ("Customer") dated \_\_\_\_\_, 2018 the ("Agreement"). This Attachment shall have the same term as the Agreement. If there are any inconsistencies between the Agreement and this Attachment with respect to the Service(s) for which E-rate funding is sought, the terms and conditions of this Attachment shall control.

**TERMS AND CONDITIONS APPLICABLE TO E-RATE FUNDED PRODUCTS AND SERVICES.** Customer has represented that it intends to seek funding through the Federal Universal Service Fund program known as "E-Rate" for some or all of the Services or Service components purchased under the Agreement. E-Rate is administered by the Schools and Libraries Division ("SLD") of the Universal Service Fund Administrative Company ("USAC") (Sometimes collectively or individually referred to herein as "USAC/SLD"). The Federal Communications Commission ("FCC") has promulgated regulations that govern the participation in the E-Rate program. Both Parties agree to adhere to FCC regulations as well as the rules established by SLD and USAC regarding participation in the E-Rate program. The Parties further agree:

1. **Reimbursement of USAC/SLD.** If USAC/SLD seeks reimbursement from Suddenlink of E-Rate funds as a result of Customer's failure to comply with the E-Rate rules or regulations, including Customer delays in submitting required forms or contracts; or, if USAC/SLD determines that Services which it had previously approved for discounts are not eligible and funds must be returned (other than as the result of Suddenlink's failure to comply with the E-Rate requirements), then Customer shall reimburse Suddenlink for any such funds Suddenlink must return to USAC/SLD within ninety (90) days of notice from USAC/SLD seeking reimbursement. In addition, Customer agrees and acknowledges that a determination of ineligibility does not affect the obligations set forth in the Agreement, including those obligations related to payments and early termination fees.

2. **Eligibility of Products and Services.** The eligibility or ineligibility of products or services for E-Rate funding is solely the responsibility of the USAC/SLD and/or the FCC. Suddenlink makes no representations or warranties regarding such eligibility and it is up to Customer to determine the eligibility of the Services to be/being provided.

3. **Service Substitutions.** Customer acknowledges that USAC/SLD funding commitments are based upon the products, services and locations set forth in the Form 471 and that any modification to the products and services and/or the locations at which the products or

services are to be installed and/or provided, requires Customer to file a service substitution with USAC/SLD, seeking permission to receive alternative service or receive the service to an alternative location. If Customer intends to make any such service substitutions, then Customer agrees to pursue them, and file any and all requisite documentation, diligently. Suddenlink will provide Services and Service components only as approved by the SLD and may suspend activities pending approval of service substitution requests.

4. **Requested Information.** If requested, Customer will promptly provide Suddenlink with final copies of the following E-Rate-related materials (including all attachments) prepared by or for Customer: (i) Form 471 and Item 21 Attachment; if appropriate, (ii) Form 486; (iii) Form 500; (iv) Service Substitution Request; (v) Service Certification Form; and, (vi) Form 472-BEAR. If the Customer issues purchase orders, Customer shall clearly delineate between eligible and non-eligible Services on those orders.

5. **Representations, Warranties and Indemnities.** Each Party represents and warrants that it has and will comply with all laws and the requirements applicable to the E-Rate Program. In addition to any indemnification obligations set forth in the Agreement and to the extent permitted by law, each Party agrees to indemnify and hold harmless the other Party (its employees, officers, directors and agents, and its parents and affiliates under common control) from and against all third party claims (including FCC or USAC/SLD claims) and related loss, liability, damage and expense (including reasonable attorney's fees) arising out of the indemnifying Party's violation of the E-Rate Requirements or breach of the representations, warranties, and terms contained in this Attachment.

6. **Non-Appropriations.** By executing the Agreement, Customer warrants that Customer has funds appropriated and available to pay all amounts due hereunder through the end of Customer's current fiscal period. Customer further agrees to request all appropriations and funding necessary to pay for the Services for each subsequent fiscal period through the end of the Agreement Term. In the event Customer is unable to obtain the necessary appropriations or funding for the Services provided under this Attachment, Customer may terminate the Services without liability for the termination charges upon the following conditions: (i) Customer has taken all actions necessary to obtain adequate appropriations or funding; (ii) despite Customer's best efforts funds have not been appropriated and are otherwise unavailable to pay for the Services; and (iii) Customer has negotiated in good faith with Suddenlink to develop revised terms, an alternative payment schedule or a new agreement to accommodate Customer's budget. Customer must provide Suddenlink thirty (30) days' written notice of its intent to terminate the Services. Termination of the Services for failure to obtain necessary appropriations or funding shall be effective as of the last day for which funds were appropriated or otherwise made available. If Customer terminates the Services under this Attachment, Customer agrees as follows: (i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider

for the same or substantially similar services or equipment for a period equal to the original Agreement Term.

**7. Commencement/Continuation of Services.** Customer Must Select A or B below.

- A.) ☐ [OPTION "A" IS AVAILABLE FOR NEW OR EXISTING SERVICES]

**CUSTOMER DIRECTS SUDDENLINK TO COMMENCE OR CONTINUE SERVICES EVEN IF FUNDING COMMITMENT DECISION LETTER ("FCDL") HAS NOT BEEN RECEIVED FROM USAC/SLD. CUSTOMER ACKNOWLEDGES ITS OBLIGATION TO PAY FOR THE SERVICE IF FUNDING IS DENIED OR USAC/SLD COMMITMENT IS NOT RECEIVED.**

1. Scope. Customer desires that Services commence on or about \_\_\_\_\_. Customer intends to seek funding from the USAC/SLD, but acknowledges that it may not receive an FCDL prior to this date and that it is possible that USAC/SLD may not approve funding or may delay its decision.

2. Funding Denial Agreement Termination. CUSTOMER ACKNOWLEDGES THAT THERE IS NO RIGHT TO TERMINATE THE SERVICES OR SERVICE COMPONENTS MADE ON THE BASIS OF THIS ATTACHMENT IF E-RATE FUNDING IS DELAYED OR DENIED.

3. IF CUSTOMER WISHES TO CHANGE ITS SELECTION AND WISHES SUDDENLINK TO COMMENCE SERVICES REGARDLESS OF FUNDING COMMITMENT FROM THE USAC/SLD, CUSTOMER WILL EXECUTE A NEW (REPLACEMENT) ATTACHMENT, AND AGREE TO THE TERMS SET FORTH IN SECTION "B" BELOW. Upon execution of the Replacement Attachment, the Parties will mutually agree upon a Service Commencement Date. This provision does not apply to Services that were initially approved for funding and subsequently deemed ineligible by USAC/SLD after commencement of Service

- B.) ☐ [OPTION "B" IS APPROPRIATE FOR NEW SERVICES]

**SERVICES WILL NOT COMMENCE UNTIL SUDDENLINK RECEIVES NOTIFICATION THAT E-RATE FUNDS HAVE BEEN COMMITTED; IF E-RATE FUNDING FOR SERVICES IS DENIED, THE AGREEMENT WILL TERMINATE AS TO THOSE SERVICES UNLESS AND UNTIL A NEW ATTACHMENT (REPLACING THIS ATTACHMENT) IS EXECUTED.**

1. Scope. Customer agrees to use best efforts to obtain funding from the USAC/SLD. Suddenlink will not begin work related to the Services and/or equipment (including, without limitation, construction, installation or activation

activities) until after Suddenlink receives Customer notification to proceed with the order and verification of funding approval by the USAC/SLD. Suddenlink will commence Service(s) as soon as is practical following the receipt of the appropriate documentation.

2. Funding Denial. If a funding request is denied by the USAC/SLD, the Agreement, with respect to such Service(s), shall terminate sixty (60) days from the date of the FCDL in which E-Rate funding is denied or on the 30th day following the final appeal of such denial, and Customer will not incur termination liability. In the event Services are to be provided pursuant to a multiyear arrangement (whether by contract or tariff), this termination right applies only to the first year of the multiyear agreement.

3. IF CUSTOMER WISHES TO CHANGE ITS SELECTION AND WISHES SUDDENLINK TO COMMENCE SERVICES REGARDLESS OF FUNDING COMMITMENT FROM THE USAC/SLD, CUSTOMER WILL EXECUTE A NEW (REPLACEMENT) ATTACHMENT, AND AGREE TO THE TERMS SET FORTH IN SECTION "A" ABOVE. Upon execution of the Replacement Attachment, the Parties will mutually agree upon a Service Commencement Date. This provision does not apply to Services that were initially approved for funding and subsequently deemed ineligible by USAC/SLD after commencement of Service

8. Method of Discount. Customer Must Select A or B below. Customer acknowledges its obligation to designate the method by which it will receive E-Rate discounts. With respect to each discount method, Customer agrees as follows:

- A.) ☐ Billed Entity Application Reimbursement ("BEAR") – Form 472:

Customer agrees to submit to Suddenlink complete and accurate BEAR – Form 472 requests for certification at least five (5) business days prior to the FCC Invoice Deadline date for the Funding Request Number(s) ("FRN") being submitted on that Form 472. Suddenlink cannot ensure that the Form 472 will be reviewed prior to the deadline if not received at least five (5) business days prior. Upon receipt of USAC/SLD check in the amount of the certified Form 472, Suddenlink will remit payment to Customer within twenty (20) business days after receipt of payment from USAC/SLD. It is solely Customer's responsibility to ensure the accuracy of this submission and the amounts sought to be recovered through the E-Rate program.

- B.) ☐ Service Provider Invoice form - ("SPI") – Form 474:

After Suddenlink has received notification of approved funding, an approved Form 486, and Customer has confirmed the appropriate billed accounts to be discounted per Funding Request Number, Suddenlink will then provide E-rate program discounts and will file a Form 474 SPI. Customer agrees to promptly submit any Suddenlink or USAC/SLD forms needed to support requests for payment of Services rendered. In the event SLD denies payment, Customer will be responsible for repayment of all funds provided to Customer by Suddenlink associated with this process.

FCC RULES REQUIRE THAT PRIOR TO SUBMISSION OF A FORM 471 APPLICATION FOR FUNDING THE PARTIES MUST HAVE ENTERED INTO A BINDING CONTRACT FOR THE SERVICES SUBJECT TO THE FORM 471 APPLICATION. IT IS THE CUSTOMER'S RESPONSIBILITY TO ENSURE THAT STATE LAW REQUIREMENTS FOR A BINDING CONTRACT HAVE BEEN MET PRIOR TO THE SUBMISSION OF A FORM 471 APPLICATION.

SO AGREED by the Parties' respective authorized signatories:

<b>Customer</b>	<b>Suddenlink</b>
<i>Customer Signature:</i>	<i>Suddenlink Signature:</i>
Print Name:	Print Name:
Title:	Title:
Date:	Date: