

NETWORK SERVICES TERMS AND CONDITIONS

United States · rev9 · Effective 2026-10-01

These Network Services Terms and Conditions (the **Terms**) are part of the CSA between the Customer identified on the Order Form and **Trinity Network Consultants, LLC d/b/a FiberFed (FiberFed)**. Capitalized terms are defined in Section 13.

1. THE AGREEMENT

1.1 Components and priority. The **CSA** consists of, in this order of priority: **(1)** the Order Form; **(2)** any Addendum signed by both Parties; **(3)** these Terms; **(4)** each applicable Rider; and **(5)** the SLA. Where they conflict, the higher-ranked document governs, and a document governs only to the extent of the conflict. The **AUP binds Customer at all times regardless of this priority**, and nothing in a lower- or higher-ranked document waives it.

Operational notes on the Order Form do not vary the CSA. Site access hours, gate codes, escort and dock arrangements, contacts and delivery instructions are operational information, and do not change any term, commitment or right, however they are worded. **A variation of the CSA is effective only where it is either (a) recorded in the approved-variations section of the Order Form and initialled there by a director of FiberFed, or (b) contained in an Addendum signed by both Parties.**

1.2 Versions. The Order Form states the version of these Terms, of each applicable Rider, of the SLA and of the AUP that apply to it. Those versions apply for the Initial Term and each Renewal Term, except as stated in Sections 1.3 and 7.2. FiberFed maintains each superseded version at its versioned URL.

1.3 Changes. FiberFed may amend the AUP at any time, effective on posting. FiberFed may publish a new version of these Terms, a Rider or the SLA at any time; a new version applies to Customer **from the start of the next Renewal Term** following notice under Section 2.5, unless the new version is more favorable to Customer, in which case Customer may adopt it earlier by written notice. Any other amendment must be in a writing signed by both Parties.

1.4 Formation and signature. Customer's signature on the Order Form binds Customer to the CSA. The Parties may sign by electronic signature (including DocuSign or a comparable service) and in counterparts, each of which is an original and all of which form one instrument. A record signed electronically satisfies any requirement of a writing. No purchase order, vendor portal term, or other Customer document has any force, even if FiberFed accepts or performs against it.

1.5 Quote. The Order Form states the FiberFed quote number it is based on, and that quote's stated conditions apply as terms of the Order Form. Unless the quote states otherwise: (a) quoted pricing is valid for **30 days** from the quotation date; (b) where the Service is funded under a Support Program, all pricing and the Order Form are subject to funding approval under Section 3.7; and (c) FiberFed may adjust pricing, the Initial Term, or the Construction charge, or cancel the affected Service without liability, on written notice after its site survey and final engineering review, at any time before the Service Date, subject to Section 4.2.

2. SERVICES, TERM AND RENEWAL

2.1 Services. FiberFed will provide the Services stated on the Order Form to the Service Locations stated on the Order Form. Each Service is subject to the Rider for that Service. A Rider may add to these Terms; where a Rider and these Terms address the same subject, these Terms govern unless the Rider expressly states that it varies a numbered Section of these Terms.

2.2 Initial Term. The Initial Term of each Service is stated on the Order Form and may be **12, 24, 36, 60 or 120 months**. A 12-month Initial Term is available only for a renewal of an existing Service or for a Lit Site, and is not available for a Build Required Site. The Initial Term begins on the **Service Acceptance Date** and is measured from the first day of the first full calendar month after it.

2.3 Renewal election. The Order Form states Customer's renewal election for each Service:

- **(a) 12-month auto-renewal** — the default, which applies if no box is marked;
- **(b) 36-month auto-renewal**; or
- **(c) expiry to month-to-month** at the month-to-month rate stated on the Order Form, terminable by either Party on 60 days' written notice.

During the non-renewal notice window in Section 2.4, Customer may instead elect a **new Initial Term of 36 or 60 months** for a Service by Change Order, at the rates FiberFed then offers for that term. Absent an election, and absent a valid non-renewal notice, the renewal election on the Order Form applies; where the Order Form is silent, the **12-month Renewal Term** applies.

2.4 Non-renewal. To prevent renewal, **Customer must give written notice at least 90 days before the end of the then-current term.** Notice given later takes effect at the end of the next Renewal Term. Notice must identify each Service and Service Location being terminated, and must be sent as provided in Section 12.2. A Service continues at the renewal rate until a valid notice takes effect.

2.5 FiberFed notice of changes. FiberFed will give Customer at least **120 days' written notice** before the end of the then-current term of any change to price, to the version of a CSA document, or to the terms applying to the next Renewal Term.

2.6 Annual adjustment. On each anniversary of the Service Acceptance Date, FiberFed may increase the recurring charges for a Service by no more than the greater of **(a) the increase in CPI-U for the preceding 12 months and (b) 5%.** This is in addition to any pass-through under Section 10.4. For an Initial Term longer than 60 months on a Service delivered over an Access Provider circuit, pricing after month 60 is also subject to the Access Provider's renewal terms for that circuit, and any resulting increase is capped at the same CPI-U or 5% limit. A Service delivered wholly over facilities FiberFed owns or builds is not subject to that adjustment.

2.7 Relocation and additions. Relocating a Service is an amendment requiring a new or amended Order Form and, where the relocation requires new facilities, a new Initial Term for the relocated Service. Customer may order additional Services or Service Locations by additional Order Forms under the CSA. Customer's account must be current to add or change a Service.

3. CHARGES, TAXES, BILLING AND PAYMENT

3.1 Charges. Charges are stated on the Order Form. New Services, upgrades, expedites, relocations and Change Orders generate additional charges. Work that is not included in a Service's recurring charge is billed at the rates in the **FiberFed Professional Services and Dispatch Rate Card**, as posted at <https://www.fiberfed.com/legal/rates/ps>, in the version in effect on the date the work is performed; FiberFed may amend that card on 30 days' posted notice, and rates stated on the Order Form govern over it. If a prior Service Location remains installed after a new one is installed, Customer owes the charges for both until the prior Service is terminated under Section 6.

3.2 Payment before provisioning and prepayment. Unless the Order Form states otherwise, **the installation charge is due on signature of the Order Form, and two months' MRC are due as an advance payment before FiberFed begins provisioning.** FiberFed is not obliged to begin survey, Construction, ordering or provisioning until both are received. The advance payment is applied to the first two invoices for the Service, and is not a deposit, does not bear interest, and is not refundable except under Section 4.2 or 6.4.

3.3 Invoicing and payment. FiberFed invoices recurring charges monthly in advance and all other charges in arrears. Customer will pay each invoice **within 30 days** of its date, in full and **without counterclaim, set-off or deduction**, except for the applicant share mechanism in Section 3.7 and a good-faith dispute under Section 3.6. Accepted payment methods are **ACH, check and USAC Direct Pay**, and any other method stated on the Order Form. Past-due amounts bear a late charge of the lesser of **1.5% per month** or the maximum lawful rate. Customer's payment obligations survive termination of the CSA.

3.4 Taxes, regulatory fees and surcharges. Charges are exclusive of **Taxes** and of **Regulatory Fees and Surcharges**, each of which FiberFed bills in addition to the charges and states as separate line items on the invoice. Regulatory Fees and Surcharges include federal and state universal service

pass-through, 911 and 988 fees, FCC regulatory fee recovery, state and local telecommunications fees, and carrier cost-recovery charges, in each case at the rate in force when the charge is billed. Rates set by an authority (including the federal universal service contribution factor) change without notice and FiberFed bills the rate then in force. This Section applies to Taxes and to Regulatory Fees and Surcharges **whether in force when the Order Form is signed or imposed, increased, changed or newly applied to the Services afterwards**, at every level of government — federal, state, county, municipal or other. **FiberFed may begin billing any such charge at any time, without amending the CSA.** Where an authority assesses a Tax or a Regulatory Fee or Surcharge on FiberFed for a past period in respect of Services supplied to Customer, FiberFed may invoice that amount to Customer and Customer will pay it under Section 3.3. **FiberFed does not give tax advice.** Whether a charge applies, and at what rate, varies by jurisdiction and changes over time; Customer is responsible for its own determination and for consulting its own tax advisor.

3.5 Exemption certificates. The Order Form states Customer's **Tax status**. An exemption relieves Customer only of those charges that the law of the Service Location recognizes the exemption against, only on a certificate in a form FiberFed accepts, and only **prospectively from FiberFed's receipt** of a valid certificate. **Federal universal service pass-through is not waived on the basis of exempt status.** Customer bears the risk that a certificate is invalid, expires or is rejected, and will pay any Tax, Regulatory Fee or Surcharge, interest and penalty later assessed on FiberFed for a period Customer claimed exemption. FiberFed does not issue retroactive credits for exemption claims.

3.6 Disputes. Customer may dispute an invoiced charge in good faith by written notice within **60 days** of the invoice date, stating the amount and the basis. Undisputed amounts remain payable. A charge not disputed within that period is final.

3.7 Support Program funding (E-Rate, RHC and similar). Where the Order Form states that a Service is funded under a Support Program, the **Subsidy method** stated on the Order Form governs invoicing:

- **SPI (Service Provider Invoice):** FiberFed invoices Customer for the non-discount share and invoices the administrator for the discount share.
- **BEAR (Billed Entity Applicant Reimbursement):** FiberFed invoices Customer for the full charge and Customer claims reimbursement from the administrator.

In every case Customer remains liable for the non-discount share, and for the **full charge** for any period, site or Service for which funding is denied, reduced, delayed, rescinded or recovered, or for which Customer's application, certification or filing is untimely, incomplete or unsuccessful. The E-Rate and RHC Rider states the Parties' further obligations.

4. SERVICE DELIVERY

4.1 Survey and design. FiberFed will survey each Service Location. Customer will give FiberFed and its contractors the access, information and building contacts needed to do so.

4.2 Construction. Where a Service Location is a **Build Required Site**, FiberFed will perform or procure **Construction**. The Order Form states the Construction charge and the amount of Construction cost FiberFed funds and amortizes over the Initial Term. If after survey the actual Construction cost exceeds the amount stated on the Order Form, FiberFed will notify Customer of the revised cost, Initial Term or charges, and Customer has **5 business days** to accept in writing. If Customer does not accept within that period, the change is deemed rejected, the affected Service is cancelled, neither Party owes the other a cancellation or termination charge for it, and FiberFed refunds any advance payment for that Service less Construction and Access Provider costs already incurred at Customer's direction.

4.3 Premises: Owned or Leased. The Order Form states whether each Service Location is **Owned** or **Leased** by Customer.

- **(a) Owned.** Customer's signature on the Order Form grants FiberFed and its contractors the right to enter the property to survey, construct, install, operate, maintain, repair, replace and remove the Service and FiberFed Facilities, including use of risers, pathways, conduit, entrance facilities,

equipment space and building power, for the term of the CSA and for 90 days afterwards. Customer will give notice of this right to any purchaser of the property.

- **(b) Leased.** Customer warrants that it will obtain, at its own cost, its landlord's written consent and right of entry on terms sufficient for FiberFed to perform — FiberFed's **Landlord Consent and Right of Entry** form is available for this purpose, and will deliver them to FiberFed before Construction begins. **Obtaining them is a condition precedent to FiberFed's delivery obligations.** If they are not obtained within 60 days of the Order Form date, FiberFed may cancel the affected Service on notice, and Customer will pay the Construction and Access Provider costs FiberFed has incurred. Customer will indemnify FiberFed against claims by its landlord arising from FiberFed's access to, or work at, the Service Location, except to the extent caused by FiberFed's gross negligence or willful misconduct.

Where FiberFed will also serve other tenants of the building, FiberFed's **Building Access and Services Agreement** with the owner governs FiberFed's rights in the building, and that agreement is offered to an Owner-Customer in place of paragraph (a). Where the building owner and FiberFed later sign that agreement, it supersedes the Landlord Consent and Right of Entry for that property.

4.4 FiberFed Facilities remain FiberFed's. Entrance facilities, riser and in-building cabling, conduit, demarcation equipment, optical and electronic equipment installed by FiberFed, and FiberFed-owned CPE (for example a managed router), are and remain FiberFed's property, are not fixtures, and do not become part of the realty. On termination FiberFed may remove them or abandon them in place, at FiberFed's election.

4.5 Customer-provided conditions and FiberFed-owned CPE. Customer will provide, at its cost, suitable space, continuous commercial power, grounding, environmental conditions and physical access for FiberFed Facilities. FiberFed-owned CPE stays in FiberFed's ownership; Customer will not move, alter, open or reconfigure it, will keep it free of liens, and will return it within 30 days after termination in good condition, ordinary wear excepted, or pay its replacement cost at FiberFed's then-current rate.

4.6 Demarcation point. FiberFed delivers the Service at the demarcation point stated on the Order Form or, if none is stated, at the FiberFed equipment at the building's minimum point of entry (MPOE). Everything on Customer's side of the demarcation point is Customer's responsibility. Extending the demarcation point, additional cabling, pathway or electronics is a Change Order at FiberFed's then-current rates.

4.7 Acceptance. FiberFed will notify Customer when a Service is available for use. The **Service Acceptance Date** is the earliest of: (a) the date on the Service Acceptance form signed by Customer; (b) **5 business days** after FiberFed's availability notice, if Customer has not by then identified in writing a material defect that prevents use of the Service; and (c) the date Customer first uses the Service for any purpose other than testing agreed with FiberFed. Billing begins on the Service Acceptance Date. Customer's failure to cooperate does not delay the Service Acceptance Date or billing.

4.8 Dispatch Fee. A technician dispatch is billable to Customer at the Dispatch Fee rate stated on the Order Form (default **\$500 per dispatch**, plus materials at cost) where the cause is on Customer's side of the demarcation point or is otherwise attributable to Customer, including loss of Customer power, Customer equipment or configuration, inability to access the Service Location at the agreed time, or a trouble report Customer confirmed but that proves to be a Customer-side condition.

4.9 Customer-Caused Damage. Customer-Caused Damage is damage to or interference with FiberFed Facilities caused by Customer, its employees, contractors, agents, other tenants under Customer's control, or Customer's landlord. It is excluded from Network Unavailability under the SLA, and FiberFed will repair it at time and materials at its then-current rates. Damage caused at a Service Location by an unrelated third party is treated the same as any other cable cut and is not Customer-Caused Damage.

4.10 Standard Installation. Unless the Order Form or an accepted quote states otherwise, the installation charge covers a **Standard Installation**: delivery of the Service to the demarcation point; mounting of FiberFed-owned CPE within **[25 feet]** of the demarcation point on a wall, rack or cabinet Customer provides, using commercial power and grounding Customer provides; and **one installation**

visit during business hours. Anything else is chargeable at the rates in the Professional Services and Dispatch Rate Card or at a quoted non-recurring charge, including: extending the demarcation point; inside wiring, pathway, conduit or core drilling; rack, cabinet or power work; work outside business hours; and a second or later visit needed because the site was not ready. FiberFed will tell Customer before performing chargeable work, except where Customer has asked FiberFed to proceed without an estimate.

4.11 Relocation requested by Customer. A move of a Service within Customer's premises, or to another location, is a Change Order charged under the Rate Card and, where new facilities are required, under Section 2.7. Where Customer is also the owner of the building and has signed FiberFed's Building Access and Services Agreement, that agreement governs a relocation Customer requires in its capacity as owner affecting the licensed areas or FiberFed's building facilities; this Section governs a move of Customer's own Service within its own premises.

5. USE OF SERVICE

5.1 Lawful use and the AUP. Customer's use of the Services and the FiberFed Network must be lawful and must comply with the **AUP**, which is incorporated into the CSA. Customer is responsible for all use of the Services through its account, whether or not authorized.

5.2 Resale. Customer may not resell, sublicense or share the Services, in whole or part, or provide them to any third party, except **(a)** as the Order Form expressly permits, or **(b)** to Customer's own end users at a Service Location, as an incident to Customer's own use. A permitted resale does not create any relationship between FiberFed and Customer's customers, who are not third-party beneficiaries of the CSA.

5.3 Customer network and security. Customer is responsible for its own network, equipment, configurations, content and security, on its side of the demarcation point.

6. SUSPENSION AND TERMINATION

6.1 FiberFed's rights. FiberFed may restrict, suspend or terminate a Service or the CSA: (a) before the Service Date, if Customer is not approved by FiberFed's credit review; (b) if Customer materially breaches the CSA (including the AUP) and, in FiberFed's reasonable judgment, immediate action is needed to protect the FiberFed Network or other customers; (c) if any amount is unpaid **30 days** after its due date; (d) if FiberFed's facilities, access or rights at a Service Location cease to be available, including loss of landlord consent; or (e) on 30 days' notice, if an Access Provider or Facility Operator ceases to provide the underlying facility and no comparable substitute is available on commercially reasonable terms. Suspension does not relieve Customer of charges, and reconnection is chargeable at FiberFed's then-current rates.

6.2 Either Party. Either Party may terminate an affected Service or the CSA if the other materially breaches and fails to cure within **30 days** after written notice describing the breach. Customer's remedies for a failure of a Service are those stated in Section 7 and the SLA, and a Service failure is not a breach for which Customer may terminate under this Section except as Section 7.3 provides.

6.3 Termination Charge. If a Service is terminated before the end of its term by Customer for convenience, or by FiberFed under Section 6.1(a), (b) or (c), Customer will pay, in addition to charges accrued to the date of termination:

- **(a)** 100% of the early termination, cancellation and disconnect charges FiberFed incurs from any Access Provider or Facility Operator for that Service;
- **(b)** 100% of the unamortized Construction cost funded by FiberFed for that Service, calculated straight-line over the Initial Term as: funded amount × months remaining ÷ months in the Initial Term; **and**
- **(c)** the remaining MRC for the balance of the term, at **100%** if terminated during the first third of the Initial Term, **75%** during the second third, and **50%** during the final third. During a Renewal Term, the rate is 100% of the remaining MRC of that Renewal Term.

If the Service is terminated before the Service Date, Customer instead pays the Initial Costs. The Parties agree that FiberFed's actual damages from early termination are uncertain and difficult to determine, that this charge is a reasonable forecast of them, and that it is liquidated damages and not a penalty. **FiberFed's records of Access Provider and Facility Operator charges and of Construction cost are conclusive absent manifest error**; Customer may request a statement of the amount and its components.

6.4 No Termination Charge. Customer owes no Termination Charge where it terminates: (a) under Section 6.2 for FiberFed's uncured material breach; (b) under Section 7.3 (chronic outage); (c) under Section 4.2 or 10.3 (rejected re-price); (d) under Section 11.3 (extended Force Majeure); or (e) where FiberFed terminates under Section 6.1(d) or (e), or where Customer's landlord revokes access mid-term through no fault of Customer or its landlord. Where the revocation is caused by Customer or its landlord, Customer remains liable under Section 6.3(a) and (b), and no Service Credits accrue for the affected period.

6.5 Effect. On termination Customer will stop using the Services, permit removal of FiberFed Facilities, and pay all amounts due. Sections 3, 4.4, 4.5, 4.9, 5, 6.3-6.5 and 8 through 13 survive.

7. SERVICE LEVELS

7.1 The SLA. The SLA version stated on the Order Form sets out FiberFed's service level commitments, the **Service Tier** selected on the Order Form, and the Service Credits available.

7.2 Credits are the sole remedy. Service Credits are Customer's sole and exclusive remedy, and FiberFed's entire liability, for any failure to meet a service level, for Network Unavailability, for delayed or failed installation, and for any other failure of performance of a Service, except for the termination right in Section 7.3. Service Credits must be claimed as the SLA requires, are credited against future charges, and are not refunds.

7.3 Chronic outage. The SLA states a limited right to terminate an affected Service, Service Location or Service Group without a Termination Charge where the qualifying thresholds are met. That right is **the sole and exclusive remedy of Customer beyond Service Credits** for chronic or repeated failure of a Service, and is subject to the conditions, thresholds and time limits stated in the SLA.

8. WARRANTY, LIABILITY AND LIMITATION

8.1 Disclaimer. EXCEPT AS EXPRESSLY STATED IN THE CSA AND THE SLA, THE SERVICES AND ALL EQUIPMENT ARE PROVIDED "**AS IS**", AND FIBERFED AND ITS PROVIDERS, LICENSORS, OFFICERS, EMPLOYEES AND AGENTS MAKE NO WARRANTY, CONDITION OR GUARANTEE OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY, TITLE OR FITNESS FOR A PARTICULAR PURPOSE, OR AS TO THE RESULTS TO BE OBTAINED FROM THE SERVICES. FIBERFED DOES NOT MONITOR AND DISCLAIMS ALL RESPONSIBILITY FOR THE CONTENT OF ANY COMMUNICATION CARRIED OVER THE SERVICES AND FOR ANY UNAUTHORIZED USE OR MISUSE OF THE SERVICES.

8.2 Cap on liability. WITHOUT LIMITING FIBERFED'S RIGHT TO BE PAID FOR THE SERVICES, **FIBERFED'S TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS OF WHATEVER NATURE (INCLUDING CLAIMS BASED ON NEGLIGENCE) ARISING OUT OF OR RELATING TO THE CSA, THE SERVICES, ANY EQUIPMENT OR ANY FACILITIES, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE CHARGES PAID BY CUSTOMER FOR THE AFFECTED SERVICE IN THE 12 MONTHS BEFORE THE EVENT GIVING RISE TO THE CLAIM.** THIS CAP APPLIES EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE, AND APPLIES TO DAMAGE TO REAL OR PERSONAL PROPERTY. IT DOES NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS OR TO LIABILITY THAT CANNOT LAWFULLY BE LIMITED.

8.3 Excluded damages. NEITHER PARTY, NOR ANYONE INVOLVED IN CREATING, PROVIDING, SUSPENDING OR SUPPORTING THE SERVICES, IS LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR LOST REVENUE, LOST PROFITS, LOSS OF DATA, LOSS OF BUSINESS OR COST OF SUBSTITUTE SERVICES, EVEN IF ADVISED OF THE POSSIBILITY,

AND WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY). THIS SECTION DOES NOT LIMIT CUSTOMER'S INDEMNITY OBLIGATIONS OR CUSTOMER'S PAYMENT OBLIGATIONS.

8.4 Third-party networks and security. CUSTOMER ACKNOWLEDGES THAT THE INTERNET CONSISTS OF NETWORKS NOT OWNED OR CONTROLLED BY FIBERFED. FIBERFED IS NOT LIABLE FOR DAMAGE OR SUMS PAID WHERE THE SERVICES ARE UNAVAILABLE OR IMPAIRED BECAUSE OF THE ACT, OMISSION OR FAILURE OF ANY NETWORK OR PROVIDER OTHER THAN THE FIBERFED NETWORK, FOR TRANSMISSION ERRORS OR CORRUPTION ON SUCH NETWORKS, FOR ANY FAULT OF CUSTOMER OR A THIRD PARTY, FOR HARMFUL CODE (INCLUDING VIRUSES, WORMS AND DENIAL-OF-SERVICE ATTACKS), OR FOR ANY BREACH OF SECURITY ON CUSTOMER'S NETWORK. **This Section does not exclude Network Unavailability of Access Provider facilities that form part of the FiberFed Network under Section 13, which is addressed by Service Credits under the SLA.** CUSTOMER WILL MAKE ALL CLAIMS RELATING TO THE SERVICES DIRECTLY AGAINST FIBERFED AND WAIVES ANY RIGHT TO RECOVER FROM OR THROUGH ANY THIRD PARTY TO THE CSA.

8.5 Limitation period. NO CLAIM OR PROCEEDING ARISING OUT OF THE CSA MAY BE BROUGHT BY CUSTOMER MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION ACCRUES.

9. INDEMNITY

9.1 Customer indemnity. To the extent permitted by law, Customer will indemnify, defend and hold harmless FiberFed, its affiliates and their directors, officers, employees, agents and subcontractors from third-party claims, proceedings and Losses arising from: (a) Customer's violation of the AUP or of any law or regulation; (b) claims by Customer's customers, end users or other third parties in connection with a Service, including claims about content carried over a Service; (c) claims of infringement, defamation, or unlawful or offensive content based on what Customer or its users transmit or publish; (d) Customer's equipment, network or configurations; and (e) Customer's premises, including claims by Customer's landlord under Section 4.3(b). **This indemnity does not extend to Losses caused by FiberFed's gross negligence or willful misconduct, and is not intended to indemnify FiberFed against its own negligence.**

9.2 Conduct. FiberFed will notify Customer promptly of a claim, and Customer will conduct the defense with counsel reasonably acceptable to FiberFed. Customer may not settle a claim in a way that imposes an obligation or admission on FiberFed without FiberFed's written consent.

10. ACCESS PROVIDERS AND FACILITY OPERATORS

10.1 Selection and substitution. FiberFed selects the Access Provider and, where applicable, the Facility Operator for each Service, and may substitute either at any time, provided the Service continues to meet the Service Tier and bandwidth stated on the Order Form. Where the Order Form names an underlying carrier at Customer's request, it is stated for information only and does not limit this right unless the Order Form expressly says so.

10.2 Performance. Access Provider facilities that FiberFed orders, provisions and manages for a Service form part of the FiberFed Network for the purposes of the SLA. Except as the SLA provides, FiberFed is not responsible for the acts or omissions of an Access Provider or Facility Operator.

10.3 Availability and re-price before the Service Date. If, before the Service Date, an Access Provider or Facility Operator cannot provide the facility on the cost, term or interval assumed in the Order Form, FiberFed may suspend provisioning and notify Customer of the revised charges, Initial Term or interval. Customer has **5 business days** to accept in writing; silence is a rejection. On rejection, or if FiberFed elects to cancel, the affected Service is cancelled with no cancellation or termination charge to either Party.

10.4 Cost pass-through during the term. If an Access Provider or Facility Operator increases a charge that is a direct input to a Service during its term (including local loop, cross-connect, entrance facility, space, power or data-center charges), FiberFed may pass the increase through to Customer, **capped for each 12-month period at the greater of the CPI-U increase or 5% of the affected Service's MRC**, and only on **60 days' prior written notice** stating the increase and its source. Any

increase above that cap requires Customer's written agreement; if Customer does not agree within 30 days of notice, FiberFed may terminate the affected Service on 30 days' notice without a Termination Charge, and without liability. A pass-through under this Section is in addition to the annual adjustment in Section 2.6.

10.5 Facility Operator terms. Where a Service is delivered in a third-party data center or colocation facility, Customer will comply with the Facility Operator's site policies, and FiberFed's obligations are subject to its agreement with that Facility Operator.

11. FORCE MAJEURE

11.1 Events. **Force Majeure** means, and is limited to: acts of God, including fire, flood, earthquake, hurricane, tornado and severe weather; war or armed conflict; terrorism; civil disorder; epidemic or pandemic; order, embargo, action or requirement of a government or regulator; strikes or labor actions not involving the affected Party's own workforce; and failure of electrical or telecommunications utilities outside the affected Party's control. A Force Majeure event affecting an Access Provider or Facility Operator is Force Majeure for FiberFed to the same extent. **A third-party cable cut and the ordinary failure, error, insolvency or non-performance of an Access Provider, Facility Operator, supplier or contractor are not Force Majeure.**

11.2 Effect. The affected Party is excused from performance (other than payment for Services actually delivered) while the event continues, must give prompt notice, and must use commercially reasonable efforts to mitigate and resume.

11.3 Extended events. If a Force Majeure event prevents delivery of a Service for more than **60 consecutive days**, either Party may terminate the affected Service on written notice, without a Termination Charge and without liability, and charges for that Service stop as of the first day of the event.

12. GENERAL

12.1 Relationship. The Parties are independent contractors. Neither is the other's agent, and the CSA creates no partnership, joint venture or fiduciary relationship. The CSA confers no rights on any third party, including Customer's end users.

12.2 Notices. Notices must be in writing and sent to the contact stated on the Order Form, by email, courier or first-class mail, and are effective on receipt. **Termination and non-renewal notices from Customer must be sent to the termination address stated on the Order Form** and are effective only when sent to that address. FiberFed may give operational notices (including maintenance and outage notices) by email to Customer's technical contact. In a service emergency FiberFed may give verbal notice first, followed by written notice. Customer is responsible for keeping its contact details current.

12.3 Assignment. Customer may not assign the CSA without FiberFed's prior written consent, which will not be unreasonably withheld; any attempt to do so is void. FiberFed may assign the CSA, and may subcontract performance while remaining responsible for it.

12.4 Governing law and venue. The CSA is governed by the laws of the **State of Texas**, without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction and venue of the state and federal courts located in **Denton County, Texas**.

12.5 Mediation. Before filing suit (other than for injunctive relief or collection of undisputed amounts), a Party must give written notice of the dispute and the Parties must attempt mediation in Denton County, Texas. The Parties will select a mediator within 14 days of the notice and mediate within 30 days of the selection; if they cannot agree on a mediator, either Party may ask a court of competent jurisdiction in Texas to appoint one. Each Party will be represented by someone with authority to settle. Mediation costs are shared equally; each Party bears its own legal costs. If mediation does not resolve the dispute within 45 days of the notice, either Party may file suit.

12.6 Costs of collection. Customer will pay FiberFed's reasonable costs of collecting past-due amounts, including legal and collection agency fees.

12.7 Severability. If a provision of the CSA is held invalid, illegal or unenforceable, it will be enforced as nearly as possible to its stated intent, or severed if it cannot be, and the rest of the CSA remains in full force. In particular, if a limitation, exclusion or cap in Section 8 is held unenforceable in part, it remains in force to the maximum extent permitted.

12.8 Waiver. No failure or delay in enforcing the CSA waives any right. A waiver must be in writing and signed by the waiving Party.

12.9 Landlord protection. If (but only if) required by FiberFed's or Customer's agreement with Customer's landlord: (a) an interruption of the Service is not a default or constructive eviction by the landlord; and (b) Customer releases the landlord and its related parties from liability for damages, including lost revenue, arising from any interruption of or defect in the Service, **REGARDLESS OF WHETHER CAUSED BY THE ORDINARY NEGLIGENCE (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF A RELEASED PARTY.**

12.10 Ownership. The FiberFed Network, the Services and all related software and know-how are owned by FiberFed or its licensors and are protected by intellectual property laws. Customer receives only the rights expressly granted in the CSA.

12.11 Entire agreement. The CSA is the entire agreement between the Parties on its subject matter and supersedes all prior negotiations, representations and agreements on that subject.

13. DEFINITIONS

Access Provider — a third party whose transport or last-mile facilities FiberFed orders, provisions and manages to deliver a Service, including local loop, Ethernet access, wavelength and backhaul providers.

Addendum — a document signed by both Parties that varies the CSA for one or more Services.

AUP — FiberFed's Acceptable Use Policy at the versioned URL stated on the Order Form, as amended under Section 1.3.

Build Required Site — a Service Location that requires Construction before the Service can be delivered. It becomes a **Lit Site** on the Service Date.

Change Order — a signed change to an existing Order Form.

Construction — the design, permitting, make-ready, placement and splicing of facilities, and any Access Provider special construction, needed to deliver a Service to a Build Required Site.

CPI-U — the Consumer Price Index for All Urban Consumers (U.S. city average, all items) published by the U.S. Bureau of Labor Statistics, or its successor index.

CSA — the Customer Subscriber Agreement described in Section 1.1.

Customer — the entity identified on the Order Form.

Customer-Caused Damage — as defined in Section 4.9.

Dispatch Fee — as defined in Section 4.8.

Facility Operator — a third party that operates a data center, colocation facility or other building in which FiberFed places equipment or takes space, power or cross-connects in order to deliver a Service.

FiberFed — Trinity Network Consultants, LLC d/b/a FiberFed.

FiberFed Facilities — the facilities and equipment described in Section 4.4.

FiberFed Network — the network and network components owned, operated or controlled by FiberFed, including its fiber and transport facilities, interconnection points, routers and switches, the software and data used to provide the Services, **and the Access Provider facilities that FiberFed orders, provisions and manages for a Service.** It does not include the public Internet, other networks not

provisioned or managed by FiberFed for a Service, Customer equipment, or anything on Customer's side of the demarcation point.

Force Majeure — as defined in Section 11.1.

Hub Site — a Service Location designated as a Hub Site on the Order Form or under the applicable Rider. The Ethernet and WAN Services Rider defines what a Hub Site does for the Services it covers.

Initial Costs — the greater of (a) the installation and Construction charges stated on the Order Form (to the extent unpaid) and (b) the Access Provider, Facility Operator and Construction costs FiberFed has incurred or committed for the Service.

Initial Term — as stated on the Order Form under Section 2.2.

Lit Site — a Service Location that FiberFed can serve over existing facilities without Construction.

Losses — costs, fees, liabilities, losses, damages and penalties, including reasonable legal fees.

MRC — the fixed recurring monthly charge for a Service, excluding usage charges, Taxes and Regulatory Fees and Surcharges.

Order Form — the FiberFed Service Order signed by Customer, including its attachments.

Party / Parties — FiberFed and Customer.

Regulatory Fees and Surcharges — as described in Section 3.4.

Renewal Term — a renewal period under Section 2.3.

Rider — a FiberFed product or program rider that applies to a Service, at the version stated on the Order Form.

Service Acceptance Date — as defined in Section 4.7.

Service Credit — a credit calculated under the SLA.

Service Date — the date FiberFed notifies Customer that a Service is available for use.

Service Group — two or more Services or Service Locations designated as a group on the Order Form.

Service Location — an address stated on the Order Form at which a Service is delivered.

Service Tier — the tier selected on the Order Form and defined in the SLA.

Services — the services stated on the Order Form.

SLA — the FiberFed Service Level Agreement at the version stated on the Order Form.

Support Program — the federal E-Rate (Schools and Libraries) program, the Rural Health Care program, or another subsidy program identified on the Order Form.

Taxes — all taxes and similar charges imposed by any authority (federal, state, county, municipal or other) on or measured by the provision, sale or use of the Services, including sales, use, excise, gross receipts, value added, franchise, telecommunications, utility and property taxes, but excluding taxes on FiberFed's net income.

Termination Charge — the charge calculated under Section 6.3.