

CONSORTIUM MEMBERS AGREEMENT

This Consortium Members Agreement (“the Agreement”) is made and entered into effective this 30th day of June 2020 (“the Effective Date”) by and among **Cherokee Telephone Company** (“Cherokee”), having a place of business at 403 N. Service Rd., Calera, Oklahoma 74730, The **The Hinton Telephone Company of Hinton, Oklahoma, Inc.** (“Hinton”), having a place of business at 204 West Main Street, Hinton, Oklahoma 73047, and **@Link Services, LLC** (“@Link”) having a place of business at 13431 Broadway Ext., Suite 150, Oklahoma City, OK 73114, each of which may be referred to individually as a “Member” and collectively as “Members.”

RECITALS

WHEREAS, the Federal Communications Commission (“FCC”) has established rules, procedures and dates for the Rural Digital Opportunity Fund, Phase I (Auction 904) to make available up to \$16 Billion annually for ten (10) years to fund fixed broadband deployment in rural areas of the United States;

WHEREAS, each Member is interested in participating in Auction 904 to secure funding to finance and support the extension of their respective fixed broadband networks into unserved rural areas;

WHEREAS, due to the Hinton’s majority ownership of @Link, Hinton and @Link cannot bid individually under the FCC’s Auction 904 Rules and procedures, as defined in Article 2, below, but may bid as a single entity and may join one or more other prospective bidders under a joint bidding arrangement, including Cherokee, that also holds a minority interest in @Link, consistent with the rules and procedures established by the FCC for Auction 904; and

WHEREAS, the Members are interested in jointly bidding in Auction 904 consistent with the Auction 904 Rules and to minimize out of pocket expenditures and resources required to understand these rules so that more resources shall be available for the deployment of high-speed broadband services in unserved areas and to participate fully in Auction 904.

The Members agree as follows:

- 1. Name.** The consortium shall be referred to as the Consortium 904 (“the Consortium”).
- 2. Applicable Rules.** The Consortium is established and shall operate consistent with the rules and requirements of the FCC governing Auction 904, including Public Notice FCC 20-77, Released: June 11, 2020, *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020; Notice And Filing Requirements And Other Procedures For Auction 904* (AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10- (“Auction 904 Rules”).
- 3. Objectives of the Consortium:** The principal objectives of the Consortium include the following:

- a. During the period July 1, 2020 through July 15, 2020, prepare a single short-form application in the name of the Consortium that identifies and submits the required information to identify each of the Members consistent with Auction 904 Rules, supplementing the information as may be requested by the FCC.
- b. Select the Member who will provide (1) its financial information to satisfy at least three of the five financial criteria, and (2) its operational history as a broadband provider as evidenced by its three most recent FCC Forms 477 to satisfy the technical qualifications for the Consortium to qualify to participate in Auction 904. This Member's latest audited financial statement may also be submitted.
- c. Determine whether one, several or each of the Members will be responsible for submitting bids, monitoring the bidding process and communicating on a real-time or near real-time basis with the other Members ("Bidding Member"). The Members shall work closely to develop internal communications procedures, as deemed necessary, to ensure that each Member will have adequate time and information to make its bidding decisions for each round, recognizing that one or all Members may utilize proxy bidding and that the FCC determines the periods of time between bidding rounds, the information conveyed to bidders during and between rounds, and whether to adjust the base clock percentage decrement between rounds.
- d. In preparing the short-form application, determine whether a single performance tier and latency combination ("T+L combination") will be selected for all bidding areas of interest for each Member or whether multiple T+L combinations may be deployed by one or all Members.

4. Operating Principles

- a. Each Member will cooperate in maintaining the efficient functioning of the Consortium, including attending conference calls, promptly providing information to complete the short-form application, responding to any follow-up inquiries from the FCC, agreeing on the distribution of costs for consultants and counsel and bidding facilities, and recognizing that multiple conferences (in person or via teleconference) will be necessary to prepare the short-form application and to participate in the bidding.
- b. Each Member will identify the bidding areas of interest to the Member recognizing that each Member is responsible for determining the lowest possible bid percentage (price point) that it is willing to accept to provide broadband service in each of its bidding areas of interest and recognizing that each Member may elect to or not participate (bid) prior to the start of bidding or discontinue bidding prior to any round of Auction 904.
- c. Each Member shall be responsible for instructing the Bidding Member in a timely manner to permit the submission of bids by the Consortium in each bidding round.

- d. Each Member shall be responsible for completing its long-form application, including obtaining a Letter of Credit (“LOC”) from a qualified financial institution and opinion of bankruptcy counsel (affirming the FCC will be able to draw on the LOC in the event a winning bidder defaults on its compliance obligations as set out in the *Auction 904 Rules*).
- e. When and if selected as a winning bidder for one or more of its areas of interest (alternatively referred to as an “award recipient”), each Member shall be responsible to the other Members if its non-compliance with the *Auction 904 Rules* applicable to long-form applicants adversely limits, restricts, imposes fines or forfeitures upon or prevents the other Members from completing their respective long-form applications and obtaining support payments. This obligation encompasses, but is not limited to, reimbursement of compliant Members for legal fees, fines, or penalties incurred by the compliant Members in their efforts to maintain their eligibility to receive support payments.

5. Cost Allocation Principles. The Members shall determine how the costs for consultants and counsel incurred in preparation for and during Auction 904 shall be shared among the Members.

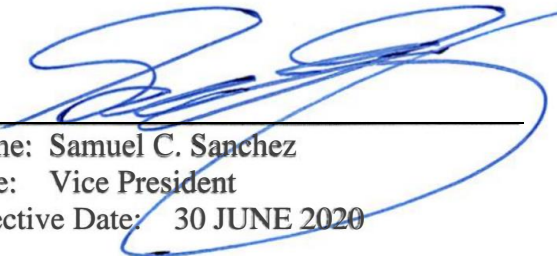
6. Confidential Information. The terms and conditions and the existence of this Agreement, the Members of the Consortium, the actions and decisions of the Consortium shall be deemed Confidential Information and shall not be disclosed to third parties or otherwise published or referenced except as provided under this Agreement or the *Auction 904 Rules*. Each Member shall limit internal distribution and discussion of this Confidential Information for the duration of this Agreement to its employees, agents, consultants and lenders who have a need to know, and shall take steps to ensure such dissemination is so limited. Upon the termination of this Agreement under Article 7. f. or any earlier termination, each Member shall manage the Confidential Information consistent with this Article 7 for at least two years.

7. Other Matters


- a. A Member may not assign, transfer or otherwise convey its rights or obligations under this Agreement.
- b. This Agreement and cooperation contemplated herein shall not constitute or be deemed to constitute a legal entity between or among the Members nor make a Member the agent or the representative of another Member, except as provided in this Agreement.
- c. Except as provided Article 4e and the sharing of costs as determined under Article 5, each Member is solely responsible for selecting its areas of interest, its bidding decisions for each of these areas, its obligations to complete its long-form application, including obtaining a Letter of Credit from a qualified financial institution, and its buildout, service and reporting obligations.

- d. A Member shall not be responsible for indirect, special or consequential damages for its acts, omissions or failure to perform its obligations hereunder.
- e. Except for the Members' rights and obligations under Article 4e and the payment of costs as provided or determined under the Agreement, this Agreement shall terminate upon FCC's designating its list of winning bidders and the Consortium designates each Member and the Member's winning areas as long-form applicants consistent with the FCC's *Auction 904 Rules*.
- f. This Agreement constitutes the full and complete understanding and agreement of the Members relating to the subject matter hereof and supersedes all prior understandings and agreements relating to such subject matter. Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by authorized representatives of the Members.
- g. This Agreement may be executed in one or more counterparts, each which shall be deemed an original and together shall constitute but one instrument.


Cherokee Telephone Company

By: 
Name: Samuel C. Sanchez
Title: Vice President
Effective Date: 30 JUNE 2020

**The Hinton Telephone Company of
Hinton, Oklahoma, Inc.**

By: 
Name: Kenneth L. Doughty
Title: President
Effective Date: 30 JUNE 2020

@Link Services, LLC

By: 
Name: Samuel T. Curtis
Title: President & Manager
Effective Date: 30 JUNE 2020