

TELECOMMUNICATIONS FACILITY LICENSE AGREEMENT

This **Telecommunications Facility License Agreement** ("Agreement") is entered into this ___ day of _____, 2019, by and between the City of Alexandria, Virginia, a municipal corporation of the Commonwealth of Virginia (the "City"), and Crown Castle Fiber LLC, a New York limited liability company (the "Licensee").

RECITALS:

A. The City is responsible for management of the Public Rights-of-Way, as hereinafter defined, and performs a wide range of vital tasks necessary to preserve the physical integrity of Public Rights-of-Way, to control the orderly flow of vehicles, to promote the safe movement of vehicles and pedestrians, and to manage a number of gas, water, sewer, electric, cable television, telephone, telecommunications, and other facilities that are located in the Public Rights-of-Way.

B. The City has the authority to regulate the time, location, and manner of attachment, and the installation, operation, and maintenance of telecommunications facilities located in the Public Rights of-Way.

C. The Licensee is in the business of transporting signals by means of telecommunications facilities.

D. The Licensee desires to attach, install, control, operate, maintain, repair, replace, reattach, reinstall, relocate, and remove Licensee's Facilities, as hereinafter defined, on specified facilities located in the Public Rights-of-Way and owned by third parties.

E. The Licensee has applied for permits required for the installation of Small Cell Facilities (as hereinafter defined) on certain Approved Poles (as hereinafter defined).

F. Subject to applicable law, the Licensee is willing to compensate the City for permission to use the Public Rights-of-Way for the installation of the Licensee's Facilities upon the Approved Poles.

G. The Licensee and the City anticipate that the Licensee shall apply for a franchise authorizing the Licensee to use the Public Rights-of-Way for a period greater than five years and to install additional facilities in the Public Rights-of-Way.

H. The City is willing to permit the Licensee to enter the Public Rights-of-Way in order to use and occupy the Approved Poles, upon the terms and conditions set forth herein.

AGREEMENT:

Now, therefore, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Definitions. The following definitions shall apply to the provisions of this Agreement:

1.1 "Affiliate" means any entity that own or controls, is owned or controlled by, or is under common ownership or control with the Licensee. The term "control," as used in this definition, means the right and power to direct or cause the direction of the management and policies of an entity, in whatever manner exercised.

1.2 "Approved Equipment" means a Small Cell Facility to be installed and operated by Licensee, whose installation in the Public Rights-of-Way has been approved by the City pursuant to this Agreement.

1.3 "Approved Pole" means (i) a **wood or** composite electric utility pole of the design shown on **Exhibit A-1 to A-4**, at up to twelve (12) locations in the Public Rights-of-Way, for which permit applications may be submitted after the Effective Date; or (ii) a pole for which either (A) all required permits have been granted by the City to Licensee to attach Approved Equipment as of the Effective Date; or (B) complete applications for all required permits were submitted to the City as of the Effective Date and subsequently approved. The current list of all Approved Poles as defined in clause (ii) above is set forth on **Exhibit A**.

1.4 "City Engineer" means the Director of the Department of Transportation and Environmental Services or designee.

1.5 "City Facilities" means any City-owned property, other than the Public Rights-of- Way, whether or not affixed to the land.

1.6 "Effective Date" means the date this Agreement is signed on behalf of the City, with the approval of the City Council.

1.7 "Director" means the Director of Planning and Zoning or designee.

1.8 "Licensee" means Crown Castle Fiber LLC, a New York limited liability company.

1.10 "Licensee's Facilities" means (i) any Approved Pole installed in the Public Rights-of-Way pursuant to this Agreement; (ii) any Approved Equipment that is attached to an Approved Pole; or (iii) any Approved Equipment installed elsewhere in the Public Rights-of-Way pursuant to this Agreement.

1.11 "Public Rights-of-Way" means the space in, upon, above, along, across, over, and below the public streets, roads, lanes, courts, ways, alleys, and boulevards, including all public street easements, as the same now exist or may hereafter be established, that are under

the legal jurisdiction and physical control of the City or of the Virginia Department of Transportation ("VDOT").

1.12 "Services" means those wireless communications services provided by Licensee.

1.13 "Small Cell Facility" means a wireless facility that meets each of the following conditions:

(a) The facility:

(i) Is mounted on structures 50 feet or less in height including any antennas; or

(ii) Is mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Does not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(b) Each antenna associated with the deployment, excluding ancillary equipment, is no more than three cubic feet in volume;

(c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(d) Does not require antenna structure registration under Federal Communications Commission regulations; and

(e) Does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Federal Communications Commission regulations.

Section 2. Term.

2.1 Term and Extension. The term of this Agreement is five (5) years ("Initial Term"), commencing on the Effective Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

Section 3. Scope of Agreement.

3.1 Non-Exclusive Permission. The City hereby grants to the Licensee the permission, on a non-exclusive basis, to: (i) attach Approved Equipment to Approved Poles; (ii) install new poles or replace existing ones in the Public Rights-of-Way, as permitted by this Agreement; (iii) control, operate, maintain, repair, replace, reattach, reinstall, relocate, and remove Approved Poles and Approved Equipment installed on Approved Poles for the limited purpose of providing Services; (iv) make electrical utility connections in the Public Rights-of-Way as required for the purpose of operating the Licensee's Facilities, subject to approval by the City of the locations of such electrical utility connections; and (v) to enter the Public Rights-of-Way for

the purpose of performing work permitted by the foregoing clauses (i) - (iv). The permission granted by this Section 3.1 is subject to the terms of this Agreement, all applicable City permitting requirements, all other applicable laws including without limitation the City Zoning Ordinance, and all VDOT requirements of whatever nature.

3.2 Permitted Services. The Licensee's Facilities shall be used exclusively by the Licensee solely for the rendering of Services. If the Licensee wishes to use the Licensee's Facilities for the purpose of offering services not specifically described in, or authorized by, this Agreement, then the Licensee shall notify the City Engineer in writing before providing any such additional proposed services. If the City Engineer does not approve of proposed services set forth in any such notice, the City shall notify the Licensee in writing that the City requires an amendment to this Agreement, or another form of authorization, before the Licensee may provide such services, subject to applicable law. Such approval or authorization shall not be unreasonably withheld, delayed, or conditioned.

3.3 Electricity. The City shall have no responsibility for providing electricity to the Licensee's Facilities, nor any liability related to the loss or unavailability of power for such use.

3.4 No Interference. The Licensee's use of any Approved Poles shall not materially interfere, in any manner, with the existence, operation, or use of the Public Rights-of-Way or the City Facilities or the property of any third party, including, without limitation sanitary sewers, storm sewers and drains, water mains, gas mains, and aerial and underground electric, telephone, or cable television facilities, except as expressly permitted by this Agreement or by express permission of the respective owner.

3.5 License Subject to Rights of City and of Others; No Property Interest. The permission granted to the Licensee pursuant to this Agreement shall be: (i) exercised by the Licensee at the Licensee's sole risk and expense; (ii) subject to, and subordinate to, the rights of the City to use the Public Rights-of-Way exclusively or concurrently with any other person; and, (iii) subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, claims of title, and rights (whether recorded or unrecorded) of others that may affect the Approved Poles, specifically including all recorded or unrecorded rights of VDOT. Nothing in this Agreement shall be deemed to grant, convey, create, or vest any real property interest in the Licensee, including any fee or leasehold interest, easement, or vested right. Nothing herein contained shall be construed to require or compel the City to maintain any particular portion of the Public Rights-of-Way for a period longer than that required by the City's needs. Nothing herein shall restrict the City from exercising its authority to vacate, abandon, or discontinue use of any portion of the Public Rights-of-Way and request the relocation or removal of the Licensee's Facilities therefrom subject to the procedures, time periods, and remedies established within Section 5.9.

Section 4. Approval of Facilities and Equipment.

4.1 Approval Required. This License grants the Licensee the right to install only

Approved Poles and Approved Equipment in accordance with all city regulations and aesthetic guidelines, as amended. This License does not authorize the Licensee to use or attach any equipment to any City Property, other than the Public Rights-of-Way, including without limitation any street light poles, utility-type poles, or traffic signal poles owned by the City.

4.2. Replacement of Poles. To the extent set forth in any permit granted by the City for an Approved Pole, Licensee may replace an existing pole with the permitted Approved Pole.

4.3 Equipment. Only Approved Equipment may be attached to Approved Poles or otherwise installed in the Public Rights-of-Way. The Licensee shall apply for all permits or authorizations required by the City in connection with any proposed installation of any Small Cell Facility, and the City shall review such applications subject to all design standards, technical specifications, and other requirements. Upon issuance of all such permits and authorizations, the applicable Small Cell Facility shall be deemed Approved Equipment.

4.4 City Standards. The parties agree that the various City regulations, guidelines, specifications, requirements, authorizations, applications, consents or other standards or approval criteria promulgated from time to time by the City related to Licensee's Approved Equipment and/or Approved Poles under this Agreement will be enacted and enforced in compliance with applicable law.

Section 5. Installation of Licensee's Facilities.

5.1 Installation of Approved Equipment on Approved Poles. Approved Equipment shall be installed only on Approved Poles in the Public Rights-of-Way and only in accordance with accepted industry standards for such installation, including applicable safety codes. Any installation method or configuration that materially differs from industry standards shall not be employed without the prior written permission of the City Engineer. If Licensee installs any equipment other than Approved Equipment without the prior written approval from the City Engineer, the Licensee, upon notice from the City Engineer, shall promptly remove such equipment at Licensee's sole cost and expense subject to the procedures, time periods, and remedies established in Section 5.9.

5.2 Installation of Approved Poles. Any Approved Pole installed pursuant to Section 4.2 hereof shall be installed only in accordance with the accepted industry standards for such installation, including applicable safety codes. Any installation method or configuration that materially differs from industry standards shall not be employed without the prior written permission of the City Engineer.

5.3 As-Built Drawings. Upon completion of any installation on any Approved Pole, the Licensee shall promptly deliver to the City Engineer, in hard copy and electronic format, documentation, in substance and in form acceptable to the City Engineer, clearly identifying each of the Approved Poles to which the Licensee's Facilities have been attached, all of the Licensee's Facilities attached to each such Approved Pole, and any portions of the Public Rights-of-Way occupied by Licensee's Facilities in connection with the installation on such

Approved Pole. The foregoing information shall be delivered within ten (10) days after (i) completion of installation of Licensee's Facilities at any given location, and (ii) completion of any changes to the Licensee's Facilities located in the Public Rights-of-Way that render the information previously provided to the City Engineer under this Section 5.3 inaccurate or incomplete.

5.4 Attachment and Access Agreements. Prior to beginning any construction or installation of Licensee's Facilities, Licensee shall, at its sole cost and expense, submit to the City evidence reasonably demonstrating that the applicable public utility company has granted Licensee the right to attach Licensee's Facilities to Approved Poles occupying the Public Rights-of-Way, or to install Licensee's Facilities in conduit occupying the Public-Rights-of-Way.

5.5 Plans, Specifications and Maps. Before beginning any construction or installation of Licensee's Facilities, Licensee shall, at its sole cost and expense, prepare and submit, together with payment of all required fees, applications for all permits required by the City in connection with the types of facilities the Licensee proposes to install and the nature of the work required. All plans and specifications required by the respective applications, detailed maps showing the planned construction, the size, the location, and number, and all other relevant details regarding the placement of the Licensee's Facilities proposed to be located on any Approved Pole or in any portions of the Public Rights-of-Way shall be prepared by the Licensee at its sole cost and expense. The City Engineer may, in writing, condition approval of plans and specifications on Licensee meeting reasonable requirements necessary to protect the public health, safety, and welfare of the traveling public. The City Engineer may also condition approval of plans and specifications on Licensee's agreement to use an alternate location for the Licensee's Facilities when the City Engineer reasonably determines that it is necessary to avoid conflict with public safety as well as other permitted uses in, or future public needs of, the Public Rights-of-Way in the vicinity of any Approved Pole or other proposed location for Facilities. The Licensee shall, at its sole cost and expense, submit traffic control plans related to installation of Licensee's Facilities, for approval by the City Engineer. The City Engineer may, at any time, inspect the attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, and replacement of Licensee's Facilities. The Licensee shall pay all fees required by this Agreement or the City Code, prior to the issuance of any permit for the installation and construction of Licensee's Facilities. All work within the Public Rights-of-Way shall be performed in compliance with all requirements of the City (and VDOT, if applicable) and the owner of the respective Approved Poles, as the case may be, and all plans and permits approved and issued by the City (and VDOT, if applicable), respectively. The Licensee agrees that the City may require the Licensee to obtain generally applicable single use permits and pay generally applicable fees that are charged for similar work by public utility companies for such permits, pursuant to the City's rules and regulations, for each of the following activities: (i) work within the travel lane or work which requires closure of a public right-of-way; (ii) disturbance of the pavement, shoulder, roadway, or ditch line; and (iii) placement on limited access rights-of-way. The City may also require the Licensee to take specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof.

5.6 Costs and Expenses Borne by Licensee. The Licensee shall bear all costs incurred by Licensee in connection with the Licensee's planning, design, construction, repair, modification, disconnection, attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, and replacement of the Licensee's Facilities. The Licensee shall waive any claim against the City for, any movement in, damage to, repair of, or deterioration of, Licensee's Facilities due to (i) repair, maintenance and/or failure/collapse of any street or highway improvements, sanitary sewers, storm sewers and drains, water mains, gas mains, poles, aerial and underground electric and telephone wires, cable television facilities, and other telecommunications, utility or City-owned property, or (ii) any other improvements or works proximate to Licensee's Facilities. Licensee also agrees to bear the costs of repair or replacement of Licensee's Facilities regardless of whether or not such damage is directly or indirectly attributable to the installation, operation, maintenance, repair, or upgrade work on the Licensee's Facilities, unless the damage results solely from the negligence, willful misconduct, or breach of this Agreement by the City, its officers, employees, or agents.

5.7 Undergrounding. Licensee shall place facilities underground as and when required by Section 5-3-3 of the City Code.

5.8 Installation in Public Rights-of-Way. To the same extent required of all similarly-situated occupants of the Public Rights-of-Way, no equipment, facility or structure shall be installed by or on behalf of Licensee at any location in the Public Rights-of-Way, unless Licensee shall have first obtained all required permits and permissions and complied with all generally applicable City ordinances, regulations and policies, including but not limited to, all applicable provisions of the City Code pertaining to underground utility facilities and the City Zoning Ordinance.

5.9 Improvements. The Licensee shall promptly modify, repair, replace, relocate, restore, remove, maintain, reattach, reinstall, underground, or refinish Licensee's Facilities, Public Rights-of-Way, street or highway improvements, or other City or third party facilities, including, without limitation pavement, streets, alleys, sidewalks, sewer pipes, water pipes or other pipes, located in the Public Rights-of-Way or any other public property, real or personal, belonging or dedicated to the City to the extent the same are disturbed or damaged as a result of acts of Licensee or its agents in connection with the operation of the Licensee's Facilities ("Improvements"). Licensee shall promptly perform Improvements upon receiving notice from the City. All Improvements shall be performed at Licensee's sole cost and expense. If Licensee shall fail to perform any Improvement in accordance with the terms of this Agreement, the City may cure the default itself, and may charge to Licensee the reasonable cost the City incurs in curing the default; provided that, prior to performing any such work to cure a default, the City shall give Licensee written notice of the default and a period of ten (10) business days from the date of the notice in which to initiate action to cure the default and a period of 30 days in which to complete the cure. In addition, the foregoing 10-day and 30-day periods will be extended by the City Engineer for a reasonable amount of time if a cure of the default cannot reasonably be commenced, or the default cannot reasonably be cured, within such periods respectively, and Licensee has diligently pursued commencement of, or completion of, a cure during the applicable time period ("Cure Period"). Notwithstanding the provisions of this

Section 5.9, if the City Engineer determines, in his sole discretion consistent with applicable law, that the failure to perform or complete any Improvement threatens the public health, safety, or welfare, the City may commence the Improvement and assess its costs upon Licensee, as provided herein. Prior to commencing such work, the City shall make a reasonable effort to provide Licensee with telephonic notice and an opportunity to promptly perform or complete the Improvement itself. In the event Licensee is unable to, or otherwise fails to, promptly perform or complete the Improvement and the City performs the repair work City shall, immediately upon completion of the work, provide Licensee with written notice of the work it has performed, and also shall, reasonably soon after the completion of the work, provide Licensee with a statement of the City's reasonable costs and expenses incurred in performing the work. Licensee shall promptly repave or resurface the Public Rights-of-Way in accordance with the then-current standards set forth by the City Engineer if there are any street cuts or other disturbances of the surface of the Public Rights-of-Way as a result of any Improvements.

5.9.1 Any costs assessed upon Licensee under this Section 5.9 shall be paid to the City within 30 days of the assessment.

5.9.2 The obligation of the Licensee to promptly act at its sole cost and expense, the default and cure procedures, the time periods, and the City's right of self-help, all as set forth in this Section 5.9, shall apply to those matters addressed in Sections 5.1, 7.3, 7.4, 7.5, 11.2 and 11.4, as if such matters constitute "Improvements" as defined herein.

5.10 No Liens. Licensee shall not suffer, permit, or give cause for the filing of any lien against the City, the Public Rights-of-Way, or any City Facilities, or perform any other act that encumbers or might encumber the City's title or subject the City Facilities, the Public Rights-of-Way, or any part of thereof to any lien. Licensee shall promptly pay all persons furnishing labor, materials, or services with respect to any work performed by or for the Licensee on or with respect to the City, the Public Rights-of-Way, or any City Facilities. If any lien is filed against the City, the Public Rights-of-Way, or any City Facilities, by reason of any work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to or for the benefit of Licensee, Licensee shall promptly cause the lien to be discharged of record. If Licensee fails to cause the lien to be discharged within thirty (30) days after being notified of the filing thereof, then in addition to any other rights and remedies available under the terms of this Agreement or under applicable law, the City may cause the lien to be discharged by paying the amount claimed to be due or posting a bond, and the Licensee shall reimburse the City within thirty (30) days following the City's demand for all costs incurred in connection therewith, including without limitation reasonable attorneys' fees.

Section 6. Fees Paid to the City.

6.1 Administrative Fee. Upon the Effective Date, the Licensee shall make a one-time initial payment to the City of Seven Hundred Fifty Dollars (\$750.00) (the "Administrative Fee") as consideration for the grant of this Agreement and to defray the City's administrative costs incurred in connection with the negotiation and approval of this Agreement.

6.2 Form of Payments. Payments by the Licensee of all sums required to be paid to the City pursuant to this Agreement shall be paid to "Treasurer, City of Alexandria, Virginia" at the following payment address (or such other address at the City may provide from time to time on 30 days' advance written notice to Licensee):

City of Alexandria
Treasury Division
PO Box 323
Alexandria, Virginia 22313

6.3 No Waiver. Acceptance by the City of any payment due hereunder shall not be deemed to be a waiver by the City of any breach of this Agreement. The acceptance by the City of any such payment shall not preclude or prohibit the City from thereafter establishing that a larger amount in fact was due, or from collecting any balance due to the City.

6.4 No Relief From Other Fees and Taxes. The fees required by this Section 6 shall be in addition to, and not in lieu of, all fees and taxes required by the City, and all other amounts Licensee may be required to pay the City by law, ordinance, or other agreement.

Section 7. Maintenance, Removal and Relocation of Licensee's Facilities.

7.1 Limited Risk or Liability to City. The Licensee hereby acknowledges and assumes all responsibility, financial and otherwise, for the Licensee's permitted use of the Approved Poles and Licensee's use of the Public Rights-of-Way, and the planning, design, construction, repair, attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, and replacement of the Licensee's Facilities, which shall be undertaken without risk to, or liability of the City. All planning, design, construction, repair, attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, and replacement work shall be performed at Licensee's sole cost and expense and in accordance with applicable law, and any work affecting the Public Rights-of-Way shall be performed using City (and VDOT, if applicable) construction standards.

7.2 Maintenance of Licensee's Facilities. Licensee shall ensure that Licensee's Facilities are maintained at all times in a clean and safe condition and location, in good repair, and free of all material defects. Licensee shall use reasonable care at all times in installing, maintaining, relocating, removing, repairing, and replacing Licensee's Facilities. The planning, design, construction, repair, attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, and replacement of Licensee's Facilities shall be performed by experienced and properly trained maintenance and construction personnel in accordance with accepted industry and using commonly-accepted methods and/or devices to reduce the likelihood of damage, injury or nuisance to persons or entities, including the public.

7.3 Removal/Relocation of Licensee's Facilities. If the City Engineer, in his reasonable discretion, determines that removal, relocation, or reconfiguration of any portion of the Licensee's Facilities is necessary in order to protect the public health, safety, or welfare, then the Licensee shall, at its sole cost and expense, remove, relocate, or reconfigure such portion of Licensee's Facilities subject to the procedures, time periods, and remedies established in Section 5.9. Should the City Engineer determine that the public health, safety or welfare require that the City undertake immediate maintenance, repair or other action as to the Licensee's Facilities then the City may do so and the Licensee shall be responsible for all reasonable expenses. In such an emergency, the City Engineer may take the measures required by Licensee under this Section without prior notice to Licensee, provided that the City Engineer will (i) make reasonable efforts to provide prior verbal notice to the Licensee of such measures; and (ii) provide written notice to Licensee within 10 days of City's taking such measures.

7.4 City Removal of Licensee's Facilities. If Licensee does not protect, temporarily disconnect, relocate, or remove Licensee's Facilities in accordance with the applicable procedures and time periods specified in Section 5.9, then the City may perform the same to the Licensee's Facilities and charge the Licensee for the reasonable cost thereof. Upon Licensee's request, and subject to Section 7.5, by written notice to Licensee, City may approve the abandonment in place of specified Licensee's Facilities.

7.5 Abandonment of Licensee's Facilities. If any portion of Licensee's Facilities is out of service for a period of one (1) year or more, then Licensee shall promptly notify the City in writing of such fact and such Licensee's Facilities shall be considered abandoned. Licensee shall promptly remove the Facilities at the Licensee's cost and expense subject to the procedures, time periods, and remedies established within Section 5.9, except that notice shall be deemed given upon receipt by City. The Licensee shall comply with all requirements of any rules governing the abandonment of Licensee's Facilities that may be adopted by the City in accordance with Virginia Code § 15.2-2316.4(B)(6).

7.6 Damage to Property. In exercising the permissions granted by this Agreement, the Licensee shall exercise the customary level of care to avoid causing damage to the Public Rights-of-Way and nearby real and personal property of the City and of third parties. The Licensee hereby assumes responsibility and the risk for all loss, expense, and liability arising out of any such damage. The Licensee shall make an immediate written report to the City Engineer of the occurrence of any such damage. The Licensee shall, within forty-eight (48) hours after occurrence, report to City, in writing, every incident or accident causing, or resulting in, property damage or any personal injury resulting from, or arising out of, any of the Licensee's activities or permissions under this Agreement. Such report shall contain the names and addresses of the persons and entities involved, a statement of the factual circumstances, the date and hour, the names and addresses of all witnesses, and other pertinent information required by the City pertaining to the incident or accident, where reasonably available.

7.7 Removal of Licensee's Facilities. The Licensee may remove any of the Licensee's Facilities at any time, subject to applicable City permitting requirements, if any.

Section 8. Insurance.

8.1 Policy Limit. Licensee, at its sole expense, shall carry and maintain a policy of commercial general liability insurance, throughout the Term of this Agreement, providing coverage for claims arising from the exercise of the permission granted hereunder by City. Such insurance coverage shall have policy limits of not less than Five Million Dollars (\$5,000,000) annual aggregate, which may be met by any combination of primary and excess or umbrella insurance. The insurance policy and policy limits shall not operate as a limit of Licensee's liability to the City under this Agreement, nor as a limit of Licensee's duty of indemnification hereunder.

8.2 Certificates; Noncancellation; Additional Insureds. Prior to the beginning of the Term, and annually as the insurance renews, Licensee shall furnish the City with certificates of insurance and endorsements as required by this Agreement. Each policy shall provide, among other things, that the actions or omissions of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under the policy. The insurance required to be carried by Licensee herein shall be with an insurance company licensed or authorized to do business in the Commonwealth of Virginia and rated not lower than A-VII in the A.M. Best Rating Guide. Such insurance shall provide that the policy shall provide at least thirty (30) days' prior written notice to the City, except for non-payment of premium in which a ten (10) days' notice shall apply. The City, its elected and appointed officials, officers, employees, and agents shall be named as additional insureds under all coverage required to be maintained by the Licensee hereunder and the certificate of insurance must so state. If the policy requires an endorsement to add the indicated parties as additional insureds, the endorsement must accompany the certificate of insurance. Coverage afforded under this Section shall be primary as respects the City, its elected and appointed officials, officers, employees, and agents. The following definition of the term "City" applies to all policies issued under this Agreement:

"The City Council of the City of Alexandria, Virginia. any affiliated or subsidiary Board, Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Alexandria, Virginia, or one in which controlling interest is vested in the City; or a Constitutional Officer of the City."

8.3 Cancellation. Upon written notice from its insurer, Licensee shall provide the City with at least thirty (30) days prior written notice of cancellation of any required coverage for any reason other than non-payment of premium in which case ten (10) days' notice shall apply. Should the insurance company's policy not provide for notice of material change or reduction in coverage until thirty (30) days prior written notice has been given to

the City, it shall be the responsibility of the Licensee to provide such notice.

8.4 Coverage Limits. Licensee shall maintain the types of coverages and minimum limits indicated below, unless the City Risk Manager approves a lower amount, in his sole discretion. The required minimum limits may be met by any combination of primary and excess or umbrella policies. These minimum amounts of coverage will not constitute any limitations or cap on Licensee's indemnification obligations under this Agreement. The City, its officers, agents, and employees make no representation that the limits of the insurance specified to be carried by Licensee pursuant to this Agreement are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, Licensee will obtain such additional insurance coverage, as Licensee deems adequate, at Licensee's sole expense.

8.4.1 Commercial General Liability Insurance. \$2,000,000 combined single-limit coverage with \$5,000,000 general aggregate covering all premises and operations and including bodily injury, property damage, personal injury, completed operations, contractual liability, independent contractors and products liability.

8.4.2 Automobile Liability. \$2,000,000 combined single-limit per accident for bodily injury and property damage.

8.4.3 Workers' Compensation and Employer's Liability. Virginia Statutory Workers' Compensation coverage including Virginia benefits and employer's liability with limits of \$500,000.

8.5 Default. Failure to maintain any of the required insurance coverages shall be deemed a default for purposes of Section 11.

8.6. Insurance to be Primary. Insurance coverage provided to the City as an additional insured shall be primary insurance and other insurance maintained by the City, its officers, agents, and employees shall be excess only and not contributing with the insurance provided pursuant to this Agreement. Licensee's insurance shall also waive any rights of subrogation against the City, its officers, agents, and employees as it pertains to the scope of this Agreement for any claims resulting from Licensee's work or service.

8.7 No Waiver. No acceptance or approval of any insurance by the City shall be construed as relieving or excusing the Licensee from any liability or obligation imposed by the provision of this Agreement.

Section 9. Indemnification and Bonds.

9.1 Indemnification. The Licensee hereby agrees to indemnify, protect, defend (with counsel reasonably acceptable to the City), and hold harmless the City, its elected and appointed

officers, officials, employees and agents, from and against any and all claims, demands, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, actions of any kind, and all costs and expenses (including, without limitation, reasonable attorneys' fees and costs of defense), caused by the negligence, willful misconduct, or breach of this Agreement by Licensee, except that to the extent that such damages or loss or is caused by the negligence or breach of this Agreement by City, its elected or appointed officials, officers, employees, or agents. The Licensee also agrees to hold harmless and indemnify the City from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the Licensee, for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding to the extent arising directly from the Licensee's failure to comply with any and all laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect ("**Environmental Claims**"). The Licensee agrees to hold harmless and indemnify the City from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the Licensee, for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Environmental Claims, to the extent arising from hazardous substances brought into the Public Rights-of-Way by the Licensee. The foregoing indemnification for environmental claims specifically includes reasonable costs, expenses, and fees incurred in connection with any clean-up, remediation, removal, or restoration work required by any governmental authority. The provisions of this Section 9.1 will survive the expiration or earlier termination of this Agreement

9.2 Acts of Contractors. The Licensee shall be liable to the City and to others for the acts and omissions of the Licensee's employees, agents, contractors, and subcontractors.

9.3 Waiver by Licensee. The Licensee waives all claims, demands, causes of action, and rights that Licensee may assert against the City, its elected and appointed officers, officials, employees, and agents on account of any loss, damage, or injury to any of the Licensee's Facilities, except to the extent caused by the negligent actions, willful misconduct, or breach of this Agreement by the City, its elected or appointed officials, officers, employees, or agents.

9.4 City Not Liable. The City shall not be liable to the Licensee or to any other person or entity for any interruption in the Licensee's Services or for any interference with the operation of the Licensee's Facilities arising from the City's use of City Facilities or the Public Rights-of-Way or from any other action of the City, its officers, agents and employees, provided that the foregoing is not caused by the negligence, willful misconduct, or breach of this Agreement by the City.

9.5 No Consequential Damages. In no event shall the City or any of its elected or appointed officials, officers, or employees be liable to the Licensee, or the Licensee or any of its employees, agents, contractors, and subcontractors be liable to the City, or shall any of the foregoing be liable to any third party, for any consequential, exemplary, special, indirect, punitive, reliance, incidental, or similar damages, including but not limited to any lost profits,

data, savings, or revenues, arising out of, or in connection with, this Agreement or any other agreement the Licensee may have with any of its subscribers, whether under tort, contract, or other theories of recovery, even if a party has been advised of the possibility of such negligence or damages. This Agreement is for the benefit of the Licensee and the City and not for the benefit of any other party. No provision of this Agreement shall create, or be construed to create for the public or any member thereof, or any other person or business, rights as a third party beneficiary hereunder, or to authorize any person not a party to this Agreement to maintain a suit for damages of any sort pursuant to the terms or provisions of this Agreement.

9.6 Licensee to Post Letter of Credit. Prior to commencement of any work under this Agreement, the Licensee shall furnish to the City, as beneficiary, a bond in the form of a standby irrevocable letter of credit, issued by, and drawable upon (including via fax presentment), a bank in Northern Virginia or North Carolina, reasonably acceptable in form and substance to the City Manager or his designee, and reasonably approved, as to form, by the City Attorney, for the original face amount of Fifty Thousand Dollars (\$50,000), securing the faithful performance by the Licensee of all of its obligations pursuant to this Agreement, including, but not limited to, timely payments, attachment, installation, control, operation, maintenance, reattachment, reinstallation, relocation, removal, replacement, and abandonment pursuant to this Agreement of the Licensee's Facilities, within the time periods and upon the terms set forth in this Agreement. Such letter of credit shall continue from year to year and shall be in full force and effect at all times during the initial term of this Agreement and each extension hereof. The City Engineer, on behalf of the City, is authorized and may make a claim against the letter of credit if the Licensee has failed to faithfully perform any material obligation pursuant to this Agreement. Such obligations include, but shall not be limited to, costs and expenses incurred by the City, for which the Licensee is obligated to reimburse to the City. Upon any draw upon the letter of credit, the Licensee shall cause the letter of credit to be amended to replenish the letter of credit to the original face amount. Upon the termination or expiration of this Agreement, the letter of credit will be released upon Licensee's written request, after confirmation by the City Engineer that the Licensee's Facilities have been removed and all portions of the Public Rights-of-Way used by Licensee have been restored to their condition on the Effective Date, wear and tear excepted. Such confirmation by the City Engineer shall not be unreasonably delayed, withheld, or conditioned. Any failure of the Licensee to maintain the original face amount of the letter of credit shall constitute a default of this Agreement.

Section 10. No Assignment; No Transfer.

10.1 No Assignment Without City's Prior Consent. This Agreement and the permissions granted hereunder shall neither be assigned, transferred or sublicensed, in whole or in part, by the Licensee to any other person or entity, nor shall the Licensee allow any other person or entity to co-locate its facilities on or attach any type of equipment to the Licensee's Facilities, except as permitted by this Section 10. If the Licensee assigns, transfers or sub-licenses its rights under this Agreement in violation of this Section 10, or allows another person or entity to co-locate on or attach to the Licensee's Facilities in violation of this Section

10, then such act shall constitute grounds for termination by the City of this Agreement, pursuant to the relevant provisions of Section 11.

10.2 Exception. Notwithstanding the foregoing, City's prior express approval shall not be required for the transfer of rights and obligations under this Agreement from the Licensee to an Affiliate or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the FCC in which the City is located by reason of a merger, acquisition or other business reorganization provided that (i) the Licensee is not in default at the time of the assignment; (ii) the Licensee provides the City prompt written notice of the assignment or transfer; and (iii) such acquiring entity agrees to be bound by all of the terms and conditions of this Agreement.

Section 11. Replacement, Termination and Default.

11.1 Replacement with Franchise. This Agreement shall terminate and be replaced by a franchise agreement without further action by either party upon the effective date of a grant of a franchise by the City for a term longer than five (5) years that permits the Licensee to engage in the activities described in Section 3.1 hereof and such other activities as shall be set forth in the franchise agreement. At the time this Agreement is replaced by such a franchise agreement, all installations installed by Licensee under this Agreement that are permitted under the franchise agreement shall become installations installed pursuant to the franchise agreement for the duration of the term of the franchise agreement.

11.2 Termination. This Agreement may be terminated by either party upon thirty (30) days prior written notice of a default ("Default Notice") of any provision hereof by the other party which default is not cured pursuant to the procedures, time periods, and remedies established within Section 5.9. If the default is a breach of this Agreement not pertaining to Section 5.9, the Agreement may be terminated 30 days after the receipt of a Default Notice by the defaulting party, if the defaulting party has failed to commence to cure within such 30-day period or, upon commencing, has failed to thereafter diligently pursue such cure to completion. Subject to the rights of the owner of any applicable Approved Pole, the City may remove any of the Licensee's Facilities, at the Licensee's sole cost and expense, after delivery of a Default Notice and expiration of the applicable cure period, which remain attached to Approved Poles sixty (60) days after the termination of this Agreement.

11.3 No Release. Any termination of this Agreement shall not release the Licensee from any liability or obligation hereunder that was accruing or had accrued at the time of termination, without limitation.

11.4 Removal of Licensee's Facilities. The Licensee shall remove all of the Licensee's Facilities, subject to the rights of the owner of any applicable Approved Pole, at Licensee's sole cost and expense, within sixty (60) days after the expiration or earlier termination of this Agreement, unless a written agreement otherwise is executed between the City and the Licensee to abandon the Licensee's Facilities in place. The Licensee shall be

responsible for repairs to any damage to the Public Rights-of-Way or City Facilities caused by such removal by Licensee of the Licensee's Facilities.

Section 12. Permits.

12.1 Permits Required. Notwithstanding any provision in this Agreement to the contrary, the Licensee is not relieved of its obligation to obtain City (and VDOT as applicable) permits. This Agreement shall not be construed to entitle Licensee to receive any preferential consideration of any application for, or processing of, any City permit.

Section 13. Approval of Agreement by the City.

13.1 This Agreement shall not become effective unless and until the City Council approves this Agreement and it is executed on behalf of the City. If this Agreement is not approved by the City Council and executed by an authorized person, then no liability whatsoever shall accrue to the City or Licensee and the City and Licensee shall have no obligations whatsoever to each other under this Agreement.

Section 14. Miscellaneous Provisions.

14.1 Notices. All notices under this Agreement shall be in writing and, unless otherwise provided in this Agreement, shall be deemed validly given if sent by certified mail, return receipt requested, or via recognized overnight courier service, addressed as follows (or to any other address which the party to be notified may designate in writing to the other party by this notice method). All notices properly given as provided for in this section shall be effective upon receipt. The Notice addresses are:

LICENSEE:

Crown Castle Fiber LLC
2000 Corporate Drive
Canonsburg, PA 15317
Attn: Ken Simon, General Counsel

With a copy to:

Crown Castle Fiber LLC
2000 Corporate Drive
Canonsburg, PA 15317
Attn: SCN Contracts Management

CITY:

City Manager
Suite 3500
301 King Street
Alexandria, Virginia 22314

With copies to:

Office of the City Attorney
Suite 1300
301 King Street
Alexandria, Virginia 22314

and

Director
Department of Transportation & Environmental Services
Suite 4100
301 King Street
Alexandria, Virginia 22314

Should the City or the Licensee have a change of address, the other party shall immediately be notified of such change by the notice method provided in this section, and the notice address shall be adjusted thirty (30) days after such party receives notice of such address change.

14.2 Non-Exclusive License; Co-location. Neither this Agreement nor the License granted hereunder is exclusive. Nothing in this Agreement shall be deemed to obligate the City to grant the Licensee permission to use any particular facility, property, or right-of-way not covered by this Agreement. No other person or entity shall be permitted to co-locate any facilities with Licensee's Facilities, except as required by applicable law.

14.3 No Precedent. This Agreement shall apply solely to the Licensee's Facilities, and shall neither apply to, nor establish any precedent for, any other agreements if the Licensee seeks to use City property or to provide any other type of service within the City. The Licensee shall not occupy, attach to or in any way use any City Facilities without entering into a separate written agreement acceptable to the City.

14.4 Reservation of Rights. The permissions granted by this Agreement are granted based upon representations by Licensee that it has certain rights under federal and state law which authorize the Licensee to construct and operate the Licensee's Facilities as described in this Agreement. The City and Licensee each reserve their rights, under both current law and any future changes in law, related to use of and payment of compensation for the Public Rights-of-Way and City Facilities.

14.5 Benefit to Public. The Licensee acknowledges that the paramount use of the Public Rights-of-Way is for the benefit of the public at large. Licensee agrees that its use of the Public Rights-of-Way shall comply with all lawful and applicable federal, state and local laws, ordinances, permit requirements, regulations, orders, directives, rules and policies now in force or as hereafter enacted, adopted or promulgated. Notwithstanding Section 7.3, which describes the process the City will pursue in the ordinary course of business, in the event immediate action is necessary, the City reserves the right to require the Licensee to move, remove, or modify the Licensee's Facilities at specific locations in the Public Rights-of-Way in the course of performing the City's duty to manage the Public Rights-of-Way, protect the public health, safety and welfare, and protect public property. Licensee also shall conform to changes in the City's policies governing use of the Rights-of-Way, including, without limitation, to avoid conflict with new City uses or facilities, provided, however, that no such changes will be retroactively enforced.

14.6 Role of City as Licensor: No Waiver. The City's execution of this License neither shall constitute, nor be deemed to be, governmental approval of any work or action permitted hereby, or for any other governmental approval or consent required to be obtained from the City. Without limiting the foregoing, the issuance by the City to the Licensee, or its contractors or agents, of any permit to perform work in the Public Rights-of-Way shall not be construed as permission by, or approval of, the City for any proposed installation of Licensee's Facilities, unless all other applicable provisions of this Agreement have been first satisfied by the Licensee. Nothing in this Agreement shall be construed to waive any of City's powers, rights or obligations as a governing authority or local governing body, whether or not affecting the Public Rights-of-Way or City Facilities, including, but not limited to the City's police power, right to grant or deny permits, right to collect taxes or fees, or any other power, right or obligation whatsoever. Waiver by the City of any breach or violation by the Licensee of any provision of this Agreement shall not be deemed to be a waiver by the City of any subsequent breach or violation of the same or any other provision of this Agreement by the Licensee.

14.7 No Waiver of Sovereign Immunity. Notwithstanding any other provisions of this Agreement to the contrary, nothing in this Agreement nor any action taken by City pursuant to this Agreement, nor any document which arises out of this Agreement, shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of the City, or of its elected and appointed officials, officers and employees.

14.8 Compliance with Laws. In addition to all requirements contained herein, in the exercise of the permission granted by this Agreement, the parties shall comply with all lawful and applicable federal, state and local laws, ordinances, permit requirements, regulations, orders, directives, rules and policies now in force or as hereafter enacted, adopted, or promulgated.

14.9 Relationship of Parties. Nothing contained in this Agreement, nor any acts of the parties hereto, shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint-venture, or of any association whatsoever between City and Licensee other than that of Franchisor and Licensee.

14.10 Severability. If one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial decision to be void, voidable, or unenforceable, then such provisions shall be deemed severable from the remaining provisions of this Agreement and shall in no way affect the validity of the remaining provisions of this Agreement.

14.11 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia. The courts of Alexandria, Virginia, shall be the proper fora for any disputes arising hereunder.

14.12 Entire Agreement. This Agreement contains the entire understanding between the parties with respect to the subject matter hereof. There are no representations, agreements, or understandings, whether oral or written, between the parties relating to the subject matter of this Agreement, which are not fully expressed herein. All exhibits referred to in this Agreement are incorporated into this Agreement and shall be deemed a part hereof.

14.13 Amendments. This Agreement shall neither be amended nor modified except by a writing signed by authorized representatives of the City and the Licensee.

14.14 Authority. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the Licensee and the City, respectively.

14.15 Recitals. The Recitals are incorporated into this Agreement by reference.

14.16 Rights. This Agreement shall not limit any other rights or remedies available to the parties.

14.17 Licensee's Qualifications. Licensee shall at all times be duly organized and validly existing, and, to the extent required by applicable law, registered to do business in the Commonwealth of Virginia.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by duly authorized representatives of the parties on the dates written below.

CITY:

**THE CITY COUNCIL OF
ALEXANDRIA, VIRGINIA**

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
City Attorney

LICENSEE:

CROWN CASTLE FIBER LLC

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A**List of Approved Poles**

Node ID	Lat	Long	NEAREST Address, not final pole address	Pole Type	Pole Number
NVA-068	38.824518	-77.126045	5351 Sanger Ave	Valmont Composite	C0815-WI92
NVA-070m1	38.822960	-77.131760	5501 N Morgan St	Wood	C0815-TH74
NVA-071	38.821407	-77.132153	486 N Armistead St	Wood	TG43
NVA-077m1	38.812861	-77.139680	Pending Site Survey	Valmont Composite	N/A
NVA-078	38.808762	-77.139307	201 Yoakum Pkwy	Valmont Composite	C0841-PM41
NVA-099	38.800478	-77.049206	505 S Columbus St	Valmont Composite	CI014-TG37
NVA-109	38.814033	-77.044469	650 Montgomery St	Wood	C1015-WB33
NVA-111	38.814696	-77.040536	316 1st St	Valmont Composite	CI115-AB58
NVA-186	38.840809	-77.116776	5211 Dawes Ave	Valmont Composite	C0916-EF40
NVA-194	38.812222	-77.133241	5860 Stevenson Ave	Valmont Composite	C0814-SO98
NVA-216	38.811788	-77.043167	719 N Pitt St	Valmont Composite	C1014-WO99
NVA-257	38.839967	-77.119569	5269 Dawes Ave	Valmont Composite	C0916- CE34

EXHIBIT A-1 TO EXHIBIT A-4
APPROVED WOOD AND COMPOSITE POLE DESIGN