

**MASTER LICENSE AGREEMENT BETWEEN THE
CITY OF SANTA CRUZ AND CROWN CASTLE NG WEST LLC,
FOR THE USE OF CITY POLES AND RIGHTS-OF-WAY FOR SMALL CELL
FACILITIES POLE INSTALLATION**

This MASTER LICENSE AGREEMENT BETWEEN THE CITY OF SANTA CRUZ AND CROWN CASTLE NG WEST LLC, FOR THE USE OF CITY POLES AND RIGHTS OF WAY FOR SMALL CELL FACILITIES POLE INSTALLATION ("**Agreement**"), dated _____, 2017, is made and entered into by and between the City of Santa Cruz, a municipal corporation ("**City**" or "**Licensor**"), and Crown Castle NG West LLC, a Delaware limited liability company ("**Licensee**"). The effective date of this Agreement shall be the date when this Agreement has been signed by the Licensor ("**Effective Date**"). Licensor and Licensee are at times collectively referred to hereinafter as the "**Parties**" or individually as the "**Party**."

WHEREAS, the Licensor owns certain light and other poles currently within (or to be installed within) the City's public rights-of-way (collectively "**City Poles**" and individually "**City Pole**"), many, but not all of which, are suitable sites for installing equipment to enhance wireless services in the City. The Licensor owns or controls public rights-of-way within the territorial limits of the City ("**City's ROW**"), located within Santa Cruz County, California;

WHEREAS, Licensee represents and warrants that it is a Delaware limited liability company, organized under the laws of the State of Delaware and legally in good standing and qualified to do business within the State of California;

WHEREAS, Licensee represents and warrants that it owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission ("**FCC**") and the California Public Utilities Commission ("**CPUC**"), telecommunications networks serving Licensee's wireless carrier customers through a network of small cells comprised of a network of one to two antennas connected by fiber to a service cabinet ("**Small Cell Facilities**") in public rights-of-way ("**ROW**") in the State of California;

WHEREAS, Licensee represents and warrants that it is a competitive local exchange carrier ("**CLEC**") that holds a valid full-facilities-based certificate of public convenience and necessity ("**CPCN**") issued by the PUC on April 12, 2007 (Decision 07-04-045) and that it is authorized to provide telecommunications services within the State of California pursuant to such CPCN;

WHEREAS, Licensee represents and warrants that it has the requisite authority to construct, install, upgrade, maintain, operate, relocate and remove Small Cell Facilities that occupy the ROW within the territorial limits of the City and to otherwise provide telecommunications services;

WHEREAS, Licensee has requested use of certain City Poles (excluding traffic signals and/or poles located at signalized intersections) within the City's ROW to install, construct, upgrade, maintain, operate, relocate and remove (at no cost or expense to Licensor/the City) certain small scale Small Cell Facilities, with wireless equipment and appurtenant structures that utilize no more than the total aggregate area approved by the City on certain approved City Pole(s) for the purpose of providing its services consisting of wireless transmission for use by handheld wireless telephones, tablets, mobile computers, global positioning devices and other devices that use a wireless signal for use by the public (collectively "**Wireless Services**"), all as further specified in this Agreement;

WHEREAS, the location, size, period of use, license fee, administrative and transactional fees, initial deposit, permissible service area, type of and description of facilities and equipment, design, and other specific terms and conditions with respect to each selected and approved City Pole and Small Cell Facility thereon shall be described in a Site Supplement (the form of which is attached hereto as **Exhibit A ("Site Supplement")**) and the accompanying **Exhibits A-1 (Small Cell Facility(ies), Project Description and License Area), A-2 (Licensee's Plans and Specifications) and A-3 (Administrative and Transactional Fees and License Fee Schedule)** executed for each City Pole and portion of the City's ROW licensed from Licensor by Licensee;

WHEREAS, Licensee acknowledges and understands that its use of any City Pole for Small Cell Facilities and Wireless Services pursuant to this Agreement and any Site Supplement is (a) subject to Licensee's obligation to relocate and/or remove its facilities and associated equipment, and appurtenances therein at its sole cost and expense as and when necessary to make way for a governmental use of the ROW (including, but not limited to, any lawful change of grade, alignment, or width of any public street, way, alley, or place) and (b) further subject and subordinate to any and all existing easements and encumbrances, the prior and continuing rights of the City and the public to use the City Poles, ROW and public roads, and the City's reserved rights, including, but not limited to, the right to install, lay, construct, reconstruct, relocate, change, grade, re-grade, widen, maintain, repair, protect, remove, operate, and use existing and future public streets, ways, alleys, places, and underground and/or above ground facilities, such as, sanitary sewers, drains, storm water sewers, water mains, storm drains, storm water treatments, pipelines, manholes, connections, water, oil and gas pipelines and mains, overhead and underground electric and power lines, telephone lines, cable television lines, fiber optic, and fiber optic lines, and related facilities, applications, and appurtenances in, upon, over, under, through, across and along said ROW;

WHEREAS, the Licensor has the authority to regulate the ROW within its territorial boundaries, including, but not limited to, the right to control the time, place and manner (which includes, but is not limited to, aesthetic considerations) in which the City's ROW (including, but not limited to roads, highways, and waterways) is accessed and Licensee's facilities (and associated equipment and appurtenances) are installed, and may recover the reasonable costs for services provided; and

WHEREAS, the Licensor is willing to permit Licensee's access and use of certain specified City Poles within portions of the City's ROW to install certain small scale Small Cell Facilities within the specified License Area (as defined below) to allow Licensee's Wireless Services, in accordance with and subject to the covenants, obligations, terms and conditions of this Agreement and any Site Supplement entered into in connection with this Agreement;

NOW THEREFORE, IN CONSIDERATION OF THE RECITALS SET FORTH ABOVE, THE TERMS, COVENANTS, AGREEMENTS, OBLIGATIONS, REPRESENTATIONS, WARRANTIES, AND CONDITIONS OF THIS AGREEMENT AND OTHER VALUABLE CONSIDERATION, THE ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. RECITALS

The above Recitals are incorporated herein and re-stated as though fully set forth.

2. DEFINITIONS

For purposes of this Agreement (and any Site Supplement) the following capitalized and other terms shall have the meanings given to them in this Article 2 (Definitions) or in the text where indicated below, subject to the terms and conditions of this Agreement. When consistent with the context, words in the plural number include the singular number, and words in the singular include the plural.

- (a) **"Acknowledgement Letter"** is defined in Section 5(b)(2) below, the form of which is attached hereto as Exhibit B and incorporated herein by reference.
- (b) **"Action"** means any action, suit, claim, proceeding, penalty, violation, and/or demand.
- (c) **"Additional Fees"** are defined in Section 5(f).
- (d) **"Adjustment Date"** is defined in Section 5(d)(2).
- (e) **"Administrative and Transactional Fee(s)"** is defined in Section 5(c).
- (f) **"Agents"** when used with respect to either Party includes the agents, employees, officers, officials, directors, contractors, subcontractors, and representatives of that Party in relation to this Agreement, the applicable Site Supplement and the License Area.
- (g) **"Approved Plans"** is defined in Section 8(a) below.
- (h) **"Assignee"** is defined in Section 18(b).
- (i) **"Assignment"** means any of the following: (a) a merger, acquisition, or other transfer of a controlling interest in Licensee, voluntarily or by operation of Law; (b) Licensee's sale, assignment, encumbrance, pledge, or other Transfer of any part of its interest in or rights with respect to the License Area; and (c) any action by Licensee to permit any portion of the License Area to be occupied by anyone other than itself, including, but not limited to, a sublicense
- (j) **"CERCLA"** means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.), also commonly known as the "Superfund" law.
- (k) **"City"** means the City of Santa Cruz.
- (l) **"City Manager"** means the City Manager of the City of Santa Cruz or his/her authorized designee.
- (m) **"City Pole(s)"** is defined in the above recitals.
- (n) **"City Pole Location"** means the geographic information identifying each City Pole on which Licensee is City approved and authorized to construct, install, upgrade, maintain, operate, relocate and remove a Small Cell Facility and associated Equipment subject and pursuant to the terms and conditions of this Agreement and the applicable Site Supplement. All City approved and authorized City Pole locations must be identified in one or more Site Supplement(s) (substantially in the form of Exhibit A) and the accompanying Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area) attached to the Site Supplement. The Parties acknowledge and agree that multiple Site Supplements may be issued under this Agreement and executed by the

Parties from time to time during the Term of this Agreement if Licensor and Licensee agree to additional City Pole sites and License Areas.

(o) **"City Representative"** means the then current person at the City that oversees administration of this Agreement, or his/her designee.

(p) **"Claim"** is defined in Article 20.

(q) **"Municipal Code"** City of Santa Cruz Municipal Code.

(r) **"Commencement Date"** is defined in Section 5(b).

(s) **"Communications"** means any transmission, emission or reception of signals, images and sound or information of any nature by wire, radio, visual or electromagnetic system that work on a "line-of-sight" principle.

(t) **"CPUC"** means the California Public Utilities Commission (and is also referenced and defined in the above recitals).

(u) **"Default Interest"** is defined in Section 5(g).

(v) **"Public Works Department"** means the City of Santa Cruz Public Works Department.

(w) **"DIR"** means State of California Department of Industrial Relations.

(x) **"Effective Date"** means the date on which this Agreement is signed by Licensor.

(y) **"EMFs"** is defined in Section 15(h).

(z) **"Emissions Report"** is defined in Section 15(h).

(aa) **"Environmental Laws"** means all Laws regulating, relating to, or imposing liability or standard of conduct relating to the regulation or protection of the environment, natural resources, human or community health, industrial hygiene, safety, and/or Hazardous Materials (including, but not limited to, Comprehensive Environment Response, Compensation and Liability Act, 42 United States Code Section 9601 *et seq.*; the Emergency Planning and Community Right-to-Know Act of 1986; the Hazardous Material Transportation Conservation and Recovery Act, 42 United States Code Section 1801 *et seq.*; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 *et seq.*; the Solid Waste Disposal Act; the Clean Water Act, 33 United States Code Section 1251 *et seq.*; the Clean Air Act; the Toxic Substances Control Act, 15 United States Code Section 2601 *et seq.*; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 *et seq.*; the California Hazardous Substance Account Act, Health and Safety Code Section 25330 *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 *et seq.*; California Health and Safety Code Section 25280 *et seq.* (Underground Storage or Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 *et seq.*; California Health and Safety Code Section 25501 *et seq.* (Hazardous Materials Release Response Plans and Inventory); the Occupational Safety and Health Act; the California Occupational Safety and Healthy Act (and regulations); and/or the California Porter-Cologne Water Quality Control Act, Water Code Section 13000 *et seq.*, all as amended, or any other federal, state, or local statute, law, ordinance, resolution, code,

rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous or toxic substance now or hereafter in effect).

(bb) **"Equipment"** means antennas and any associated utility and/or equipment box, battery backup, transmitters, receivers, radios, amplifiers, ancillary fiber-optic cables, regular and backup power supply, and wiring, and ancillary equipment for the transmission and reception of radio communication signals for voice and other data transmission, including, but not limited to, the means and devices used to attach Equipment to a licensed City Pole, peripherals, and ancillary equipment and installations, including, but not limited to, wiring, cabling, power feeds, regular and backup power supply, and any approved signage attached to the Equipment.

(cc) **"Expiration Date"** means the date the Term of this Agreement expires or is earlier terminated.

(dd) **"Facilities Inventory"** means an accurate and current inventory of all Small Cell Sites and associated equipment approved by Licensor pursuant to this Agreement and any applicable Site Supplement.

(ee) **"FCC"** is defined in the above recitals.

(ff) **"Hazardous Materials"** shall mean all substances, materials, wastes and emissions that are or become regulated as hazardous or toxic under applicable local, state, administrative agency or federal laws, statutes, rules, regulations, covenants, permits, decrees, licenses, deed restrictions, ordinances or orders, including without limitation CERCLA, and the regulations promulgated thereunder.

(gg) **"Investigate and Remediate"** means the undertaking of any activities to investigate and determine the nature and extent of Hazardous Material that may be located in, on, under, at or about the License Area or that has been, is being, or is in danger of being Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor, or otherwise control such Hazardous Material.

(hh) **"Invitees"** when used with respect to either Party includes the clients, customers, invitees, guests, licensees, assignees, and sublicensees (subject to the provisions and limitations on assignment contained in this Agreement) of that Party in relation to the License Area.

(ii) **"Late Charge"** is defined in Section 5(h).

(jj) **"Laws"** means all present and future laws, statutes, ordinances, codes, orders, decrees, common law, regulations, rules, enactments, and implementing requirements and restrictions of federal, state, county, and local authorities, whether foreseen or unforeseen, ordinary as well as extraordinary, as adopted or as amended at the time in question.

(kk) **"License Area"** means the specific portion of the City's ROW and City Pole(s) licensed to Licensee under this Agreement for Licensee's Small Cell Facility and further described in the applicable Site Supplement(s) (Exhibit A) and accompanying Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area) executed by the Parties.

(ll) **"License Fee"** is defined in Section 5(d).

(mm) **"Licensee"** is defined in the preamble.

(nn) **“Licensor Indemnified Party”** and **“Licensor Indemnified Parties”** means Licensor and the Licensor’s councilmembers, officials, officers, directors, employees, volunteers, representatives, and other Agents, as well as Licensor’s Invitees.

(oo) **“Minimum Term”** is defined in Section 4(a).

(pp) **“Notice of Proposed Assignment”** is defined in Section 18(b).

(qq) **“Permitted Use”** is defined in Article 6 below.

(rr) **“Personal Wireless Services”** has the same meaning as provided in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

(ss) **“Property”** means any interest in real or personal property, including land, air, and water areas, leasehold interests, possessory interests, easements, franchises, and other appurtenances, public rights-of-way, physical works of improvements such as buildings, structures, infrastructure, utility, and other facilities, and alterations, installations, fixtures, furnishings, and additions to existing real property, personal property, and improvements.

(tt) **“Public Duties”** is defined in Section 3(d)(4).

(uu) **“Regulatory Agency”** means the local, regional, state, or federal body with jurisdiction and responsibility for issuing Regulatory Approvals in accordance with applicable Laws.

(vv) **“Regulatory Approvals”** means licenses, permits, authorizations, certifications, permissions, approvals, and other dispensations and authorizations necessary for Licensee to develop, install, construct, use, maintain, operate, repair, modify, replace, remove, and upgrade the Small Cell Facilities and Equipment in the ROW and the City’s ROW.

(ww) **“Release”** when used with respect to Hazardous Materials includes, without limitation, any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping and/or disposing, on, at, under (including, but not limited to, the groundwater), in, or about the ROW, City ROW, City Pole, License Area, and/or any other City Property or the environment.

(xx) **“RFs”** is defined in Section 15(h).

(yy) **“ROW”** and **“City’s ROW”** are each defined in the above recitals.

(zz) **“Security Deposit”** is defined in Article 26.

(aaa) **“Site Supplement”** is defined in the above recitals and further described in Article 3. Any Site Supplement(s) entered into in connection with this Agreement shall be substantially in the form of Exhibit A, attached hereto and incorporated herein, and accompanied by fully completed and executed Exhibits A-1 (Small Cell Facility(ies), Project Description, and License Area), A-2 (Licensee’s Plans and Specifications) and A-3 (Administrative and Transactional Fees and License Fee Schedule).

(bbb) **“Site Supplement Year”** is defined in Section 5(b).

(ccc) **"Small Cell Facility(ies)"** is defined in the above recitals and Section 3(c) below.

(ddd) **"Term"** is defined in Article 4.

(eee) **"Transfer"** means any attempt to sell, convey, assign, sublicense, transfer, mortgage, pledge, grant, hypothecate or encumber this Agreement (or any applicable Site Supplement) or any interest in this Agreement (or any applicable Site Supplement), or the License Area or City Pole or any portion thereof or the improvements thereon, in whole or in part, or allow any person other than Licensee and its Agents and Invitees use all or any portion of the License Area or any City Pole.

(fff) **"Wireless Communications Facility" or "Communications Facility"** means a land use facility supporting antennas that sends and/or receives radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless Communications Facilities include antennas and all other types of equipment for the transmission or receipt of the signals; towers or similar structures built to support the equipment; equipment cabinets, base stations, generators, cables, conduit, and other accessory development and support features; and screening and concealment elements.

(ggg) **"Wireless Communication Service"** means wireless, Wi-Fi, voice, data, messaging, or similar type of wireless service now or in the future offered to the public in general using spectrum radio frequencies, whether or not licensed by the FCC or any successor agency.

(hhh) **"Wireless Communications Provider"** means any company or organization that provides or who represents a company or organization that provides wireless communications services.

(iii) **"Wireless Services"** is defined in the above recitals.

3. SCOPE AND PURPOSES OF AGREEMENT

(a) General Purpose.

(1) This Agreement and any Site Supplements entered into in connection with this Agreement establish: (A) the legal relationship and framework under which Licensee may obtain from Licensor a revocable, non-exclusive, non-possessory privilege to use the License Area (defined above and further described and depicted in Exhibits A, A-1 and A-2 attached hereto and incorporated herein by reference) for the Permitted Use (defined in Article 6 (Permitted Use) below); (B) governs the fees, charges, procedures, requirements, terms and conditions by which the Licensor will issue to Licensee the license for use of the License Area for the Permitted Use; and (C) authorizes Licensee to engage in the Permitted Use (defined in Article 6 below) only after this Agreement and the applicable Site Supplement is fully executed by the Parties and Licensee has paid Licensor the Administrative and Transactional Fees (as defined in Article 5 below).

(2) The location, size, period of use, license fee, administrative fees, permissible service area, type of equipment, and other specific terms and conditions with respect to each selected and approved City Pole and Small Cell Facility(ies) shall be described further in the Site Supplement (Exhibit A) executed by the Parties for each City Pole and License Area licensed from Licensor by Licensee pursuant to this Agreement, and the accompanying Exhibits A-1 (Small Cell

Facility(ies), Project Description, and License Area), A-2 (Licensee's Plans and Specifications) and A-3 (Administrative and Transactional Fees and License Fee Schedule), attached to the Site Supplement, as well as the governmental agency (including, but not limited to, City) permits and/or authorizations issued for the subject Small Cell Facility(ies).

(b) **License Areas; Site Supplements.** Subject to the terms and conditions of this Agreement (including, but not limited to the preconditions identified in this Agreement), Licensor grants to Licensee, one or more revocable, non-exclusive, non-possessory license(s) to use and occupy those certain specified and approved License Area(s) identified and described in the Site Supplement (Exhibit A) and attached Exhibits A-1 (Small Cell Facility(ies), Project Description, and License Area) and A-2 (Licensee's Plans and Specifications) executed by the Parties, subject to the terms and conditions outlined in this Agreement. The Site Supplement shall be substantially in the form of Exhibit A, and accompanied by fully completed and executed Exhibits A-1 (Small Cell Facility(ies), Project Description, and License Area), A-2 (Licensee's Plans and Specifications), and A-3 (Administrative and Transactional Fees and License Fee Schedule). All City approved and authorized City Pole Location(s) and License Area(s) must be accurately identified on the Site Supplement (Exhibit A) and the attached Exhibits, A-1, and A-2. The terms and conditions of this Agreement shall be incorporated by reference into each Site Supplement entered into in connection with this Agreement. Each Site Supplement will be effective as of the first day of the month after the date on which both Parties have executed the Site Supplement for the particular City Pole and License Area. The Parties acknowledge and agree that during the Term, multiple Site Supplements may be issued under this Agreement and executed by the Parties from time to time if Licensor and Licensee agree to additional City Pole sites and License Areas. Access to individual City Pole(s) and License Area(s) will be determined on a case-by-case basis pursuant to the provisions of this Agreement and the applicable Site Supplement entered into in connection with this Agreement. This Agreement does not authorize the Permitted Use of any other City Property except the License Area(s) specified in the applicable Site Supplement and accompanying Exhibits A-1 and A-2.

(c) **Limitations.**

(1) The Licensee's right to use and occupy the City ROW, and any specified and approved City Pole and/or License Area shall not be exclusive as the Licensor reserves the right to grant a similar use of same to itself or any third person or entity at any time during the Term.

(2) This Agreement (and any Site Supplement entered into in connection with this Agreement) shall only be used for and apply to specified small scale Small Cell Facilities with configurations approved by the Licensor. This Agreement and the Site Supplement(s) (in addition to the related use and building permit required by governmental agencies, including, but not limited to the City) set forth the terms and conditions for the Licensor's granting of rights to use specified City Poles within the License Area in portions of the City's ROW for the purposes of installing, constructing, maintaining, upgrading, operating, relocating, and removing Small Cell Facilities and associated equipment thereon to provide Licensee's Wireless Services (each such installation shall be referred to as a "Small Cell Facility" and collectively as "Small Cell Facilities").

(3) Licensee shall only be allowed to install, construct and operate equipment within the specified License Area approved by the Licensor and described in the Site Supplement and for which Licensee has paid the applicable Administrative and Transactional Fees and License Fee.

(4) The non-exclusive, revocable license granted under this Agreement and the applicable Site Supplement will (A) authorize the Licensee to solely engage in the Permitted Use

(as defined in Article 6 below); (B) grant a license, but not a leasehold interest, to Licensee only as a part of and subject to the terms, conditions, covenants, and requirements of this Agreement (and the applicable Site Supplement); and (C) does not in any way eliminate, reduce or alter the Licensee's need and obligation to obtain any and all required federal, state and/or local permits and/or authorizations for its use and the Small Cell Facility(ies).

(5) This Agreement is not an exclusive or a needs agreement. The Parties agree that Licensee may seek to install facilities and/or equipment on poles or property owned by third parties other than Licensor.

(d) No Property Interest in License Area or City Poles.

(1) Limited Interest. Licensee acknowledges and agrees that neither this Agreement, nor any Site Supplement issued under this Agreement creates a lease, possessory interest, easement, franchise, or any other real property interest in any part of the License Area, City Pole, or City's ROW. Licensee further acknowledges and agrees that in the absence of a fully completed and executed Exhibit A (Site Supplement) and Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area), Licensee does not have the right to use any City Pole for any purposes.

(2) Limited Rights. The license granted to Licensee by the Licensor under this Agreement and any Site Supplement is only a nonpossessory, non-exclusive, revocable license to enter onto and use the License Area for the Permitted Use, which means that: (i) the Licensor retains possession and control of all City Poles for City operations, which will at all times be superior to Licensee's interest; (ii) the Licensor may terminate the license granted under this Agreement and any Site Supplement in whole or in part at any time, in accordance with the terms and conditions of this Agreement; (iii) except as specifically provided otherwise in this Agreement, neither this Agreement, nor any Site Supplement limits, restricts, or prohibits the Licensor from entering into agreements with third parties regarding the use of other Licensor/City facilities, including, but not limited to, City Poles in the vicinity of any License Area; and (iv) neither this Agreement, nor any Site Supplement creates a partnership or joint venture between Licensor and Licensee.

(3) No Impediment to Municipal Use. Except as expressly limited in this Agreement, neither this Agreement, nor any Site Supplement limits, alters, or waives the City's right to use any part of the License Area as infrastructure established and maintained for the benefit of the City.

(4) Reservations to the Licensor; Noninterference. Neither this Agreement, nor any Site Supplement conveys any property interest to Licensee. The Licensor reserves the right to grant franchises, easements, rights of way, licenses, and permits, in, upon, over, under, through, across, and/or along any portion of the City's ROW. In addition, the rights granted Licensee and arising under this Agreement and any Site Supplement are subject and subordinate to the Licensor's right to use the ROW in the performance of its Public Duties. For purposes of this Agreement and any Site Supplement, "Public Duties" means and includes, without limitation: (i) Installing, laying, constructing, reconstructing, maintaining, repairing, protecting, replacing, relocating, changing, widening, removing, operating, and using any underground or aboveground facilities, such as sanitary sewers, drains, storm water sewers, water mains, storm drains, storm water treatments, pipelines, manholes and connections, water, oil and gas pipelines and mains, overhead and underground electric and/or power lines, telephone lines, cable television lines, fiber optic, fiber optic lines, and telegraph lines, and the facilities, applications and appurtenances necessary or convenient for connection therewith, in, over, upon, through, across and/or along the City's ROW;

and (ii) Installing, laying, constructing, reconstructing, maintaining, repairing, protecting, replacing, relocating, changing, removing, grading, re-grading, aligning, widening, operating, and using existing and future public streets, ways, alleys, places, and related facilities, applications, and appurtenances in, upon, over, under, through, across and/or along the City's ROW; and (iii) The right of egress and ingress in, upon, along, across, under, over, and through any ROW, and any change of grade, alignment or width of any ROW, the installation of curbs, gutters, sidewalks, paving, and/or landscaping in, upon, over, under, through, across, and/or along any ROW and any maintenance, repair or resurfacing of any ROW. Except as expressly authorized by applicable Law, in the performance of and exercise of its rights under this Agreement and any applicable Site Supplement, Licensee may not materially interfere with the City's Public Duties or the operation of any underground or aboveground facilities, such as sanitary sewers, drains, storm water sewers, water mains, storm drains, and pipelines, water, oil and gas pipelines and mains, overhead and underground electric and/or power lines, telephone lines, cable television lines, fiber optic, fiber optic lines, and telegraph lines, or facilities relating thereto, located in the City ROW and owned or controlled by any third party.

(e) **Signs and Advertising.** Licensee agrees that its rights under this Agreement and any Site Supplement do not authorize Licensee to erect or maintain, or permit to be erected or maintained by anyone under Licensee's authority or control, any signs (except as provided in Section 8(a)(2) (Identification and Other Signage)), notices, graphics, or advertising of any kind on any part of the License Area.

(f) **Light and Air.** Licensee agrees that no diminution of light, air, or signal transmission by any structure (whether or not erected by the Licensor) will entitle Licensee to any reduction of the License Fees, the Administrative and Transactional Fees, or Additional Fees under this Agreement or any Site Supplement, result in any liability of the Licensor/City to Licensee, or in any other way affect this Agreement, any Site Supplement, or Licensee's obligations, except as specifically provided in this Agreement.

(g) **"AS-IS" Condition; Licensee Due Diligence.** Licensee's attention is directed to the following:

(1) **"AS-IS WITH ALL FAULTS CONDITION"**. Licensee acknowledges and agrees that the Licensor has made no representations as to the condition of the City's ROW, the City Pole(s), or the License Area(s), or the suitability or safety of the City's ROW, the License Area, or any City Pole(s) or site for any purpose whatsoever. Licensee is accessing the City's ROW, City Pole(s) and License Area(s) in their "AS IS WITH ALL FAULTS" condition and at Licensee's sole risk. The Licensor makes no warranties, expressed or implied to Licensee. The Licensor shall not be obligated to make the City's ROW, the License Area, or any City Pole safe or suitable for Licensee's activities or any persons entering the City's ROW, License Area or City Pole under this Agreement (or any Site Supplement) or at Licensee's request or direction, or otherwise to prepare the City's ROW, License Area, or any City Pole for access in any manner whatsoever.

(2) **Licensee Due Diligence.** Licensee shall be solely responsible for inspecting the City's ROW, the City Pole(s), and the License Area(s) (and all sites therein) and determining whether it is suitable and safe for the purpose of conducting Licensee's activities and Permitted Use. Licensee represents and warrants to the Licensor that Licensee has conducted a reasonably diligent investigation, either independently or through Agents of Licensee's choosing, of the condition of the City's ROW, City Pole(s) and License Area(s) and of the suitability of the City's ROW, City Pole(s) and License Area(s) for Licensee's intended use, and Licensee is relying solely on its independent investigation. Licensee further represents and warrants that its intended use of

the City's ROW, City Pole(s) and License Area(s) is the Permitted Use as defined in Article 6 (Permitted Use) below) and as described in the recitals.

(h) **No City/Licensor Representations or Warranties.** Licensee agrees that neither Licensor, nor any City Departments or any Licensor Agents have made, and the Licensor expressly disclaims, any representations or warranties, express or implied, with respect to (1) the physical, structural, or environmental condition of the City's ROW, City Pole(s), and/or the License Area(s), (2) the present or future suitability of the City's ROW, City Pole(s), and/or the License Area(s) for the Permitted Use, or any other matter relating to the City's ROW, City Pole(s) and/or License Area.

(i) **Disclosure.** Under California Civil Code section 1938, to the extent applicable to this Agreement, Licensee is hereby advised that a Certified Access Specialist (as defined in that Law) has not inspected any City Pole or License Area to determine whether it meets all applicable construction-related accessibility requirements

4. TERM; TERMINATION

(a) **Term of Agreement; Site Supplement.** The term of this Agreement shall be for an initial term of ten (10), years commencing on the Effective Date and ending at 5:00 p.m. (PST) on the last day of the term (the "**Initial Term**"), unless terminated earlier or extended as provided in this Agreement. The term of any Site Supplement issued under this Agreement shall be coextensive with the Term of this Agreement. Each Site Supplement will be effective as of the date it is fully executed by the Parties and terminate upon the Expiration Date or earlier termination of this Agreement, which may result in a partial Site Supplement Year at the end of the Term. The minimum term for the purposes of establishing the License Fee for each City Pole will be one Site Supplement Year immediately following the Commencement Date ("**Minimum Term**"). This minimum term provision will prevail over any rights of abatement or termination afforded to Licensee under this Agreement, but shall not in any way limit the revocable nature of this Agreement (and any Site Supplement) or Licensor's rights to terminate.

(b) **Extension.**

(1) If Licensee fully and faithfully performs all of the terms and conditions of this Agreement and any Site Supplement(s), Licensee may, with Licensor's written consent (which consent shall not be unreasonably withheld or delayed) have the option to extend the Initial Term of this Agreement (and Site Supplement(s) issued under this Agreement) for one (1) additional five (5) year period (the "**Extended Term**") immediately following the expiration of the Initial Term, upon the same terms and provisions contained in this Agreement (and any applicable Site Supplement(s)), except for the amount of the License Fee, which shall be adjusted and increased as provided in Section 5(d)(2) (Adjustments) and Section 5(e) (Adjustment to Annual License Fee). The Initial Term and Extended Term are collectively referred to herein as the "**Term**." Licensee may exercise said option to extend the Initial Term, by giving written notice (the "**Extension Notice**") to Licensor at least six (6), but not more than twelve (12) months before the expiration of the Initial Term. Notwithstanding the foregoing, Licensee shall not have the option to extend the Initial Term, and Licensee's election to extend the Initial Term shall be totally ineffective and this Agreement and all Site Supplements shall expire at the end of the Initial Term if: (i) as of the date of the Extension Notice, Licensee is in default under this Agreement (or any applicable Site Supplement(s)); (ii) Licensee is in default on the date the Extension Term is to commence; or (iii) Licensee has been in default without the default being cured more than two (2) times in the twelve (12) month period before the date of the Extension Notice (each a "**Disqualifying Default**").

(2) In the event of a Disqualifying Default, Licensor may (in its sole and absolute discretion and without any obligation to do so) elect to accept the Extension Notice notwithstanding the default of Licensee (which acceptance shall not waive or otherwise relieve Licensee of its obligations to promptly correct such default(s) and fully comply with all terms and conditions of this Agreement and all applicable Site Supplement(s)).

(3) Licensee's failure to timely give the Extension Notice to Licensor shall constitute an election by Licensee not to exercise the option to extend. In that event, Licensee's option shall automatically and immediately terminate without notice and this Agreement and all Site Supplements shall expire at the end of the Initial Term, or earlier termination (if applicable). Thereafter, Licensee shall have no other rights to extend the Term.

(4) Any extension or option granted to Licensee in this Agreement is personal to the original Licensee and cannot be assigned or exercised by anyone other than said original Licensee without Licensor's prior written consent, which may be given or withheld in Licensor's sole and absolute discretion, and only while the original Licensee is using the License Area(s) for the Permitted Use and, if requested by Licensor, with Licensee certifying that Licensee has no intention of thereafter assigning or subletting.

(c) **Review.** All renewal periods or Extended Terms will be subject to all terms, conditions, and covenants set forth in this Agreement and the applicable Site Supplement(s), subject to the Licensor's review and approval, with the exception of the amount of the License Fee (defined in Section 5(d)) for use of the License Area and City Pole(s). At the end of the Initial Term and the Extended Term, the License Area, City Pole(s) and Small Cell Facility(ies) and related Equipment located thereon shall be reevaluated to determine if the License Fee should be readjusted due to a change in the applicable consumer price index and/or a change in geographic location and/or equipment and/or building space utilized.

(d) **Survival.** Licensee's removal obligations under Article 12 (Removal and Relocation), Licensee's maintenance and repair obligations under Article 11 (Licensee's Maintenance and Repair Obligations) and Licensee's bond and security obligations under Section 11(g) and Articles 21, and 26, as well as Licensee's indemnity obligations under this Agreement (and the applicable Site Supplement) expressly survive expiration or earlier termination of this Agreement (and/or any Site Supplement).

(e) **Termination of Use.** Notwithstanding Section 4(a) (Term of Agreement) above, Licensee may terminate its use of any or all of the Small Cell Facility(ies) and related Equipment by providing the City with ninety (90) days prior written notice (subject to the removal and relocation provisions set forth in Article 12 below and the repair, maintenance and bond provisions set forth in Article 11 below). If Licensee terminates this Agreement and the applicable Site Supplement(s) pursuant to this Section 4(f), Licensee will compensate Licensor in an amount equivalent to the annual License Fee as of the effective date of such termination notice as liquidated damages for the early termination. If less than one (1) year remains in the Term as of the effective date of the termination notice, Licensee shall pay to the Licensor (as liquidated damages) an amount equal only to those installments due or to become due during the remainder of the Term. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LICENSOR'S ACTUAL COSTS AND OTHER DETRIMENT ARISING FROM LICENSEE'S EARLY TERMINATION UNDER THIS SECTION WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. BY PLACING HIS OR HER INITIALS BELOW, AN AUTHORIZED REPRESENTATIVE OF EACH PARTY ACKNOWLEDGES THAT THE PARTIES HAVE AGREED, AFTER

NEGOTIATION, ON THE AMOUNT OF THE REFERENCED LIQUIDATED DAMAGES AS REASONABLE ESTIMATES OF THE LICENSOR'S ADDITIONAL COSTS AND OTHER DETRIMENT. THE PARTIES AGREE THAT SAID CHARGES REPRESENTS A FAIR AND REASONABLE ESTIMATE OF THE COSTS THAT LICENSOR WILL INCUR BY REASON OF SUCH ACTION BY LICENSEE AND THAT LICENSOR MAY DEDUCT SAID CHARGE FROM THE SECURITY DEPOSIT. THIS LIQUIDATED DAMAGES PROVISION SHALL NOT IN ANY WAY AFFECT OR LIMIT LICENSOR'S RIGHTS OR REMEDIES RESULTING FROM LICENSEE'S BREACH OF ANY OTHER OBLIGATION UNDER THIS AGREEMENT OR ANY SITE SUPPLEMENT. LICENSEE'S PAYMENT OF THE AMOUNTS NOTED ABOVE AS LIQUIDATED DAMAGES HEREUNDER IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369.

Initials: Licensee _____ Licensor _____

(f) **Termination for Failure to Pursue.** Licensee agrees to begin the process of gaining the approvals necessary to initiate construction and installation of the Small Cell Facility(ies) and Equipment immediately after executing this Agreement and the applicable Site Supplement(s). If, however, Licensee, does not, in good faith, actively pursue the required Regulatory Approvals (e.g. encroachment permit, street opening permit, concrete permit, use permit, etc.) within six (6) months from the date this Agreement and the applicable Site Supplement is executed, the Licensor may terminate the applicable Site Supplement(s) issued under this Agreement.

(g) **Licensor Right to Terminate Agreement.**

(1) Notwithstanding anything contained in this Agreement (or any Site Supplement) that may be construed to the contrary, the Licensor has the absolute right in its sole discretion to terminate any or all licenses for use of City Pole(s) granted under this Agreement and any Site Supplement if the City Manager or Director of the Public Works Department (or either of their designees) determines that Licensee's continued use of the License Area, City's ROW, and/or City Pole(s) adversely affects or poses a threat to public health and safety, constitutes a public nuisance, interferes with the Licensor's street light operations, or requires the Licensor to maintain a City Pole that is no longer required for City purposes.

(2) If the condition is susceptible to cure, the Licensor will provide notice to Licensee of the Licensor's determination, the underlying reasons for the determination, and provide a 30-day cure period following which the affected Site Supplement granting use of one or more City Poles under this Agreement will terminate if Licensee has not effected a cure.

(3) If the condition is not susceptible to cure in the Licensor's sole judgment, the Licensor shall have the right to terminate the Site Supplement(s) granted for use of the affected City Pole(s) under this Agreement on thirty (30) days' notice to Licensee of the Licensor's determination.

5. LICENSE FEES; ADMINISTRATIVE FEES; ADDITIONAL FEES AND OTHER CHARGES

(a) **Payment of Costs and Fees.** In consideration of the Licensor's grant of the non-exclusive, revocable, non-possessory license granted to Licensee under this Agreement and any Site Supplement(s), during the Term, the Licensee shall timely pay all of the following fees and costs,

subject to the terms and conditions set forth below and conformance with the obligations and responsibilities set forth in this Agreement and the applicable Site Supplement(s).

(b) Commencement.

(1) Definition. Licensee shall pay an annual License fee for each City Pole (provided Licensee shall not install any more than two (2) antennae on any given City Pole) beginning on the "Commencement Date" of the applicable Site Supplement, which shall be the earlier of: (i) the first anniversary of the Effective Date of the applicable Site Supplement; and (ii) the first day of the month after the date on which Licensee has obtained all Regulatory Approvals necessary for the Permitted Use on the subject License Area as specified in the applicable Site Supplement. Each 12-month period (or shorter, for the period immediately preceding the Expiration Date) beginning on the Commencement Date is a "Site Supplement Year."

(2) Acknowledgment Letter. Within 10 business days after obtaining all Regulatory Approvals for the Permitted Use on any License Area, Licensee shall deliver to the Licensors a letter in the form of Exhibit B, attached hereto and incorporated herein (each, an "Acknowledgment Letter"). The purposes of the Acknowledgment Letter are to: (i) confirm the Commencement Date; (ii) tender or confirm payment by wire transfer of the annual License Fee for the first Site Supplement Year, the Security Deposit, and any service connection fees (if applicable); (iii) provide to the Licensors copies of all Regulatory Approvals; and (iv) confirm that Licensee has submitted to the Licensors all information regarding requirements under Article 21 (Insurance) and provide to the Licensors copies of all required insurance certificates and endorsements. If, in Licensors' opinion, Licensee has not timely delivered to the Licensors the complete Acknowledgment Letter, the Licensors will have the right to: (i) demand that Licensee deliver the Acknowledgment Letter, together with copies of all Regulatory Approvals, within 10 business days after the date of the Licensors' demand; and (ii) to determine the Commencement Date in accordance with the terms of this Section 5(b) (Commencement).

(3) Correct Commencement Date. In all cases, the Licensors shall have the right to correct the Commencement Date stated in Licensee's Acknowledgment Letter after examining the Regulatory Approvals. The Licensors will notify Licensee of any such correction by notice delivered in accordance with the notice provisions of this Agreement. The Licensors' determination under this Section 5(b) (Commencement) will be final and determinative for all purposes under this Agreement and any applicable Site Supplement.

(4) Countersigned Acknowledgment Letter. The Licensors will use reasonable efforts to deliver to Licensee a countersigned copy of the Acknowledgment Letter or its determination of the Commencement Date under Subsection (3) (Correct Commencement Date) within fifteen (15) business days of the Licensors' receipt of the Acknowledgment Letter from the Licensee. The fully executed Acknowledgment Letter or the Licensors' Commencement Date determination letter, as applicable, will be the Licensee's notice to proceed under Article 8 (Installation of Facilities and Equipment).

(c) **Administrative and Transactional Fees.** Licensee shall pay to the Licensors a non-refundable Administrative and Transactional Fee (on a per City Pole basis) to cover the Licensors' fees and costs to process, review and administer this Agreement, the Site Supplement(s), and the application process associated with Licensee's Small Cell Facility(ies) under this Agreement and the applicable Site Supplement(s) ("Administrative and Transactional Fee(s)"). The Licensors will not be obligated to begin its review of any Small Cell Facility (or associated Permitted Use) application until the Administrative and Transactional Fee is paid by Licensee to Licensors in full.

The initial deposit for such Administrative and Transactional Fee shall be nine thousand, five hundred and 00/100 dollars (\$9,500) per City Pole upon which Licensee proposes to install a Small Cell Facility. In any event, the total Administrative and Transactional Fee charged to and paid by Licensee shall be an amount sufficient to cover all of the actual costs, fees and expenses associated with processing, reviewing, administering and permitting this Agreement, the applicable Site Supplement(s), the Permitted Use, and each Small Cell Facility on each City Pole within the specified License Area. The \$9,500 initial deposit (per City Pole) for the Administrative and Transactional Fee shall be delivered by Licensee to the Licensor with its application for each Small Cell Facility and associated Equipment on a City Pole within a License Area. Licensee shall be charged and timely reimburse the Licensor for any and all costs, fees and expenses that exceed such \$9,500 per City Pole Administrative and Transactional Fee.

(d) **Annual License Fee.** Throughout the Term, Licensee shall pay to Licensor an annual License Fee of one thousand, five hundred and 00/100 dollars (\$1,500) per City Pole (subject to the adjustment provisions set forth below), provided Licensee shall place no more than two antennas on any given City Pole ("**License Fee**").

(1) **Due Date.** Licensee shall submit the first Site Supplement Year's License Fee with the Acknowledgment Letter without deduction for any reason. The annual License Fee for each City Pole for each subsequent Site Supplement Year of the Term will be due and payable in advance to the Licensor on each anniversary of the Commencement Date and will be late if the Licensor has not received payment by the due date.

(2) **Adjustments.** On January 1 of each year of the Term ("**Adjustment Date**"), the License Fee shall be increased on each Adjustment Date by four percent (4%).

(e) **Adjustment to Annual License Fee.** The Parties agree that Licensee has entered into or is considering entering into licenses or other contracts or agreements similar to this Agreement with other cities and/or governmental agencies in the State of California.

(1) Prior to the Effective Date of this Agreement, Licensee shall provide Licensor with a list of all of the license fees and rates paid pursuant to such licenses, contracts or agreements with other California cities and/or governmental agencies for purposes of confirming the market rate for the subject uses.

(2) If Licensee is currently a party to a license, contract, or other agreement for the same (or similar) Small Cell Facilities and/or uses with another city, locality or other governmental entity that is similar to the City of Santa Cruz in terms of population size or geographic location, for use of any structure (including, but not limited to poles) owned by such city, locality, or governmental entity anywhere in California and such license, contract, or agreement requires Licensee to pay higher use, administrative and/or license rates than the rates used in this Agreement (and the applicable Site Supplement(s)) or contains financial benefits for such city, locality, or other governmental entity which, taken as a whole, are in the Licensor's opinion superior to those in this Agreement (and the applicable Site Supplement(s)), then Licensee shall offer those rates to the Licensor and such rates shall be incorporated into this Agreement (and the applicable Site Supplement(s)) at the Licensor's election prior to execution and the Effective Date.

(3) If Licensee enters into any license, contract or other agreement for the same (or similar) Small Cell Facilities and/or uses with another city, locality or other governmental entity that is similar to the City of Santa Cruz in terms of population size or geographic location, for use of any structure (including, but not limited to poles) owned by such city, locality, or governmental

entity anywhere in California and such license, contract, or agreement requires Licensee to pay higher use, administrative and/or license rates ("**Higher Rates**") than the rates used in this Agreement (and the applicable Site Supplement(s)) or contains financial benefits for such city, locality, or other governmental entity which, taken as a whole, are in the Licensor's opinion superior to those in this Agreement (and the applicable Site Supplement(s)), then, (a) Licensee shall so notify the Licensor in writing within 10 calendar days of the effective date of such agreement (b) the Licensee shall begin paying any such Higher Use Rate to the Licensor within thirty (60) days of the effective date of such other agreement (unless otherwise directed in writing by the Licensor, and (c) the Licensor shall have the right to require an amendment to the Agreement (and the applicable Site Supplement(s)) to incorporate the same or substantially similar financial benefits. In any event, for purposes of this provision, "**governmental entity**" shall mean any federal, state or local, government agency.

For purposes of this Section 5(e) (Adjustment to Annual License Fee), a city, locality or other governmental entity that is located within the San Jose-San Francisco-Oakland, California Combined Statistical Area (as designated by the United States Office of Management and Budget, which includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, San Joaquin, Santa Cruz, and San Benito) or that has a population of 20,000 to 350,000 (based on State of California Department of Finance data as of the Effective Date) shall be considered "**similar**" to the City of Santa Cruz.

(f) **Additional Fees.** Sums payable to Licensor by Licensee (excluding Administrative and Transactional Fees and License Fees), including, but not limited to, any late charges, default interest, and costs related to a request for the Licensor's consent to a Transfer (including, but not limited to a sublicense or assignment), are referred to collectively as "**Additional Fees.**" Additional Fees are not regulatory fees.

(g) **Default Interest.** Any License Fee, Additional Fee, and other amount payable to Licensor (except Late Charges), if not paid within 10 days after the due date, will bear interest from the due date until paid at the default rate of 10% per year. Payment of default interest and the applicable Late Charge alone will not excuse or cure any default by Licensee.

(h) **Late Charge.** If Licensee fails to pay any License Fee, Administrative and Transactional Fee, Additional Fee, or other amount payable to the Licensor under this Agreement (or any applicable Site Supplement) within 10 calendar days after the date of Licensor's notice that the same is due and unpaid, such unpaid amounts will be subject to a late charge equal to 6% of the unpaid amounts.

(i) **Payment Method.** Licensee shall pay License Fees, Administrative and Transactional Fees, Additional Fees, and all other amounts payable to the Licensor under this Agreement and the applicable Site Supplement(s) in cash or other immediately available funds by: (i) check payable to the "City of Santa Cruz" and delivered to the Licensor at the following address: City of Santa Cruz, Finance Department, Room 101, 809 Center Street, Santa Cruz, California 95060 or (ii) wire transfer in accordance with the instructions provided by Licensor, unless the Licensor directs otherwise by notice given in accordance with the notice provisions of this Agreement. A check that is dishonored will be deemed unpaid.

(j) **Maximum Legal Interest; Reasonableness of Liquidated Charges and Fees.** If any interest rate specified in this Agreement (or any applicable Site Supplement) is higher than the rate permitted by law, the interest rate is hereby decreased to the maximum legal interest rate permitted by law. The Parties agree that the Additional Fees payable under this Agreement (and any

applicable Site Supplement) represent a fair and reasonable estimate of the administrative costs that the Licensor (and various City departments) will incur in connection with the matters for which they are imposed and that the Licensor's right to impose the Additional Fees is in addition to and not in lieu of its other rights under this Agreement (or any applicable Site Supplement). More specifically: THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LICENSOR'S ACTUAL ADMINISTRATIVE COSTS AND OTHER DETRIMENT ARISING FROM LICENSEE DEFAULTS AND OTHER ADMINISTRATIVE MATTERS UNDER THIS AGREEMENT (AND ANY SITE SUPPLEMENT) WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. BY PLACING HIS OR HER INITIALS BELOW, AN AUTHORIZED REPRESENTATIVE OF EACH PARTY ACKNOWLEDGES THAT THE PARTIES HAVE AGREED, AFTER NEGOTIATION, ON THE AMOUNT OF THE ADDITIONAL FEES AS REASONABLE ESTIMATES OF THE LICENSOR'S ADDITIONAL ADMINISTRATIVE COSTS AND OTHER DETRIMENT. THE PARTIES AGREE THAT SAID CHARGES REPRESENTS A FAIR AND REASONABLE ESTIMATE OF THE COSTS THAT LICENSOR WILL INCUR BY REASON OF SUCH ACTION BY LICENSEE AND THAT LICENSOR MAY DEDUCT SAID CHARGE FROM THE SECURITY DEPOSIT. THIS LIQUIDATED CHARGES PROVISION SHALL NOT IN ANY WAY AFFECT OR LIMIT LICENSOR'S RIGHTS OR REMEDIES RESULTING FROM LICENSEE'S BREACH OF ANY OTHER OBLIGATION UNDER THIS AGREEMENT OR ANY SITE SUPPLEMENT.

Initials: Licensee _____

Licensor _____

6. PERMITTED USE

(a) **Permitted Use.** Subject to the terms, covenants, conditions, responsibilities, and obligations set forth in this Agreement (and the applicable Site Supplement(s)), Licensor grants Licensee the right to use the approved and authorized City Pole(s) within the approved and authorized License Area(s) (as further described and detailed in the applicable Site Supplement (Exhibit A) executed by the Parties for the specified City Pole(s) and License Area(s) and the completed Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area) and Exhibit A-2 (Licensee's Plans and Specifications), attached thereto), on a non-exclusive basis, solely for the purposes of installing, constructing, maintaining, operating, upgrading, relocating and removing (at no cost or expense to Licensor/the City) certain specified small scale Small Cell Facilities, for the purpose of providing its Wireless Services (collectively "**Permitted Use**"). Licensee shall use the approved and authorized City Pole(s) and License Area(s) solely for the Permitted Use and for no other use, subject to all applicable Laws and conditions of Regulatory Approvals. Licensee shall not interfere with the Licensor's use, access, and operation of any portion of the City Pole(s), License Area(s), and/or City's ROW or any other City Property for any purpose. This Agreement and each Site Supplement are subject to and conditioned upon Licensee obtaining and maintaining throughout the Term all Regulatory Approvals to use the approved and authorized City Pole(s) and License Area(s) for the Permitted Use. Licensee acknowledges that City Laws and Regulatory Approvals include, without limitation, design review, engineering, FCC compliance, and zoning ordinances.

(b) **No Illegal Uses or Nuisances.** Licensee shall not use or occupy any of the City Pole(s) and/or License Area(s) in any unlawful manner or for any illegal purpose or in any manner that constitutes a nuisance as determined by Licensor in its reasonable judgment. Licensee shall take all precautions to eliminate any nuisances or hazards in connection with its use of the City Pole(s) and License Area(s).

7. APPROVAL OF USE OF CITY POLE OR LICENSE AREA

(a) Licensors Approval Required.

(1) Licensors Rights Superior. Licensee's use of any part of the City Pole(s) and/or License Area(s) for the Permitted Use is subject to the Licensors prior approval in connection with a Site Supplement application to use a particular City Pole or License Area for a Small Cell Facility (and associated Equipment). Subject to any limitations expressly provided in this Agreement, the Licensors is not obligated to subordinate its municipal functions or proprietary interests in any way to Licensee's interest under this Agreement or any Site Supplement. In determining whether to approve Licensee's Site Supplement application for any City Pole or License Area, the Licensors may consider any matter affecting its municipal obligations and proprietary interests. Examples of municipal and proprietary concerns include (the following is non-exclusive and rather, is meant to merely provide examples of the subject concerns): (i) the resulting total load on the City Pole of the Small Cell Facility and/or associated Equipment that is installed; (ii) the impact of the installation on the City's utility pole and/or street light operations, including, but not limited to, whether the Equipment would compromise the City's utility pole and/or street light circuit serving the City Pole; (iii) whether the installation complies with electrical and building codes; (iv) whether the Small Cell Facility and/or related Equipment would create any hazardous or unsafe condition; (v) any impacts the Small Cell Facility and/or related Equipment would have in the vicinity of the City Pole, including, but not limited to, size, materials, and visual clutter; (vi) aesthetic concerns, particularly for a historic or decorative City Pole or City Poles in the Downtown District; (vii) municipal plans for the City Pole (including, but not limited to, any proposed undergrounding); and (viii) the cumulative level of RF and EMF emissions in the vicinity of the License Area if the proposed Small Cell Facility and associated Equipment are approved under this Agreement and the applicable Site Supplement, and whether such cumulative level complies with the FCC's laws, rules, regulations, standards, and requirements regarding RF and EMF emissions.

(2) Changes in Application. If the Licensors determines for any reason that the Permitted Use at any particular City Pole Location would impede its municipal functions or otherwise affect its proprietary interests negatively, it will provide notice to Licensee of the Licensors's concerns as soon as reasonably practicable in the Site Supplement application review process. Licensee will have the opportunity to change the application for use of the City Pole or License Area for its Small Cell Facility (and associated Equipment) to address the Licensors's concerns for a period ending 15 calendar days after the date of the Licensors's notice without affecting the priority of Licensee's application in relation to other potential licensees. Any other changes that Licensee makes in its application to use the City Pole and/or License Area for its Small Cell Facility will cause the date that the Site Supplement application is deemed submitted to be changed to the date that Licensee delivers the proposed changes to the Licensors.

(b) **City Department Approval Required.** Licensee's use of a City Pole and/or License Area for the installation of any Small Cell Facility and related Equipment is also subject to the prior approval of the City's Public Works Department ("Public Works Department") and Licensee's compliance with all conditions to a wireless communications facility encroachment permit under the Municipal Code, other applicable City requirements (e.g., City Planning Commission process and Downtown Commission process, when applicable), and the Public Works Department implementing regulations and orders, and design requirements. A Public Works Department determination on an encroachment permit application may be appealed as provided in the Municipal Code.

(c) **Small Cell Facility on City Pole Application.** Licensee shall submit Site Supplement applications for use of a City Pole for its Small Cell Facility (and associated Equipment) to the Licensor, which will review, approve, or deny each application in its reasonable discretion. Each Site Supplement application will consist of: (1) a draft of the proposed Small Cell Facility application on the City's application form (as such form may be amended from time to time); (2) the Small Cell Facility(ies), Project Description, and License Area in the form attached as Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area), filled in with the proposed City Pole(s), City Pole Location(s) and other identifying information about each City Pole and Small Cell Facility (and associated Equipment) proposed by the application, including whether it is proposed to be placed on an historic or decorative City Pole; (3) Exhibit A-2, consisting of all plans and specifications required under Section 8(a)(1) (Strict Compliance Required); (4) the Administrative and Transactional Fees as specified in Section 5(c) (Administrative and Transactional Fee); and (5) if not previously provided, a copy of the Emissions Report submitted for the Public Works Department (and, if applicable, Planning Department) permit.

(d) **Use of City Pole(s) Application Review Process.** The Licensor will review and process Site Supplement applications for use of City Pole(s) for Licensee's proposed Small Cell Facility(ies) (and associated Equipment) in a reasonably prompt manner in the chronological order (date and time) in which complete application(s) are submitted or deemed submitted. Except as stated in the preceding sentence or as otherwise specified in this Agreement, the Licensor will not give priority to any Site Supplement application or licensee over another application or licensee. Licensee acknowledges that staff and budget considerations will limit the Licensor's (and the applicable City Departments') ability to review and process Site Supplement applications for use of City Pole(s) for Small Cell Facility(ies) (and associated Equipment). During its review process, the Licensor will provide to Licensee the applicable Administrative and Transactional Fees and License Fee Schedule (Exhibit A-3, attached hereto and incorporated herein) and applicable City Installation and Design Guidelines, each of which Licensee shall initial where indicated.

(e) **Administrative and Transactional Fee.** The Licensor is not obligated to begin its review of any Site Supplement application to use a City Pole for a Small Cell Facility (and associated Equipment) if Licensee has failed to pay the applicable Administrative and Transactional Fees under Section 5(c) (Administrative and Transactional Fees) when due. If Licensee does not timely deliver the required Administrative and Transactional Fees, the Licensor may suspend its review of any of Licensee's Small Cell Facility (and associated Equipment) applications then under review. The date and time of submission of any suspended Small Cell Facility (and associated Equipment) application will be deemed to be the date and time that Licensee submits the required payment.

(f) **Small Cell Facility Approval.** The Licensor will notify Licensee when the Licensor has approved each Small Cell Facility (and associated Equipment) by written notice in accordance with the notice provisions of this Agreement. The Licensor requires as a condition to approval of any Small Cell Facility (and associated Equipment) bonds and insurance coverage as required by Article 21 (Insurance). A Licensor decision to grant or deny a Site Supplement application to install a Small Cell Facility or any Equipment on a City Pole is not a regulatory determination subject to appeal, but is an exercise of the Licensor's proprietary authority over its facilities.

(g) **Right to Disapprove.** Except as otherwise limited by applicable Federal or State law, Licensee acknowledges that the Licensor has the absolute right to disapprove any application to use a City Pole to the extent that Licensee requests a City Pole Location where the placement of Licensee's Equipment would interfere with the Licensor's use of any City Pole to provide street lighting or create a hazardous or unsafe condition.

8. INSTALLATION OF FACILITIES AND EQUIPMENT

(a) Approved Plans and Specifications.

(1) Strict Compliance Required. Licensee must submit its plans and specifications for the Licensor's review as Exhibit A-2 to its Site Supplement application to use any City Pole for its Small Cell Facility(ies) and Equipment. Plans and specifications must include (without limitation) all Equipment, including, but not limited to, signage required or permitted under Section 8(a)(2) (Identification and Other Signage). Licensee is authorized to install Equipment within the License Area covered by this Agreement and the applicable Site Supplement(s) only in strict compliance with the plans and specifications approved by the Licensor and applicable City departments, including, but not necessarily limited to, the Public Works Department ("**Approved Plans**").

(2) Identification and Other Signage. Licensee shall place one identification plate in size, material, form, and substance strictly complying with the Approved Plans on its Equipment at each approved and authorized City Pole Location. The plate shall include Licensee's corporate name and the telephone number at which Licensee's identified on-call representative can be reached. If Licensee's on-call representative changes, Licensee must immediately provide written notice to Licensor of the new contact information and replace the identification plates. Licensee may also place signage on Licensee's Equipment that contains information and disclosures required by the FCC. Replacement of Licensee's signage will be considered maintenance subject to Article 11.

(3) Required Changes. Licensee may amend previously Approved Plans if required to obtain or comply with other Regulatory Approvals necessary for installation of Equipment, including, but not limited to, construction or installation-related temporary street occupancy permits, traffic control permits, encroachment permits, and building permits, as may be required by the Municipal Code or other City codes. Amendment of Approved Plans will require the Licensor's approval (and the approval of the Public Works Department, if applicable). Licensee acknowledges that as of the Effective Date of this Agreement, the Licensor has not approved or promised to approve any plans, specifications, or permits necessary for Licensee to install any Small Cell Facility(ies) or associated Equipment on any City Pole. The Licensor will provide notice of its decision in accordance with the notice provisions of this Agreement.

(4) Corrections. The Licensor's approval of plans, specifications, and amendments to Approved Plans, and the City's issuance of related Regulatory Approvals will not release Licensee from the responsibility for and obligation to correct any errors or omissions that may be contained in the Approved Plans and/or related Regulatory Approvals. Licensee shall notify the Licensor and applicable City departments (including, but not limited to, the Public Works Department), immediately upon discovery of any omissions or errors, and Licensee shall obtain required approvals of any amendments to previously Approved Plans.

(b) **Installation.** Licensee shall not commence installation of any Small Cell Facility or associated Equipment on a City Pole or within the License Area until the Licensor has given Licensee notice to proceed by delivery of the countersigned copy of the Site Supplement and the Acknowledgment Letter (or letter confirming the Commencement Date) under Section 5(b) (Commencement). When installing Small Cell Facilities and associated Equipment, Licensee must strictly comply with Approved Plans as originally approved, or, if applicable, as amended or corrected with Licensor's express written approval. Licensee's Small Cell Facilities and associated Equipment as installed must be high quality, safe, fire-resistant, modern in design, and attractive in appearance, all as approved by the Licensor. Licensee's Equipment must utilize and incorporate,

where available and feasible, PG&E (or other utility provider) smart wireless metering (i.e. small sized antenna to substitute for an electric meter pedestal on the ground or box on the pole, with glass bubble). Licensee shall paint and properly maintain any cabling, support brackets, external conduit, and other supporting elements to match adjacent surfaces. If necessary, Licensee must use custom matching paint to ensure a high quality of consistency in paint texture and appearance.

(c) **Cost of Labor and Materials.** Licensee is solely responsible for all direct and indirect costs and expenses (labor, materials, overhead, etc.) for designing, purchasing, constructing, and installing all Small Cell Facilities and Equipment in accordance with the Approved Plans and all applicable Laws. Licensee shall also solely bear all costs and expenses of obtaining all Regulatory Approvals required in connection with the construction and installation, and Licensee shall satisfy any conditions and/or mitigation measures arising from Licensee's proposed installation. Licensee shall timely pay for all labor, materials, and Equipment and all professional services related to the Permitted Use.

(d) **No Alteration of City's Existing Equipment or Infrastructure.** Licensee shall not remove, damage, or alter in any way any City Property, including, but not limited to, City Poles and supporting infrastructure, pull boxes, electrical equipment, wiring, and electrical vaults, without the prior express permission of the Licensor and any applicable City department and agencies that have jurisdiction over the City Property.

(e) **Standard of Work.** In constructing, installing, upgrading, modifying, altering, maintaining, and operating the Small Cell Facility(ies) and associated Equipment on a City Pole within the License Area, Licensee shall comply with and include the following items in its plans and operating procedures for its facilities:

(1) Licensee warrants that the construction, installation, modification, alteration, operation and maintenance of the Small Cell Facility(ies) and all related Equipment will comply with all Regulatory Approvals, agreements, and/or authorizations granted for the Small Cell Facility(ies) and related Equipment, and all applicable Laws (including, but not limited to, those relating to the environment and occupational safety, as well as all FCC requirements and CPUC rules and orders (including, without limitation, General Order Nos. 95 and 159A)), and specifications (including, but not limited to, the Manual on Uniform Traffic Control Devices, California Department of Transportation standard specifications and plans, etc.), and shall not adversely affect the structural integrity or maintenance of the City's ROW or City Poles.

(2) Licensee must install, construct, and perform all work in the City's ROW diligently and in a skillful, efficient and workmanlike manner.

(3) Licensee must use qualified and properly trained persons and appropriately licensed contractors in conformance with Section 15(b) (Personnel Safety Training) for all work in, on, at, or about the License Area. No later than 10 business days before commencing installation, construction, modification, or any other work on any City Pole or within the License Area, Licensee shall provide the Licensor with: (a) a schedule of all activities; and (b) a list of the names, places of business, and license numbers and DIR registration numbers of all contractors and subcontractors who will perform the work.

(4) Upon reasonable prior notice, Licensor has the right at all times to inspect the Licensee's facilities and related Equipment to assure compliance with this Agreement, the applicable Site Supplement, and/or any permit or authorization granted by the City or other Regulatory Agency.

(5) In those areas and portions of the City designated (either now or in the future) as an underground utility district (as such is defined in the Municipal Code, as such may be amended), Licensee must construct, install, and maintain its Small Cell Facility(ies) and related Equipment underground.

(6) Licensee shall not cause or permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the City's ROW, the License Area or the City Pole(s), nor cause or permit the City's ROW, the License Area, or any City Pole, or any adjoining property to be used for any illegal purposes or in any way that constitutes waste or a nuisance, or that disturbs, obstructs or endangers any other occupants or use of the City's ROW, the License Area, or any City Pole or interferes with their use of their respective premises.

(7) Licensee, at Licensee's sole cost and expense and at no cost to the Licensor (or any City Department), shall be responsible for the proper clean-up and removal of all trash, litter, soil cuttings, water, debris, waste and any other materials, substances, and/or pollutants generated or utilized in connection with or resulting from the Licensee's access and/or use of the City's ROW, License Area, and any City Pole, and/or Licensee's operations at, in or on the City's ROW, the License Area or any City Pole.

(8) Licensee shall submit all required hazardous materials filings and obtain all required approvals prior to installing its batteries or any other hazardous materials.

(9) Licensee shall use only such methods as are consistent with safety, as such concerns Licensee (including, without limitation, Licensee's Agents, Licensee's Invitee's and others acting under its or their authority or control), and the Agents, Invitees, and Property of the City and the public in general.

(10) Prior to commencing any installation, construction, alteration or improvement at, in or on the City's ROW, within the License Area, or on any City Pole, Licensee shall provide the City Engineer (or his/her designated and authorized representative) with evidence that any and all Regulatory Approvals (including, but not limited to building permits, encroachment permits, and street opening permits from any and all Regulatory Agencies having pre-construction jurisdiction over the proposed development) have been authorized and are available.

(11) Licensee shall post a prominent notice on the License Area listing its emergency procedures, warnings and emergency contacts.

(12) Upon the request of any person or agency that has contracted to perform work in the City's ROW, Licensee must provide timely, accurate and detailed information regarding the location of its Small Cell Facilities and related facilities and Equipment in the City's ROW in accordance with the provisions of Article 2 of Chapter 3.1 of Division 5 of the California Government Code (beginning at section 4216).

(13) Upon completion of any of its work, Licensee shall provide the Licensor with a complete set of reproducible "as built plans", reflecting actual construction within or upon the City's ROW, the License Area and/or the City Pole(s).

(f) **Project Manager.** Licensee has designated a person, whose contact information it shall provide to Licensor and include in Exhibit A, as its project manager to coordinate the design and installation of Licensee's Small Cell Facility(ies) and associated Equipment and serve as the

respective primary point of contact between Licensor and Licensee for all engineering, construction, and installation issues. Licensee shall be fully responsible for obtaining and satisfying the requirements of all required Regulatory Approvals necessary for installation of the Small Cell Facility(ies) and associated Equipment on the City Pole(s) and within the License Area, and Licensee shall not rely upon the Licensor or any City-assigned project manager to do so.

(g) **Coordination of Work.** Licensee shall be responsible for coordination of its installation and construction work to avoid any interference with existing utilities, substructures, facilities, and City street light operations. Licensee shall be the Licensor's (and applicable City department) point of contact for all Small Cell Facility(ies) and Equipment installation and except in case of emergency, all communications concerning all engineering, construction, and installation issues relating to the Equipment.

(h) **Installation; Construction Regulations.** During installation, construction, modification, alteration, repair, and maintenance of Licensee's Small Cell Facility(ies) and related Equipment, Licensee must abide by all City construction regulations, including, but not limited to construction hours, waste management, noise abatement, and traffic management ordinances and regulations. Licensee must pay all parking meter fees and citation fines incurred by Licensee and its contractors, subcontractors, materials suppliers and other Agents for vehicle parking. The Licensor will not pay or void any citations or reimburse Licensee for traffic citations or fines.

(i) **Fiber-Optic Cables; Collocation.** The Licensor understands that Licensee's Equipment within the License Area and/or on the City Pole will include fiber-optic cables. By entering into this Agreement, Licensee reserves for City's exclusive use and grants to the City a license to use four (4) strands of any fiber-optic cable that Licensee owns at each licensed City Pole. Licensee will designate and mark four (4) strands of fiber in any conduit feeding the License Area for non-commercial municipal use. Licensee agrees that upon the expiration or termination of this Agreement (and/or any applicable Site Supplement), Licensee will grant to the City by quitclaim (or bill of sale or other method satisfactory to the City) title to any fiber strands owned by Licensee that the City uses or desires to use at no cost or expense to Licensee and that have been designated as such.

9. ALTERATIONS

(a) **Licensee's Alterations.** Other than installation in accordance with Approved Plans, Licensee shall not make or permit any alterations to the City's ROW, License Area, a City Pole, or anything that is part of, installed on, or appurtenant to the City's ROW, the License Area, and/or a City Pole, except with the Licensor's prior written consent in each instance, which the Licensor may grant or withhold in its sole discretion. The Licensor may condition its consent reasonably in each instance based on the scope and nature of the alterations to be made. All alterations, modifications and improvements must (i) be at Licensee's sole cost and expense; (ii) be performed in conformance and compliance with the work standards set forth in Section 8(e) (Standard of Work) and with the plans and specifications approved by the Licensor; and (iii) be performed only by duly licensed and bonded contractors, subcontractor's and/or mechanics.

(b) **Title to Improvements and Removal of Licensee's Equipment.** Except as otherwise provided in this Agreement, any structural improvements to a City Pole, replacement of a City Pole, or installation of fiber-optic cable owned by Licensee, as approved by the Licensor, made by Licensee will become City Property and remain on the City Pole Location should Licensee vacate or abandon use of the City Pole, unless the Licensor has previously elected to require Licensee to remove (at Licensee's sole cost and expense) all or any part of any structural improvements to the

City's ROW or License Area (whether made by the Licensor or Licensee). Licensee may remove all of its Equipment (which excludes structural improvements to or replacement of any City Pole) from the License Area after 30 days' prior written notice to the Licensor, subject to Section 8(i) (Fiber-Optic Cables; Collocation), Section 12(b) (Removal Due to Termination; Abandonment), and Article 27 (Surrender of License Area).

10. CITY WORK ON POLES

(a) **Repairs, Maintenance, and Alterations.** The Licensor will: (i) maintain and repair City Poles as needed, in its sole judgment, for its utility or street light operations; and (ii) correct any immediately life-threatening or hazardous condition. Except as otherwise expressly specified in this Agreement, neither Licensor's work on City Poles nor the condition of City Poles will entitle Licensee to any damages, relieve Licensee of the obligation to pay the License Fees, Administrative and Transactional Fees, and Additional Fees or perform each and every of its other covenants and obligations under this Agreement and any applicable Site Supplement, or constitute or be construed as a breach or constructive termination of this Agreement (or any applicable Site Supplement).

(b) **Notice to Licensee.** The Licensor reserves the right at any time to make alterations, additions, repairs, removals, and improvements to all or any part of the License Area and any City Pole for any operational purpose, including, but not limited to, maintenance and improvement of street lighting services, compliance with mandatory regulations and/or voluntary controls or guidelines, subject to: (i) making good faith efforts to give Licensee prior notice of any such Licensor work in accordance with Section 10(c) (Licensee's On-Call Representative); (ii) allowing a representative of Licensee to observe the Licensor's work; and (iii) taking reasonable steps not to disrupt Licensee's normal use of Equipment on the License Area. But Licensee's use of the License Area may not impede, hinder, or delay in any way the Licensor's authority and ability to make changes to any License Area or City Pole necessary to maintain street lighting.

(c) **Licensee's On-Call Representative.** Licensee shall at all times have a representative assigned to be on call and available to the Licensor (and relevant City department personnel) regarding the operation of Licensee's Small Cell Facility(ies) and related Equipment. Licensee's representative shall be qualified and experienced in the operation of Small Cell Facilities and the Equipment, and shall be authorized to act on behalf of Licensee in any emergency and in day-to-day operations of the Small Cell Facilities and Equipment. The contact information for Licensee's on-call representative shall be provided in writing to Licensor in the applicable Site Supplement and Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area) attached thereto and will be listed on identification plates as required by Section 8(a)(2) (Identification and Other Signage). Before the Licensor performs non-emergency maintenance, repair, or other activities on the License Area in the regular course of its business that may impair the operation of Licensee's Equipment on the License Area, the Licensor will attempt to provide at least 48 hour's telephonic notice to Licensee's on-call representative. The Licensor will not be required to delay non-emergency repair or maintenance activities more than 48 hours after attempting to contact Licensee's on-call representative.

(d) **Emergencies.** The Parties agree to notify each other of any emergency situation related to any City Pole at the earliest opportunity. In an emergency, however, the Licensor's work and needs will take precedence over the operations of any of Licensee's Small Cell Facilities or Equipment on the License Area or City Pole, and the Licensor may access any portion of the License Area and/or City Pole that it determines is necessary in its sole discretion in accordance with Section 23(b) (Emergency Access; Emergency Pole Removal), whether or not the Licensor has notified Licensee of the emergency. Licensee acknowledges that Licensor personnel will be entitled to

exercise their judgment in an emergency situation, and in the exercise of judgment may determine that the operation of Licensee's Small Cell Facilities and/or Equipment must be interrupted, or that the circumstances require the removal of any part of Licensee's Small Cell Facilities and/or Equipment. Licensee agrees that the Licensor will bear no liability to Licensee for the Licensor's interruption of Licensee's Small Cell Facilities and/or Equipment operations, removal of the Small Cell Facilities or related Equipment, impact to the Licensee's Wireless Services, or other actions with respect to Licensee's Small Cell Facilities, Equipment or Wireless Services in an emergency, unless proximately caused by the sole negligence or willful misconduct of the Licensor, and that Licensee shall be solely responsible for the costs and expenses required to resume operations or repair or replace its Small Cell Facilities and/or related Equipment following the emergency.

11. LICENSEE'S MAINTENANCE AND REPAIR OBLIGATIONS

(a) **Damage to City Poles.** If the acts, omissions, negligence, or willful misconduct of Licensee or its Agents or Invitees damages any City Pole, Licensor will provide notice describing the damage and a reasonable opportunity to cure (which period shall not exceed 15 calendar days from the day of the Licensor's notice to Licensee). If Licensee fails to repair or replace the damaged City Pole in accordance with the requirements of Section 8(e) (Standard of Work) and Section 9(a) (Licensee's Alterations) within the 15-day cure period, or any longer period to which the Licensor agrees in its reasonable discretion, the Licensor may (but is not obligated to) do so at Licensee's cost and expense. Licensee shall reimburse the Licensor for its costs and expenses of repair and/or replacement within 10 calendar days after Licensor's demand for payment.

(b) **Alterations to City Property.** If Licensee or any of its Agents or Invitees damages, alters or removes any City Property (including, but not limited to, City Poles) without Licensor's (and applicable City departments') express prior approval, Licensee shall restore the City Property to the condition existing before the damage, alteration, and/or removal, unless the Licensor directs otherwise. The Licensor may condition its approval of any alteration to City Property (including, but not limited to, any City Pole) on restoration in accordance with this Section.

(c) **No Right to Repair City Poles.** Absent notice from the Licensor providing an opportunity to repair damage to a City Pole, Licensee is not authorized to make any repairs to City Poles. In all cases, Licensee waives any right it may have to make repairs at the Licensor's expense under any applicable Law.

(d) **Notice of Damage to City Poles.** Licensee agrees to give the Licensor notice of the need for any repair to a City Pole promptly after Licensee's discovery of damage from any cause.

(e) **Licensee's Facilities and Equipment.**

(1) **Maintenance and Repair.** At all times during the Term, Licensee shall at its sole cost and expense: (a) regularly inspect its Small Cell Facility(ies) and related Equipment, (b) promptly repair any damage to the Small Cell Facility(ies) and related Equipment installed on the License Area whenever repair or is required, and (c) maintain its Small Cell Facility(ies) and related Equipment in a good, clean, sanitary and safe condition, subject to the Licensor's prior written approval if required under Article 9 (Alterations). Licensee shall, at Licensee's sole cost and expense, perform all maintenance and repairs reasonably needed to maintain the Small Cell Facility(ies) and related Equipment (including, but not limited to, all equipment, fixtures, and any other improvements installed by Licensee in, at, or on the City's ROW, City Poles, and/or License Area) in good condition and appearance, safe, clean and sanitary condition, and in compliance with all applicable Laws. In the event any part of the Small Cell Facility(ies) or related Equipment

requires replacement because such part cannot be repaired, Licensee shall, at Licensee's sole cost and expense, replace the irreparable part of the Small Cell Facility(ies) and related Equipment, subject to the Licensors' prior written approval if required under Article 9 (Alterations). In the event any part of the Small Cell Facility(ies) and/or related Equipment causes damage to the City's ROW, City Poles or License Area or interferes or potentially interferes with the performance of any Public Duties, or other uses of the ROW as provided in Section 3(d)(4) (Reservations to the Licensors; Noninterference) above, Licensee agrees, upon written demand from the Licensors, to promptly commence and complete all necessary repairs (and/or replacement) to cure and correct any such damage caused by the Small Cell Facility(ies) and related Equipment at Licensee's sole cost and expense. If Licensee fails to repair the damage after receiving such notice from the Licensors or any emergency necessitates immediate repair of the damage, the Licensors may, in its sole discretion, perform the repair work itself (or through a contractor), in which case Licensee must reimburse the Licensors for all costs and expenses to perform Licensee's obligations under this Section 11(e) within 10 calendar days after receiving a statement setting forth such costs and expenses.

(2) Licensors Approval. Licensee is not required to seek the Licensors' approval for any repair, maintenance, replacement, or other installation of Equipment on a City Pole if, and only if: (i) the Equipment in question was in the Approved Plans; or (ii) the Licensors, in its reasonable judgment, concurs in writing with Licensee that the repair, maintenance, replacement, or other installation of Equipment is reasonably consistent with the Approved Plans, taking into consideration availability of the specific Equipment and advancements in technology. In no event, however, will Licensee be authorized to install larger, different, or additional Small Cell Facility(ies) or related Equipment on a City Pole without the Licensors' express prior consent. In this regard, Licensee acknowledges that section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. § 1455) does not apply to this Agreement (or any Site Supplement) because the Licensors is granting rights of use in its proprietary capacity as the owner of the City Poles. Any work on Licensee's Equipment installed on City Poles that is authorized or permitted under this Subsection is subject to Licensee obtaining all required Regulatory Approvals.

(3) Graffiti. Licensee's repair and maintenance obligation includes, without limitation, the immediate removal of any graffiti from the License Area and City Poles.

(f) **Repair of ROW**. In addition to the foregoing, Licensee shall be responsible for any damage, ordinary wear and tear excepted, to the City's ROW (including, but not limited to, any street pavement, existing facilities and utilities, curbs, gutters, sidewalks, landscaping, and all other public or private facilities) to the extent caused by Licensee's construction, installation, maintenance, access, use, operation, repair, replacement, modification, relocation, or removal of the Small Cell Facility(ies) and any related Equipment in the City's ROW. Licensee shall promptly repair such damage and return the City's ROW and any affected adjacent property to a safe and satisfactory condition to the Licensors in accordance with the City's applicable street restoration standards or to the adjacent property owner if not the City. The Licensee's obligations under this Section 11(f) (Repair of ROW) shall survive for one (1) year past the completion of such repair and restoration work and return of the affected part of the City's ROW by Licensee to the City, or the applicable statute of limitations period, whichever is longer.

(g) **Bond**. Licensee shall provide a bond in an amount determined by the Licensors to represent the estimated cost of Licensee's obligations under this Agreement and the applicable Site Supplement(s) (including, but not limited to, those maintenance and repair obligations set forth in Articles 8, 11, and 12), which the Licensors may require Licensee to increase from time to time to reflect the reasonable estimated cost of performing such obligations, to secure performance of

Licensee's obligations under this Agreement and the applicable Site Supplement(s) (including, but not limited to, those contained in Articles 8, 11, and 12).

(h) **Standard of Work.** All work by or on behalf of Licensee under this Article 11 must (1) be at Licensee's sole cost and expense; (2) be performed by duly licensed, DIR registered, and bonded contractors and/or mechanics; (3) be performed in a manner and using equipment and materials that will not interfere with or impair the Licensor's (or any City department's) operations; and (4) comply with the provisions of Section 8(e) (Standard of Work) and all applicable Laws and Regulatory Approvals relating to the License Area and/or Licensee's activities.

12. REMOVAL AND RELOCATION

(a) **Removal Due to Public Project.** Upon receipt of a written demand from the Licensor pursuant to this Article 12, Licensee, at its sole cost and expense, shall promptly remove and relocate any part of the Small Cell Facility(ies) and related Equipment, constructed, installed, used, operated, and/or maintained by Licensee under this Agreement and the applicable Site Supplement(s), whenever the Licensor reasonably determines that the removal and/or relocation of any part of the Small Cell Facility(ies) and/or related Equipment is needed for any of the following purposes: (i) due to any work proposed to be done by or on behalf of the Licensor or any other governmental agency, pursuant to its Public Duties, including but not limited to, any change of grade, alignment or width of any existing or future street, alley, way, sidewalk, place, or other public facility, installation, construction, maintenance, repair, replacement, removal, or relocation of curbs, gutters, sidewalks, or landscaping, and/or installation, construction, maintenance, repair, protection, relocation, modification, removal, replacement, or operation of any underground or aboveground facilities such as sewers, water mains, drains, storm drains, storm water treatments, pipes, pipelines, manholes, gas mains, poles, electric and/or power lines, telephone lines, fiber optic, fiber optic lines, cable television lines and tracks, and associated connections, applications, and appurtenances; (ii) because any part of the Small Cell Facility(ies) and/or related Equipment is interfering with or adversely affecting the proper operation of City Poles, and/or Licensor-owned light poles, traffic signals, or other Licensor Property or facilities, or the Licensor's ability to operate or perform any Public Duties; and/or (iii) to protect or preserve the public health and safety. Licensee must complete the removal and/or relocation no later than sixty (60) days after its receipt of written demand from the Licensor pursuant to this Section 12(a) (Removal Due to Public Project), or such earlier or later date as mutually agreed upon by the Parties. The Licensor agrees to reasonably cooperate with Licensee in identifying alternative locations for any portion of the Small Cell Facility(ies) and related Equipment removed pursuant to this Section. Notwithstanding the foregoing, if the Licensor issues a permit subsequent to the effective date of a Site Supplement to a private developer, and such work contemplated under the permit requires the removal or relocation of any of Licensee's Equipment subject to this Agreement and the applicable Site Supplement for the sole benefit of the developer (and not in furtherance of the Licensor's performance of its Public Duties), temporary or otherwise, those costs shall be borne by the developer, to the extent allowed by applicable Law. In the event Licensee fails to remove and/or relocate the portions of the Small Cell Facility(ies) and related Equipment identified in the written demand from the Licensor pursuant to this Section within the applicable time period established herein, then such portions of the Small Cell Facility(ies) and related Equipment will automatically be deemed abandoned and may be removed or caused be removed by the Licensor or any third party (at Licensee's sole cost and expense) and neither the Licensor nor such third party will be liable to Licensee for any damages or costs of any kind related to such removal. The Licensor may, in its sole and absolute discretion, perform the removal work itself (or through a contractor), in which case Licensee must reimburse the Licensor for all resulting costs and expenses incurred by the Licensor within fifteen (15) days after receiving a statement detailing such costs and expenses.

In addition, in the event Licensee fails to remove and/or relocate the portions of the Small Cell Facility(ies) and related Equipment identified in the written demand from the Licensor pursuant to this Section within the applicable time period established herein, the Licensor may pursue any and all of its rights and remedies under the bond posted and security deposited by Licensee pursuant to this Agreement and the applicable Site Supplement to obtain performance of Licensee's obligations under this Article 12 (Removal and Relocation) and reimbursement of associated costs and expenses.

(b) Removal Due to Termination; Abandonment.

(1) Removal Due to Termination. Subject to the provisions of Section 9(b) (relating to title to certain improvements) and except to the extent not permitted by Law, no later than ninety (90) days after expiration or earlier termination of this Agreement (and/or applicable Site Supplement), Licensee shall, at its sole cost and expense, remove the Small Facility(ies) and related Equipment (unless, directed otherwise by Licensor) and restore the City's ROW, City Pole(s), and License Area to their original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, and/or other aesthetic improvements made by Licensee to the City's ROW, City Pole(s) and/or License Area (subject to the Licensor's right to require their removal by Licensee, at Licensee's sole cost and expense, within 90 days after expiration or earlier termination of this Agreement and/or the applicable Site Supplement). Alternatively, the Licensor may allow Licensee, in the Licensor's sole and absolute discretion (without any obligation to do so), to abandon the Small Cell Facility(ies) and/or related Equipment, or any part thereof, in place and convey it to the Licensor.

(2) Abandonment. Subject to the provisions of Section 9(b) (relating to title to certain improvements), in the event Licensee ceases to operate or maintain and/or abandons the Small Cell Facility(ies) or Equipment, or any part thereof, for a period of ninety (90) days or more, Licensee shall, at its sole cost and expense and no more than thirty (30) days after expiration of the 90-day time period referenced herein, vacate and remove the Small Cell Facility(ies) and related Equipment (unless directed otherwise by Licensor) or the abandoned part thereof, and restore the City's ROW, City Pole(s), and License Area to their original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, and/or other aesthetic improvements made by Licensee to the City's ROW (subject to the Licensor's right to require their removal by Licensee, at Licensee's sole cost and expense). Alternatively, the Licensor may allow Licensee, in the Licensor's sole and absolute discretion, to abandon the Small Cell Facility(ies) and Equipment, or any part thereof, in place and convey it to the Licensor.

(3) Failure to Timely Remove and Vacate. If Licensee fails to timely vacate or remove such Small Cell Facility(ies) and/or related Equipment, or any part thereof, after the expiration of the 90-day periods specified in subsections (1) and (2) above, the Licensor may, in its sole and absolute discretion: (a) remove and/or dispose of the subject Small Cell Facility(ies) and/or Equipment, or any portion thereof, in any lawful manner, at Licensee's cost and expense, which costs and expense Licensee must remit to the Licensor within thirty (30) days of receiving an invoice from the Licensor; and/or (b) deem the subject Small Cell Facility(ies) and Equipment, or any portion thereof, to have been abandoned and conveyed to the Licensor. In addition, the Licensor may pursue any and all of its rights and remedies under the bond posted by Licensee pursuant to Section 11(g) (Bond) above to obtain performance of Licensee's obligations under this Section 12(b) (Removal Due to Termination; Abandonment) and reimbursement of associated costs and expenses. Licensee agrees that California Civil Code sections 1980 *et seq.* and similar provisions of the Civil Code addressing abandoned property by residential or commercial tenants do not apply to any abandoned Small Cell Facility(ies) and/or Equipment.

(4) **Repair of Damages; Replacements of Poles.** If the City's ROW, any City Pole(s) and/or the License Area are damaged or destroyed, in whole or in part, as a result of any of Licensee's removal and/or restoration activities pursuant to this Section 12(b) (Removal Due to Termination; Abandonment), Licensee, at its sole cost and expense, shall promptly repair and restore the City's ROW, City Pole(s) and/or License Area, and/or any portion thereof, which are so damaged or destroyed. In the event Licensee's removal and/or restoration activities, damage or render, in the Licensor's opinion, any City Pole structurally deficient, unsound, or defective, Licensee shall reimburse the Licensor for all costs and expenses (including, but not limited to, material and labor costs) to repair and/or replace such City Pole(s).

(c) **No Relocation Assistance.** Licensee acknowledges that it is not entitled to any relocation assistance payments at the conclusion of this Agreement or any applicable Site Supplement. This Agreement and the applicable Site Supplement(s) create no right in Licensee to receive any relocation assistance or payment for any reason under the California Relocation Assistance Law (Cal. Gov. Code §§ 7260 et seq.), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. §§ 4601 et seq.), or similar Law upon any termination of occupancy except as provided in Article 17 (Eminent Domain). Licensee agrees it will not file or pursue any such Claim. To the extent that any relocation law may apply, Licensee waives, releases, and relinquishes forever any and all Claims that it may have against the Licensor for any compensation from the Licensor except as specifically provided in this Agreement upon termination of its occupancy of all or any part of the License Area.

13. LIENS.

Licensee shall timely pay all claims for labor and/or materials furnished to or for Licensee at or for use in, on, at, within or about the City's ROW, License Area, and any City Pole(s). Licensee shall not create, permit, or suffer any encumbrances affecting any portion of the License Area, City's ROW or City Pole (or other City Property). Licensee shall keep the License Area, City Poles, City's ROW, and any other City Property free and clear from any liens (including, without limitation, any mechanic's or materialmen's liens of any kind or nature) arising out of any work or activities performed, material furnished, or obligations incurred by or for Licensee. Licensee shall indemnify, defend and hold harmless the Licensor (and the other Licensor Indemnified Parties) from and against any and all liens and Claims of whatever kind or nature in any way connected with or growing out of such work done, labor performed and/or materials furnished. Licensee shall inform each and every contractor, subcontractor, and material supplier that provides any work, service, equipment, or material to Licensee in any way connected with Licensee's use of the License Area, City's ROW, and/or City Pole(s) that the License Area, City's ROW and City Pole(s) are public property and are not subject to mechanics' liens for the Small Cell Facility(ies) and/or Equipment, other materials, or services provided for Licensee's Small Cell Facility(ies) and/or Equipment. If Licensee does not cause the release of lien of a mechanic's lien or stop notice by any contractor, subcontractor, consultant, service provider, mechanic, laborer, or equipment or material supplier purporting to attach to the License Area, City's ROW, any City Pole or other City Property within ten (10) days after notice or discovery of the lien, the Licensor will have the right, but not the obligation, to cause the same to be released by any means it deems proper, including, but not limited to, payment of the Claim giving rise to such lien. Licensee must reimburse the Licensor for all costs and expenses Licensor incurs in connection with any such lien (including, but not limited to, reasonable attorneys' fees) within ten (10) days following the Licensor's demand, together with evidence of the Licensor's expenses. Licensee shall give the Licensor at least fifteen (15) days' prior notice of commencement of any construction or installation on any part of the

License Area, City's ROW or City Pole, except for minor and routine repair and maintenance of Licensee's Equipment.

14. UTILITIES; TAXES AND ASSESSMENTS

(a) **Utilities.** Licensee shall not use Licensor's electricity to power its Small Cell Facility(ies) or Equipment. Licensee shall be solely responsible for procuring (at Licensee's sole cost and expense) all electrical power and other utilities necessary or appropriate for Licensee's use of the License Area, City's ROW and City Pole(s).

(b) **Utility Charges.** License shall be solely responsible for paying, prior to delinquency and at its sole cost and expense, all charges for utilities supplied to the License Area (including, but not limited to, electricity) and/or consumed in Licensee's activities and operations on the License Area, City's ROW and/or City Pole(s) at the rate charged by the servicing utility company(ies). A meter shall be installed (at Licensee's sole cost and expense) to separately track Licensee's use and consumption of utilities on the License Area, City's ROW and City Pole(s). Licensee's Equipment must utilize and incorporate, where available and feasible, PG&E (or other utility provider) smart wireless metering (i.e. small sized antenna to substitute for an electric meter pedestal on the ground or box on the pole, with glass bubble).

(c) **Taxes and Assessments.** Licensee agrees that it will be solely responsible for the payment of any and all taxes (including, but not limited to, any applicable possessory interest taxes, and other taxes), excises, licenses, permit charges, fees and assessments levied on its use and/or maintenance of the Small Cell Facility(ies) and related Equipment and/or caused by Licensee's operations, activities, use and/or Equipment placed at, in, on, or about the City's ROW, License Area, or any City Pole or other improvements constructed by Licensee on the City's ROW, License Area, or any City Pole. On demand by Licensor, Licensee shall furnish Licensor with satisfactory evidence of these payments.

(1) **Possessory Interest Taxes.** Pursuant to Section 107.6 of the California Revenue and Taxation Code, the Licensor hereby advises, and Licensee recognizes and understands that this Agreement and the applicable Site Supplement may create a possessory interest subject to property taxation and that Licensee may be required to pay possessory interest taxes. Licensee further recognizes and understands that any sublicense or assignment permitted under this Agreement and any exercise of any option to renew or extend this Agreement (and the applicable Site Supplement) may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created under this Agreement and the applicable Site Supplement. The payment of any such taxes shall be the sole obligation of Licensee.

(2) **Licensee's Obligation if Assessed.** Licensee agrees to pay taxes of any kind, excises, licenses, permit charges, fees, and assessments based on Licensee's usage of the License Area, City's ROW, and any City Pole that may be imposed upon Licensee by Law, when the same become due and payable and promptly before delinquency. Licensee agrees not to allow or suffer a lien for any taxes, fees, charges, or fees to be imposed upon the License Area, City's ROW or any City Pole without promptly discharging the same, provided that Licensee, if so desiring, will have a reasonable opportunity to contest the validity of the same. The Licensor will provide Licensee with copies of all tax and assessment notices on or including the License Area promptly, along with sufficient written documentation detailing any assessment increases attributable to Licensee's Small Cell Facility(ies) and related Equipment, but in no event later than 30 days after receipt by the Licensor.

(3) Taxes on Equipment. Licensee shall be responsible for all taxes and assessments levied upon Licensee's Equipment. Licensee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Equipment without promptly discharging the same, provided that Licensee, if so desiring, will have a reasonable opportunity to contest the validity of the same.

15. COMPLIANCE WITH LAWS

(a) Requirement.

(1) Current Laws. Licensee shall install, use, and maintain the Small Cell Facility(ies) and related Equipment in strict compliance with Laws and conditions to Regulatory Approvals relating to the use and/or occupancy of the License Area, City's ROW and City Pole(s), including, but not limited to, all Laws relating to the environment, health and safety, and radio signal transmission. Any work or installations made or performed by or on behalf of Licensee or any person or entity claiming through or under Licensee is subject to applicable Laws.

(2) Future Laws. The Parties agree that Licensee's obligation to comply with all Laws is a material part of the bargained-for consideration under this Agreement and the applicable Site Supplement(s), irrespective of the degree to which such compliance may interfere with Licensee's use or enjoyment of the License Area, City's ROW or any City Pole, the likelihood that the Parties contemplated the particular Law involved, and whether the Law involved is related to Licensee's particular use of the License Area, City's ROW or any City Pole. During the Term, no occurrence or situation arising under any current or future Law, whether foreseen or unforeseen and however extraordinary, will relieve Licensee from its obligations under this Agreement (or any Site Supplement) or give Licensee any right to terminate this Agreement (or any Site Supplement) in whole or in part or to otherwise seek redress against the Licensor. Licensee waives any rights under any current or future Laws to terminate this Agreement (and/or any Site Supplement), to receive any abatement, diminution, reduction, or suspension of payment of any License Fees, or to compel the Licensor to make any repairs or perform any work to comply with any such Laws, on account of any such occurrence or situation.

(b) Personnel Safety Training.

(1) High Power Lines. City Poles might be close to overhead traction power lines. Licensee acknowledges and agrees that its use of any City Poles near overhead traction power infrastructure poses a risk of severe injury or death to persons who are not properly trained and equipped to work around high power lines.

(2) Licensure/Certification. Licensee shall ensure that all persons installing, operating, and/or maintaining its Small Cell Facility(ies) and Equipment are appropriately trained and licensed by the California State Contractors Licensing Board, properly registered with the DIR, and as required by applicable regulations and rules of the CPUC. Licensee shall ensure that these persons are trained in and observe all safety requirements established by the City, the CPUC, and the California Division of Occupational Safety & Health, Department of Industrial Relations, including, but not limited to, site orientation, tag-out lock-out de-energization rules, ladder and lift restrictions, and track and street right-of-way safety requirements.

(c) Licensee's Indemnity. During any period when Licensee or any Agent of Licensee is installing, constructing, operating, maintaining, upgrading, modifying, altering, relocating, or removing its Small Cell Facility(ies) and/or related Equipment, Licensee acknowledges and agrees that the Licensor has delegated control of the License Area to Licensee, and Licensee will be solely

responsible for any resulting injury or damage to property or persons. The Licensor is not a co-employer of any employee of Licensee or any employee of Licensee's Agents, and the Licensor will not be liable for any Claim of any employee or other Agent of Licensee or any employee of Licensee's Agents. Licensee agrees to Indemnify the Licensor fully against any Claim brought by any employee or any other Agent of Licensee or any employee of Licensee's Agents arising from or related to Licensee's access to and/or use of the License Area, City's ROW, or City Pole, and/or other activities of Licensee or its Agents or Invitees on, around, at, in, or about the License Area, City's ROW or City Pole.

(d) **Compliance with CPUC General Order 95.** Licensee shall conduct all activities on the License Area, City's ROW and any City Pole in accordance with CPUC General Order 95 and the rules and other requirements enacted by the CPUC under that General Order, as applicable and as amended.

(e) **Compliance with Electric Codes.** Licensee shall conduct all activities on, in, at, or about the License Area, the City's ROW, and City Pole(s) in accordance with the requirements of California Electric Code, National Electric Safety Code IEEE C2 ("NESC"), and any applicable local electrical code, as any of those codes may be amended. Where any conflict exists between the NESC, the California Electric Code, any local code, and CPUC General Orders, the more stringent requirements will apply, as determined by the City.

(f) **Licensor's Exercise of its Proprietary Interests.** Licensee acknowledges and agrees that the Licensor is entering into this Agreement (and any Site Supplement) in its capacity as a property owner with a proprietary interest in the License Area and City Pole(s) and not as a Regulatory Agency with police powers. Nothing in this Agreement or any Site Supplement limits in any way Licensee's obligation to obtain required Regulatory Approvals from applicable Regulatory Agencies. By entering into this Agreement and any Site Supplement, the Licensor is in no way modifying or limiting Licensee's obligation to cause the License Area, City's ROW and City Poles to be used and occupied in accordance with all applicable Laws.

(g) **Regulatory Approvals.** Licensee represents and warrants that prior and as a condition to conducting its work and/or activities on, in, at, or about the License Area, the City's ROW, and/or any City Pole(s) under this Agreement and the applicable Site Supplement, Licensee will acquire all Regulatory Approvals required for Licensee's use of the License Area, City's ROW and any City Pole(s). Licensee shall maintain all Regulatory Approvals for Licensee's Permitted Use on, in, at, and about the License Area throughout the Term and for as long as any Small Cell Facility(ies) and/or Equipment is installed on any portion of the License Area, City's ROW, and/or any City Pole.

(h) **Radiofrequency Radiation and Electromagnetic Fields.** Licensee's obligation to comply with all Laws includes (without limitation) all Laws relating to allowable presence of or human exposure to Radiofrequency Radiation ("RFs") or Electromagnetic Fields ("EMFs") on or off the License Area, including all applicable FCC standards and requirements, whether such RF or EMF presence or exposure results from Licensee's Small Cell Facility(ies) and related Equipment alone or from the cumulative effect of Licensee's Small Cell Facility(ies) and related Equipment added to all other sources on or near the License Area. Licensee must provide to the Licensee a copy of the report, required for Licensee's Public Works Department Permit, of an independent engineering consultant analyzing whether RF and EMF emissions at the proposed City Pole Location(s) would comply with FCC standards and requirements, taking into consideration the Small Facility(ies) and related Equipment installation specifications and distance to residential windows (each, an "Emissions Report"). If not provided earlier, Licensee must submit the

Emissions Report to the Licensor with the applicable Site Supplement application to use a City Pole for Licensee's Small Cell Facility(ies) and related Equipment.

(i) **Compliance with City's Risk Management Requirements.** Licensee shall not do anything, or permit anything to be done by anyone under Licensee's authority or control, in, on, at, or about the License Area, City's ROW or any City Pole that would create any unusual fire risk, and shall take commercially reasonable steps to protect the Licensor from any potential liability by reason of Licensee's use of the License Area, City's ROW and City Pole(s). Licensee, at Licensee's expense, shall comply with all reasonable rules, orders, regulations, and requirements of the City's Risk Manager and the City Manager.

(j) **Compliance with Other City Requirements.** Licensee has reviewed, understands, and is ready, willing, and able to comply with the terms of other applicable City Laws (including, but not limited to, those contained in the Municipal Code which is publicly available and accessible online). All such City Laws are incorporated by reference as if fully stated in this Agreement and all Site Supplement(s). Licensee acknowledges that City Laws in effect when the Agreement (and each Site Supplement) is executed will apply to Licensee and its Agents and successors and assigns, as applicable. Licensee is obligated to become familiar with all applicable City Laws and to comply with them fully as they are amended from time to time. City Laws are currently available on the web at <http://www.cityofsantacruz.com/> and <http://www.codepublishing.com/CA/SantaCruz/>.

(k) **Secondary Parties.** Licensee shall require and verify that all of Licensee's contractors, subcontractors, suppliers, and/or agents (of any tier) (including, but not limited to, Crown Castle USA, Inc.) ("Secondary Parties") that use or access the License Area, City's ROW or any City Pole, and/or locate, place, attach, install, operate, use, control, replace, repair or maintain the Small Cell Facility(ies) and/or related Equipment within, on, at, under, above, or about the License Area, the City's ROW, and/or any City Pole, obtain and maintain insurance satisfactory to the Licensor and similar in form and substance as that required by Article 21 (Insurance) below (unless different requirements are allowed by the Licensor and mutually agreed upon in writing by the Parties), and name the Licensor and its officers, officials, directors, employees, agents, representatives, and volunteers as additional insureds on such insurance. Licensee shall also require and ensure that all Secondary Parties observe and comply with all of the terms, covenants, and conditions of this Agreement and the applicable Site Supplement(s).

16. DAMAGE OR DESTRUCTION

(a) **Licensor Election.** The Licensor has no obligation to replace or repair any part of the License Area, City's ROW or any City Pole following damage by any cause. Following damage or destruction of any City Pole, the Licensor may elect (without any obligation to do so) any of the following actions, in the Licensor's sole and absolute discretion.

(1) **Election to Repair or Replace Damaged City Pole.** Within 30 days after the date on which the Licensor discovers damage or destruction of a City Pole licensed to Licensee, the Licensor will give Licensee notice of the Licensor's decision whether to repair or replace the damaged City Pole and its good faith estimate of the amount of time the Licensor will need to complete the work. If the Licensor cannot complete the work within 30 days after the date that the Licensor specifies in its notice, or if the Licensor elects not to do the work, then Licensee will have the right to terminate the Site Supplement for such affected City Pole granted under this Agreement on 30 days' prior written notice to the Licensor (subject to the provisions of Article 11 (Licensee's Maintenance and Repair Obligations) and Article 12 (Removal and Relocation)).

(2) Election to Remove Damaged City Pole. If the Licensors decide to remove, rather than repair or replace, a damaged City Pole licensed to Licensee, the Site Supplement for such City Pole granted under this Agreement will terminate automatically as of the last day of the month the City Pole is removed.

(3) Election to Remove Equipment from Damaged City Pole. If the acts of third parties or an act of nature or other force majeure circumstance outside the control of Licensee or its Agents or Invitees (and not as a result of any negligence on the part of Licensee or its Agents or Invitees) destroys or damages any City Pole to such an extent that, in the Licensors' reasonable determination, the Small Cell Facility(ies) and/or related Equipment on the City Pole cannot be operated, the Licensors may decide to terminate the Site Supplement granted under this Agreement with respect to such affected City Pole on 30 days' notice to Licensee and require Licensee to remove the Small Cell Facility(ies) and Equipment from the damaged City Pole before the termination date specified in the Licensors' notice.

(4) Licensee's Rights after Termination. After termination of any Site Supplement granted under this Agreement with respect to a particular affected City Pole under this Article 16, the Licensors will (as Licensee sole and exclusive remedy): (i) refund the portion of the previously-paid License Fee attributable to the subject City Pole(s) and the terminated portion of the Site Supplement Year, subject to Section 4(a) (Minimum Term); and (ii) give priority to Licensee's Site Supplement application for a replacement City Pole for its displaced Small Cell Facility(ies) and Equipment.

(b) **No Statutory Rights for Damaged City Pole.** Licensee understands and agrees that this Agreement and the applicable Site Supplement governs fully its rights and obligations in the event of damage or destruction of a City Pole licensed under this Agreement (and the applicable Site Supplement), and, to the extent applicable, Licensee hereby waives and releases the provisions of section 1932, subdivision 2, and section 1933, subdivision 4, of the Civil Code of California (when hirer may terminate the hiring) or under any similar Laws.

17. EMINENT DOMAIN

(a) **Eminent Domain.** If all or any part of the License Area is permanently taken in the exercise of the power of eminent domain or any transfer in lieu thereof, the following will apply:

(1) Termination. As of the date of taking, the Site Supplement granted under this Agreement with respect to the affected License Area and/or City Pole will terminate as to the part so taken, and the License Fee for the subject affected City Pole will be ratably reduced to account for the portion of the License Area taken.

(2) Award. The Licensors will be entitled to any award paid or made in connection with the taking. Licensee will have no Claim against the Licensors for the value of any unexpired Term with respect to such affected City Pole licensed under this Agreement (and the applicable Site Supplement) or otherwise. and Licensee irrevocably assigns and transfers to Licensors all rights to and interests in the award. Notwithstanding the foregoing, Licensee may make a separate claim in the condemnation proceeding, as long as the award payable to Licensors is not reduced thereby, for any portion of the award that is specifically allocable to Licensee's relocation expenses or loss or damage to Licensee's Equipment.

(3) No Statutory Right to Terminate. Licensee understands and agrees that this Article 17 is intended to govern fully the rights and obligations of the Licensee in the event of a permanent

taking. Licensee hereby waives and releases any right to terminate this Agreement (and/or the applicable Site Supplement) in whole or in part under sections 1265.120 and 1265.130 of the California Code of Civil Procedure (partial termination of lease and court order terminating lease, respectively) and under any similar Laws to the extent applicable to this Agreement and the applicable Site Supplement.

(b) **Temporary Takings.** A taking that affects any portion of the License Area for less than 90 days will have no effect on this Agreement or the applicable Site Supplement for the affected City Pole, except that Licensee will be entitled to an abatement in the License Fee solely for the affected City Pole to the extent that its use of that City Pole is materially impaired.

18. TRANSFER/ASSIGNMENT

(a) **Restriction on Assignment.** This Agreement and any Site Supplement entered into in connection with this Agreement are personal to Licensee and convey no property rights to Licensee. Therefore, any attempted Transfer of Licensee's interest in this Agreement, any Site Supplement or the License Area or any City Pole (or portion thereof) shall be void and of no effect. Except as specifically provided in this Article 18, Licensee shall not directly or indirectly Transfer any part of its interest in or rights with respect to this Agreement, any Site Supplement, the License Area, the City's ROW or any City Pole without the Licensor's prior written consent (which may be withheld or delayed in the Licensor's sole and absolute discretion). However, Licensee may, without the consent of Licensor, assign or sublet this Agreement and the applicable Site Supplement to: Licensee's financially viable parent, or affiliate, provided such parent or affiliate possesses all Regulatory Approvals necessary to perform and fulfill Licensee's obligations under this Agreement and the applicable Site Supplement and has a net worth on the date of assignment or sublicense that is equal to or greater than Licensee's net worth as of the Effective Date of this Agreement. The term "**net worth**" shall mean the amount by which the total of all assets shall exceed the total of all liabilities as determined by an independent certified public accountant in accordance with generally accepted accounting principles. As used herein, the term "**affiliate**" shall mean an entity which is under common control with Licensee. Licensee shall promptly notify Licensor upon any such assignment or sublicense, including delivering a copy of the assignment or sublicense to Licensor, and such assignment or sublicense shall be effective upon Licensor's receipt of such written notice. This Agreement and all Site Supplement(s) are binding upon the successors and assigns of the Parties.

(b) **Notice of Proposed Assignment.** If Licensee desires to enter into an sublicense or assignment of this Agreement, a Site Supplement, or any portion thereof, Licensee shall give notice (a "**Notice of Proposed Assignment**") to the Licensor, stating in detail the terms and conditions for such proposed sublicense or assignment and complete information, including, but not limited to, financial statements, business history, and references and other information about the proposed sub-licensee or assignee (the "**Assignee**") that the Licensor needs to make a fully informed decision about Licensee's request. If Licensee does not deliver all information that the Licensor reasonably requires simultaneously with the Notice of Proposed Assignment, Licensor will not begin review and/or processing of the proposed sublicense or assignment until Licensee has delivered any and all additional information the Licensor requests.

(c) **Licensor Response.** If the Licensor consents to the proposed sub-license or assignment, then Licensee will have 90 days following the date the Licensor delivers its consent notice to Licensee to complete the sublicense or assignment in strict accordance with the terms and conditions of Licensor's consent thereto. As a condition to the Licensor's consent, Licensee will be required to pay to the Licensor the amount by which any consideration paid to Licensee by the

Assignee exceeds the aggregate sum of the License Fees and Additional Fees remaining payable under the assigned license within 10 days after Licensee's receipt of payment from the Assignee.

(d) **Effect of Default.** Licensors may refuse to consent to a requested sublicense or assignment during any period during which any monetary or other material event of default by Licensee is outstanding (or any event has occurred that with notice or the passage of time or both would constitute a default) under this Agreement or any Site Supplement.

(e) **Effect of Transfer.** No Transfer by Licensee, consent to any sublicense or assignment by the Licensors, or sublicense or assignment allowed under this Article 18 will relieve Licensee of any obligation on Licensee's part under this Agreement or any Site Supplement. Any Transfer that is not in compliance with this Article 18 will be void and be a material default by Licensee under this Agreement (and the applicable Site Supplement) without a requirement for notice and a right to cure. The Licensors' acceptance of any License Fee, Additional Fee, or other payments from a proposed Assignee will not be deemed to be the Licensors' consent to such Transfer, recognition of any Assignee, or waiver of any failure of Licensee or other transferor to comply with this Article 18.

(f) **Assumption by Transferee.** Each Assignee shall assume all obligations of Licensee under this Agreement and each assigned Site Supplement for use of the License Area or City Pole (or portion thereof) and will be and remain liable jointly and severally with Licensee for all obligations and responsibilities to be performed by Licensee under this Agreement and the applicable Site Supplement. No Transfer will be binding on the Licensors unless Licensee or the Assignee delivers to the Licensors evidence satisfactory to the Licensors that the Assignee has obtained all Regulatory Approvals required to operate as a Wireless Communications Provider on the assigned License Area or City Pole, a copy of the assignment agreement (or other document reasonably satisfactory to the Licensors in the event of a sublicense or assignment allowed under this Article 18), and an instrument in recordable form that contains a covenant of assumption by such Assignee satisfactory in substance and form to the Licensors, consistent with the requirements of this Article. However, the failure or refusal of an Assignee to execute such instrument of assumption will not release such Assignee from its liability as set forth in this Article. Licensee shall reimburse the Licensors on demand for any reasonable costs that the Licensors incur in connection with any proposed Transfer, including, but not limited to, the costs of investigating the acceptability of the proposed Assignee and legal costs incurred in connection with considering any requested consent.

(1) **Conditions.** A sublicense or assignment or other Transfer allowed by Licensors under this Article 18 is subject to the following conditions: (i) The Assignee uses the License Area, City's ROW and City Pole(s) only for the Permitted Use and holds all Regulatory Approvals necessary to lawfully install, operate, and maintain the Small Cell Facility(ies) and related Equipment in, on, at, and about the License Area; (ii) Licensee is in good standing under this Agreement and the applicable Site Supplement(s); and (iii) an assignment or sublicense allowed under this Article 18 shall not be effective until the proposed Assignee agrees in writing to comply with, recognize, be subject to, and fully assume all of the terms and conditions of this Agreement (and the applicable Site Supplement(s)) and the Municipal Code.

19. DEFAULT

(a) **Events of Default by Licensee.** Any of the following will constitute an event of default by Licensee under this Agreement and the applicable Site Supplement:

(1) Nonpayment of Fees. Licensee fails to pay any License Fee, Administrative and Transactional Fees, or Additional Fees as and when due, if the failure continues for ten (10) calendar days after the due date.

(2) Prohibited Transfer. Licensee enters into a Transfer in violation of Article 18 (Transfer/Assignment).

(3) Interference with Licensors. Licensee interferes with the Licensors' operations in violation of Section 3(d)(4) (Reservations to the Licensors; Noninterference).

(4) Failure to Maintain Insurance. Licensee fails to maintain insurance as required by Article 21 (Insurance).

(5) Failure to Obtain/Maintain Approvals. Licensee fails to obtain or maintain any required Regulatory Approval, easement or other approval, including, but not limited to any applicable zoning, building, or fire code adopted by the City of Santa Cruz, and such failure is not remedied or corrected within ten (10) calendar days of the date of notice from the Licensors.

(6) Failure to Cure. Licensee fails to timely cure noncompliance with the specified requirements of this Agreement and the applicable Site Supplement within the timeframes specified in this Agreement and the applicable Site Supplement.

(7) Other Terms. Licensee breaches or fails to perform or comply with any other obligation, covenant, condition, term, or representation made under this Agreement or the applicable Site Supplement, if the failure continues for ten (10) calendar days after the date of notice from the Licensors, or, if such breach, default or failure is not capable of cure within the 10-day period, Licensee fails to promptly undertake action to cure such default within such 10-day period and thereafter fails to use its best efforts to complete such cure.

(8) Abandonment. Licensee removes its Small Cell Facility(ies) and/or related Equipment or abandons the License Area or any City Pole for a continuous period of more than thirty (30) days, such that the License Area is no longer being used for the Permitted Use.

(9) Insolvency. Any of the following occurs: Subject to the provisions of the Bankruptcy Code, as the same exists upon the date hereof or may from time-to-time be amended, to the contrary therein provided, (i) the appointment of a receiver due to Licensee's insolvency to take possession of all or substantially all of the assets of Licensee; (ii) an assignment by Licensee for the benefit of creditors; or (iii) any action taken by or against Licensee under any insolvency, bankruptcy, reorganization, moratorium, or other debtor relief Law, if any such receiver, assignment, or action is not released, discharged, dismissed, or vacated within thirty (30) days. Provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(b) **Licensors' Remedies.** In addition to all other rights and remedies available to the Licensors at law or in equity, the Licensors will have the following remedies following the occurrence of an event of default by Licensee.

(1) Continuation of License. Without prejudice to its right to other remedies, the Licensors may continue this Agreement and applicable Site Supplement(s) in effect, with the right

to enforce all of its rights and remedies, including, but not limited to, the right to receive and collect payment of License Fees, Additional Fees, and other charges as they become due.

(2) **Termination of Grant of License to City Pole(s).** If a default specific to the use of any City Pole(s) under this Agreement or a Site Supplement is not cured by Licensee within the applicable cure period, if any, the Licensors may terminate the license granted under this Agreement and the applicable Site Supplement(s) with respect to each such City Pole that is the subject of the default.

(3) **Termination of Agreement.** If Licensee's default is of such a serious nature in the Licensors' sole judgment that the default materially affects the purposes of this Agreement, the Licensors may terminate this Agreement in whole or in part. In such event, Licensors will deliver notice to Licensee providing 30-days' notice of termination and specifying whether the termination affects the entire Agreement or only the grant of Site Supplements to certain City Poles as specified in the notice. The Licensors will specify the amount of time Licensee will have to remove its Small Cell Facility(ies) and Equipment from any affected City Pole. If Licensee does not remove its Small Cell Facility(ies) and related Equipment within the specified period, Licensors will be entitled (without any obligation to do so) to remove Licensee's Small Cell Facility(ies) and related Equipment from the City Pole(s) at Licensee's cost and expense. The Licensors will have the right to make any terminated portion of the License Area available for license to other parties as of the effective date of the termination, even if Licensee's Small Cell Facility(ies) and/or Equipment is still on the City Pole.

(c) **Licensee's Remedy for Licensors Defaults.** Licensee's sole remedy for the Licensors' breach or threatened breach of this Agreement and any Site Supplement will be an action for damages, subject to Article 22 (Limitation of Licensors' Liability).

(d) **Cumulative Rights and Remedies.** All of Licensors' rights and remedies under this Agreement and any Site Supplement are cumulative, except as otherwise provided.

20. LICENSEE'S INDEMNITY

(a) **Scope of Indemnity.** Licensee, on behalf of itself and its successors and assigns, shall indemnify, defend, and hold harmless, the Licensors Indemnified Parties from and against any and all liabilities, losses, costs (including, but not limited to, reasonable attorney's fees and costs), claims, judgments, settlements, damages, injuries, demands, charges, liens, fines, penalties, interest, and expenses, including, without limitation, direct and vicarious liability of every kind (each, a "**Claim**"), incurred in connection with, relating to, or arising in whole or in part from: (1) injury to or death of a person, including, but not limited to employees and other Agents of Licensee as well as Licensee's Invitees, or loss of or damage to property, occurring on, at, in, under or about the License Area, City's ROW and/or any City Pole, or arising in connection with Licensee's or its Agents' or Invitees' authorized or unauthorized use of the License Area, City's ROW and/or any City Pole(s); (2) any default by Licensee (or its Agents or Invitees) in the observation or performance of any of the terms, covenants, or conditions of this Agreement or any Site Supplement to be observed or performed on Licensee's part; (3) the use or occupancy or manner of use or occupancy of the License Area, the City's ROW, and/or any City Pole by Licensee, its Agents, or Invitees, or any person or entity claiming through or under any of them; (4) the presence of or exposure to RFs or EMFs resulting from Licensee's use of the License Area, City's ROW and/or any City Pole; and/or (5) any acts, omissions, negligence, or willful misconduct of Licensee, its Agents, or Invitees, in, on, at, under, or about the License Area, the City's ROW or any City Pole; unless such Claim is proximately caused by the sole negligence or willful misconduct of Licensors.

Licensee's indemnification and defense obligations include reasonable fees of attorneys, consultants, and experts and related costs, including, but not limited to, the Licensor's reasonable costs of investigating any Claim. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Licensor and the other Licensor Indemnified Parties from any Claim that falls within the scope of Article 20 (Licensee's Indemnity) even if allegations supporting the Claim are groundless, fraudulent, or false, which obligation arises at the time such Claim is tendered to Licensee by the Licensor Indemnified Party and continues at all times until finally resolved. Licensee's obligations under this Article 20 will survive the termination of the Agreement and any Site Supplement(s). Notwithstanding anything to the contrary contained herein, Licensee's indemnification obligations shall not apply (a) to the extent that such indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Agreement, or (b) to any Claim that is proximately caused by the sole negligence or willful misconduct of the Licensor Indemnified Parties.

(b) **Waiver of Claims.** Licensee waives all claims, demands, causes of action, and rights it may assert against the Licensor on account of any loss, damage, or injury to any portion of the Small Cell Facility(ies) and/or Equipment, or any loss or degradation of the services provided by the Small Cell Facility(ies) and/or Equipment resulting from any event or occurrence that is beyond the Licensor's reasonable control.

(c) **Contractors and Subcontractors.** The insurance obligations of the Licensee (and its contractors and subcontractors) are separate, independent obligations under this License, and the obligations for defense and indemnity contained in this Article 20 and elsewhere in this Agreement are not intended to modify, nor should they be construed as modifying, or in any way limiting, the insurance obligations set forth in this Agreement. Licensee shall require that its contractors and subcontractors (if any) (including, but not limited to, Crown Castle USA, Inc.) also fully indemnify, defend and hold harmless the Licensor Indemnified Parties to the same extent that Licensee is required to indemnify, defend and hold harmless such Licensor Indemnified Parties.

21. INSURANCE

(a) **Licensee's Insurance.** Upon execution of this Agreement (and each Site Supplement) and, in any event, before commencing any work in the City's ROW, License Area, or any City Pole, Licensee shall obtain and maintain at its sole cost and expense for the duration of this Agreement (and the applicable Site Supplement(s)) and for so long as may be necessary to fully protect the Licensor, and, in any event, at least through the end of any repair period as referenced in Article 11 above, insurance pursuant to the terms and conditions described in this Article 21. On or before entering into the Agreement and any applicable Site Supplement, Licensee shall provide Licensor with complete, certified copies of all required insurance policies, including, but without limitation, endorsements, required by this Agreement.

(b) **Scope and Limits of Insurance.**

(1) **During Construction.** Upon execution of this Agreement (and each Site Supplement), and, in any event, prior to constructing the Small Cell Facility(ies) and Equipment on the License Area and/or any City Pole (including, but not limited to, preconstruction activities), Licensee shall, at its sole cost and expense, procure and maintain (and cause its contractor(s) and subcontractor(s) to procure and maintain) in full force and effect with companies reasonably acceptable to Licensor, so long as may be necessary to fully protect Licensor (and in any event throughout the course of construction and for five years after completion of the work), Workers' Compensation Insurance in accordance with the Laws of California; Employers' Liability

Insurance; Builder's Risk; Commercial General Liability Insurance on an occurrence basis only, including (but not limited to) products, completed operations, contractual liability (including, but not limited to, meeting the indemnification obligations herein), broad form property damage, coverage for explosion, collapse, underground damages, and independent contractors; Comprehensive Automobile Liability Insurance on an "Any Auto" basis covering any and all owned, non-owned and hired automobiles used in connection with the work, the Small Cell Facility(ies), and/or the Equipment; and such other coverage and in the minimum limits as specified below. Such coverage shall fully conform to the requirements of this Article 21.

i. If the subject scope of work includes professional services, including without limitation design or engineering, the design professional shall procure and maintain Professional Errors and Omissions coverage written on a standard industry policy with minimum limits and conforming to the requirements stated below. The policy shall be subject to the approval of Licensor and, upon the request of Licensor, Licensee and/or its contractor(s) shall produce such policy for Licensor's review. Licensee and/or its contractor(s) and subcontractor(s) shall provide Licensor with a certificate of insurance evidencing design professional's Professional Errors and Omissions coverage in accordance with the requirements contained herein.

ii. In addition to the insurance coverages identified and required above, if Licensee (and/or any of its contractors or subcontractors) are required to perform abatement, removal, remediation, transportation or disposal of hazardous, toxic or contaminated material including, but not limited to, asbestos, heavy metals, etc., ("HTC Material"), Licensee (and/or its contractor(s) or subcontractor(s)) must procure and maintain Contractor's Pollution Liability insurance coverage or its equivalent. Such coverage shall carry limits of not less than the limits identified below and shall conform to the requirements of this Article 21, including, without limitation, the additional insured obligation set forth herein. If the Contractor's Pollution Liability coverage is written on a "claims made" policy, it shall have at least a five (5) year extended reporting period beyond completion of the subject work. Coverage shall include an MCS-90 endorsement to Licensee's (or, if applicable, its contractor's or subcontractor's) Comprehensive Automobile Liability policy or an endorsement to the Contractor's Pollution Liability to extend to transportation and hauling of HTC Material.

iii. Commercial General Liability (CGL): coverage at least as broad as Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis only, including products and completed operations, contractual liability (including, but not limited to, meeting the indemnification obligations herein), broad form property damage, damage to licensed area, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence/\$5,000,000 aggregate, \$5,000,000 personal injury liability, \$5,000,000 aggregate for products-completed operations. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be at least twice the required occurrence limit (i.e. at least \$10,000,000).

iv. Automobile Liability on an "Any Auto" Basis: coverage at least as broad as ISO Form Number CA 00 01 covering any auto (Code 1), with limit no less than \$2,000,000 combined single limit each occurrence/per accident for bodily injury and property damage.

v. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease – policy limit, \$1,000,000 disease – each employee. The Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of Licensor (and its officials, officers, directors, employees, volunteers and agents). The insurers shall agree to

waive all rights of subrogation against Licensor and its officials, officers, directors, employees, volunteers, and agents for all work performed by Licensee and its employees, agents, and contractors.

vi. **Builder's Risk (Course of Construction) insurance** utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. Licensee may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the Licensor as a loss payee as their interest may appear.

vii. **Professional Liability** with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. Claims Made policies shall include a five-year extended reporting period beyond completion of the work.

viii. **Contractor's Pollution Liability Limits** with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. Claims Made policies shall include a five-year extended reporting period beyond completion of the work.

ix. **Surety Bonds.** At the time of entering a contract with Licensee for such work and/or services, each contractor engaged by Licensee to perform any work or services for construction in, on, at, or about the License Area, including, but not limited to, any construction, site preparation, utility installation, or landscaping services for the Small Cell Facility(ies) and related Equipment, shall furnish to Licensee, who shall promptly deliver copies of both of the following to Licensor: (A) A faithful performance bond issued by a corporate surety authorized to issue surety insurance in California, in an amount equal to one hundred (100) percent of the contract price payable under the contract securing the faithful performance by the contractor of its contract with Licensee, and in form and content acceptable to Licensor; and (B) A labor and materials payment bond issued by a corporate surety authorized to issue surety insurance in California, in an amount equal to one hundred (100) percent of the contract price payable under the contract securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of the contract and in form and content acceptable to Licensor. The labor and materials payment bond and faithful performance bond referenced herein shall be issued by an insurance organization or surety (1) currently authorized by the Insurance Commissioner to transact business of insurance in the State of California; (2) listed as an acceptable surety in the latest revision of the Federal Register Circular 570; and (3) assigned a Policyholders' Rating A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide: Property-Casualty.

The limits of insurance described herein are not intended as a limitation of liability under this Agreement or any Site Supplement. Licensee (and/or its contractors and subcontractors) may obtain higher limits. If Licensee (or its contractors or subcontractors) maintains higher limits for the insurance policies required under this Agreement than the minimums shown above, the Licensor requires and shall be entitled to coverage for the higher limits maintained on such policies. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Licensor. The limits required herein may be met by a combination of primary and excess or umbrella insurance.

(2) **Throughout Term.** Upon the Effective Date, and, in any event, before Licensee enters the License Area or any City Pole, Licensee shall, at its sole cost and expense, procure and maintain in full force and effect, so long as may be necessary to fully protect Licensor (and, in any event, for no less than the duration of the Agreement and the applicable Site Supplement) insurance

against claims for injuries to persons and/or damages to property which may arise from or in connection with Licensee's operations, access and use of the License Area, City Pole(s), and City's ROW, and the Small Cell Facility(ies) and related Equipment. The cost of such insurance shall be borne by Licensee.

i. Commercial General Liability (CGL): coverage at least as broad as Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including, but not limited to, products and completed operations, contractual liability (including, but not limited to, meeting the indemnification obligations herein), broad form property damage, including damage to licensed area, injury to or destruction of Licensor's property, bodily injury and personal & advertising injury, coverage for explosion, collapse and underground damages, with limits no less than \$2,000,000 per occurrence/\$2,000,000 aggregate, \$2,000,000 personal injury liability, \$2,000,000 aggregate for products-completed operations. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be at least twice the required occurrence limit (i.e. at least \$4,000,000).

ii. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease, \$1,000,000 disease – policy limit, \$1,000,000 disease – each employee. The Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of Licensor (and its officials, officers, directors, employees, representatives, volunteers and agents). The insurers shall agree to waive all rights of subrogation against Licensor and its officials, officers, directors, employees, representatives, volunteers, and agents arising from Licensee's access and/or use of the License Area, City's ROW and City Pole(s).

iii. "All Risk" Property Insurance against all risks of loss or damage to any Licensee Equipment or betterments, personal property, trade fixtures, equipment and/or merchandise located in, on, or upon the License Area, City's ROW and/or City Pole(s) (including, but not limited to, loss resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies). Such insurance shall be maintained with limits no less than \$1,000,000 or in an amount sufficient to cover not less than one hundred percent (100%) of the full replacement value thereof (whichever is greater) with no coinsurance penalty provision. Property insurance coverage shall name the Licensor as the loss payee as its interest may appear.

iv. Automobile Liability: coverage at least as broad as ISO Form Number CA 00 01 covering any auto (Code 1), or if Licensee has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 combined single limit each occurrence/per accident for bodily injury and property damage.

The limits of insurance described herein are not intended as a limitation of liability under this Agreement or any Site Supplement. Licensee may obtain higher limits in its discretion. If Licensee maintains higher limits for the insurance policies required under this Agreement than the minimums shown above, Licensor requires and shall be entitled to coverage for the higher limits maintained on such policies. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Licensor.

(c) **Other Insurance Provisions.** All insurance required to be carried by Licensee (and/or its contractors and subcontractors, if applicable) pursuant to this Article 21 shall be subject to the Licensor's reasonable approval and such insurance shall include the following endorsements and provisions:

(1) Required Endorsements and Provisions. The Commercial General Liability insurance policy (and the Contractor's Pollution Liability policy if the work includes abatement, removal, remediation, transportation or disposal of HTC Material), Automobile Liability insurance policy and any and all excess or umbrella insurance policies are to contain, or be endorsed to contain, the following provisions:

i. Additional Insured Status. The Licensor (the City of Santa Cruz), its officers, officials, directors, employees, agents, representatives, and volunteers are to be covered as additional insureds on the CGL, automobile liability, and any and all excess or umbrella insurance policies with respect to liability arising out of work, activities, use, or operations performed by or on behalf of Licensee, including, but not limited to, materials, parts, and/or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of Licensee. General liability coverage can be provided in the form of an endorsement to Licensee's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

ii. Primary Coverage. For any claims related to this Agreement, any Site Supplement, the License Area, the City's ROW, or any City Pole and/or the improvements located thereon (including, but not limited to, any improvements), Licensee's insurance coverage shall be primary insurance as respects the Licensor, its officers, officials, directors, employees, agents, representatives and volunteers. Any insurance or self-insurance maintained by the Licensor, its officers, officials, directors, employees, agents, representatives or volunteers shall be excess of Licensee's insurance and shall not contribute with it.

(2) Notice of Cancellation. All insurance policies required to be maintained by Licensee under this Agreement and/or the applicable Site Supplement shall be endorsed to provide written notice of cancellation for any reason, including, without limitation, intent not to renew or to reduce coverage to Licensee. The policies shall be endorsed to provide Licensor with ten (10) days prior written notice of cancellation for non-payment of premium and thirty (30) days prior written notice of cancellation when the insurer cancels for any reason other than non-payment of premium. Licensee must provide a copy of any notice of intent to cancel or cancellation of its required coverage to the Licensor within one (1) business day of Licensee's receipt and take prompt action to prevent cancellation, reinstate the cancelled coverage, or obtain it from a different insurer authorized to do business in California and meeting or exceeding and A.M. Best rating of A-: VII or its equivalent.

(3) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Licensor. Licensor may require the Licensee (and/or applicable contractor) to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the Licensor.

(4) Claims Made Policies. If any coverage required is written on a claims-made coverage form: (i) The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work; (ii) Insurance must be maintained and evidence of insurance must be provided for at least the duration of the Agreement (and applicable Site Supplement(s)) and, as applicable, five (5) years after completion of any work; (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, Licensee must purchase

extended reporting period coverage for a minimum of five (5) years after completion of any work; and (iv) A copy of the claims reporting requirements must be submitted to the Licensor for review.

(5) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A-: VII, unless otherwise acceptable to the Licensor.

(6) Waiver of Subrogation. Licensee hereby grants to Licensor a waiver of any right to subrogation which any insurer of said Licensee may acquire against the Licensor by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Licensor has received a waiver of subrogation endorsement from the insurer. Licensee for itself and on behalf of its insurers, hereby waives and releases the Licensor and the additional insureds from liability for injury to any person or damage to property that is caused by or results from any risk covered under any insurance policy required by this Agreement or any other valid and collectible insurance policy otherwise carried by Licensee. Licensee shall obtain a waiver of any subrogation right that its insurers may acquire against any of the additional insureds by virtue of payment of any such loss covered by such insurance. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Licensor (and its officials, officers, directors, employees, representatives, volunteers and agents) for all work performed by Licensee and/or Licensee's Agents, and their respective employees, agents, representatives, contractors and subcontractors.

(7) Verification of Coverage. Licensee shall furnish the Licensor with a certificate of the insurance (ACORD form 25S) and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Agreement and the applicable Site Supplement, satisfactory to Licensor, evidencing that the coverage required under this Agreement and the applicable Site Supplement is in place, stating policy numbers, dates of expiration and limits of liability thereunder, containing the provisions specified herein, and further providing that such policies shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after at least thirty (30) days' prior written notice has been given to Licensor, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium. All certificates and endorsements are to be received and approved by the Licensor before Licensee enters the License Area, City's ROW or any City Pole and before any work on, in, at, or about the License Area, City's ROW or any City Pole commences and thereafter upon renewal of such policies prior to the expiration of the term of such coverage. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement (or the applicable Site Supplement) or failure to identify any insurance deficiency shall not relieve Licensee from, nor be construed or deemed a waiver of, Licensee's obligation to maintain the required insurance at all times during the performance of this Agreement and applicable Site Supplement(s). The Licensor reserves the right to review at its offices complete, certified copies of all required insurance policies, including, but without limitation, endorsements, required by this Agreement or the applicable Site Supplement, at any time upon reasonable prior written notice. Upon the Licensor's request, Licensee will provide complete, certified copies of all required insurance policies (including, without limitation, endorsements) required by this Agreement and the applicable Site Supplement(s) for review at the City's Risk Manager's Office. In addition, in the event of a potential claim, Licensee will immediately supply Licensor with copies of all applicable insurance policies and associated endorsements.

(8) Contractors and Subcontractors. Licensee shall require and verify that all contractors and subcontractors (if any) maintain insurance meeting all the requirements stated in this Article 21. For CGL coverage contractors and subcontractors shall provide coverage at least

as broad as CG 20 38 04 13. Insurance requirements for contractors and subcontractors may be modified with written agreement from the City of Santa Cruz's Risk Manager, depending on the scope of work.

(d) **Surety Bonds.** Licensee shall provide the following Surety Bonds for each and every project under this Agreement and each applicable Site Supplement, including, but not limited to, the Small Cell Facility(ies) and Equipment in, at, on, or about the License Area, the City's ROW, and any City Pole(s): (A) Performance bond, and (B) Payment bond. the Payment Bond and Performance Bond shall meet the requirements of Section 21 (b)(1)(ix) (Surety Bonds) above in a sum equal to the contract price for the subject project or Equipment. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the subject contract is for longer than one year, a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

(e) **Special Risks or Circumstances.** Licensor reserves the right to modify these insurance requirements at any time, including, but not limited to, limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(f) **Failure to Maintain Insurance.** Licensee agrees that if Licensee does not procure, maintain and show evidence of any insurance policy required under this Agreement (or the applicable Site Supplement) or fails to pay any premiums when due, Licensor may, at its election (but without any obligation to do so), either terminate this Agreement (and/or the applicable Site Supplement(s)), require that Licensee immediately cease use of the License Area or subject City Pole pending reinstatement of insurance by Licensee, or obtain the necessary insurance and pay the premium, and the repayment thereof shall be deemed to be Additional Fees due by the Licensee and payable upon demand. Licensor has the right at any time to demand a copy of a Certificate of Insurance from Licensee for the policies of insurance required herein and any other reasonable evidence proving compliance with these provisions (including, but not limited to, endorsements). The failure to provide the Licensor with such evidence within five (5) calendar days of such demand shall constitute a material breach of this Agreement and the applicable Site Supplement.

22. LIMITATION OF LICENSOR'S LIABILITY

(a) **Consequential Damages.** Licensee expressly acknowledges and agrees that the License Fees and Additional Fees or other amounts payable under this Agreement and any Site Supplement do not take into account any potential liability of the Licensor for consequential, special, or incidental damages. The Licensor would not be willing to enter into this Agreement or issue any Site Supplement for use of the License Area or any City Pole in the absence of a complete waiver of liability, to the fullest extent permitted by Law, for consequential, special and/or incidental damages due to the acts or omissions of the Licensor and/or its Agents or Invitees, and Licensee expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification or defense obligations of Licensee or other waivers contained in this Agreement or any Site Supplement and as a material part of the consideration for this Agreement and any Site Supplement, Licensee fully releases, waives, and discharges forever any and all Claims against the Licensor for consequential, special and incidental damages arising out of or relating to this Agreement or any Site Supplement for use of the City's ROW, License Area, or any City Pole, including, but not limited to, loss of business, loss of use, loss of goodwill, and/or lost profits arising from the disruption to the Small Cell Facility(ies) and/or Equipment, and/or any interference with uses conducted by Licensee under this Agreement (and/or any Site Supplement).

(b) **Non-Liability of City Officials, Employees, and Agents.** No elective or appointive board, commission, member, officer, employee, or other Agent of the City will be personally liable to Licensee, its successors and assigns, in the event of any default or breach by the Licensor or for any amount which may become due to Licensee, its successors, and assigns, or for any obligation of the Licensor under this Agreement or any Site Supplement.

23. LICENSOR ACCESS TO LICENSE AREA

(a) **Licensor's Right of Access.** Except as specifically provided otherwise, the Licensor and its designated Agents have the right of access to any part of the License Area, City's ROW and any City Pole(s) at any time without notice for any purpose.

(b) **Emergency Access; Emergency Pole Removal.** In the event of an emergency (as determined by the Licensor), Licensor may need to remove any City Pole. As discussed in Section 10(d) (Emergencies) above, in an emergency, the Licensor's work and needs will take precedence over the operations of any of Licensee's Small Cell Facilities or Equipment on the License Area or City Pole, and the Licensor may access any City Pole (or any other portion of the License Area) that it determines is necessary in its sole discretion in accordance with this Section, whether or not the Licensor has notified Licensee of the emergency. If safe and practicable, the Licensor will notify Licensee of any emergency that requires the Licensor to remove and replace a City Pole and will allow Licensee to remove its Equipment before the Licensor removes or replaces a City Pole in an emergency situation or other exigent circumstances. But if in the Licensor's sole judgment, it is not safe or practicable to wait for Licensee to perform the work or where such delay would cause significant delay to or otherwise compromise public safety or services, the Licensor will remove the Equipment from the City Pole, exercising reasonable care to avoid damage. The Licensor will hold the Equipment for retrieval by Licensee, and Licensee will have the right to reinstall the Equipment or equivalent Equipment at Licensee's expense on the repaired or replaced City Pole in accordance with Article 8 (Installation of Facilities and Equipment). As provided in Section 10(d) (Emergencies), the Licensor's removal of Licensee's Equipment in emergency or exigent circumstances may not be deemed to be a forcible or unlawful entry into or interference with Licensee's rights to the License Area or any City Pole.

(c) **No Liability for Emergency Access.** The Licensor will not be liable in any manner, and Licensee hereby waives any Claims, for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Licensor's entry onto the License Area, including, but not limited to, the removal of Licensee's Equipment from a City Pole, except damage proximately caused directly and exclusively from the sole negligence or willful misconduct of the Licensor and not contributed to by the acts, omissions, or negligence of Licensee, its Agents, or Invitees.

24. REQUIRED RECORDS

(a) **Records of Account.** Licensee shall maintain during the Term and for a period ending three (3) years after the Expiration Date or earlier termination of this Agreement the following records at a place of business within the County of Santa Cruz or in an electronic format: (1) identification and location of all City Poles actively licensed from the Licensor under this Agreement and any Site Supplement; (2) amounts and dates of License Fees (and other amounts payable to the Licensor under this Agreement and any Site Supplement) paid to Licensor; (3) Regulatory Approvals issued for the installation, operation, and maintenance of Licensee's Small Cell Facility(ies) and related Equipment on City Poles; and (4) correspondence with the Licensor concerning any matter covered by this Agreement and/or any Site Supplement. The Licensor, or a

consultant acting on its behalf, will have the right to inspect and audit Licensee's records at Licensee's place of business during regular business hours on 48 hours' notice to Licensee.

(b) **Estoppel Certificates.** Licensee, at any time and from time to time on not less than 15 days' notice from the Licensor, shall execute, acknowledge, and deliver to the Licensor or to any party designated by the Licensor, a certificate of Licensee stating: (1) that Licensee has accepted the License Area (or, if Licensee has not done so, that Licensee has not accepted all or any part of the License Area and specifying the applicable portions of the License Area and reasons for non-acceptance); (2) the Commencement Date of any Site Supplement under this Agreement then in effect; (3) the Effective Date and Expiration Date of this Agreement (and any applicable Site Supplement(s)); (4) that this Agreement and the applicable Site Supplement are unmodified and in full force and effect or, if modified, the manner in which the Agreement or Site Supplement is modified; (5) whether any defenses then exist against the enforcement of any of Licensee's obligations under this Agreement or the applicable Site Supplement (and if so, specifying the same); (6) whether any of the Licensor's obligations under this Agreement or the applicable Site Supplement are outstanding (and if so, identifying any Licensor obligations that Licensee believes that the Licensor has failed to meet); (7) the dates, if any, to which the License Fees and Additional Fees have been paid; and (8) any other information that may be reasonably required by any such persons.

(c) **Regulatory and Bankruptcy Records.** Licensee shall provide to the Licensor without request copies of: (a) any pending applications, communications, or other documents related to any filing by or against Licensee of an action for bankruptcy, receivership, or trusteeship; and (b) all relevant petitions, applications, communications, and reports submitted by Licensee to the FCC, CPUC and/or any other Regulatory Agency having jurisdiction directly related to Licensee's installation or operation of Small Cell Facility(ies) and/or Equipment on City Poles or other property.

25. RULES AND REGULATIONS

Licensee shall faithfully comply during the Term with any and all reasonable rules, regulations, and instructions that the Licensor (or any City department) establishes, as amended from time to time, with respect to use of any part of the License Area, City's ROW, and/or City Pole(s).

26. SECURITY DEPOSIT

Licensee must tender to the Licensor for deposit the sum of \$25,000 as a security deposit (the "**Security Deposit**") to secure Licensee's faithful performance of all terms, covenants, and conditions of this Agreement and the requested Site Supplement(s) to use certain specified City Pole(s) along with Licensee's first Acknowledgment Letter under Section 5(b) (Commencement). Licensee agrees that the Licensor may apply the Security Deposit in whole or in part to remedy any damage to the License Area caused by Licensee, its Agents, or Invitees, or any failure of Licensee to perform any other terms, covenants, or conditions contained herein (including, but not limited to, the payment of License Fees or other sums due under this Agreement and/or any applicable Site Supplement, either before or after a default), without waiving any of the Licensor's other rights and remedies under this Agreement (or the applicable Site Supplement) or at law or in equity. Licensee waives any rights it may have under section 1950.7 of the California Civil Code or any similar Law and agrees that the Licensor may retain any portion of Security Deposit reasonably necessary to compensate the Licensor for any other foreseeable or unforeseeable loss or damage caused by the acts or omissions of Licensee, its Agents, or Invitees. Licensee understands and agrees that the

Licensor may apply some or all of the Security Deposit to the payment of future License Fees, Additional Fees, and other amounts payable to the Licensor under this Agreement and/or the applicable Site Supplement following a Licensee event of default. The Licensor's obligations with respect to the Security Deposit are solely that of a debtor and not of a trustee. The Licensor is not required to keep the Security Deposit separate from its general funds, and Licensee is not entitled to interest on the Security Deposit. The amount of the Security Deposit in no way limits the liabilities of Licensee under any provision of this Agreement or any Site Supplement granted hereunder for use of a City Pole. Should the Licensor use any portion of the Security Deposit to cure any default by Licensee under this Agreement or the applicable Site Supplement, Licensee will be required to replenish the Security Deposit in the amount and by the date that the Licensor specifies by notice to Licensee. The Licensor also has the right in its reasonable judgment to increase the amount of the Security Deposit from time to time based upon the Licensor's assessment of Licensee's past use of the License Area.

27. SURRENDER OF LICENSE AREA

(a) **Surrender.** No later than 30 days after the Expiration Date or other termination of this Agreement or any Site Supplement granted hereunder for use of a specified City Pole, Licensee shall peaceably remove its Small Cell Facility(ies) and Equipment from applicable portion of the License Area and surrender it to the City in good order and condition, normal wear and tear excepted, free of debris and hazards, and free and clear of all liens and encumbrances subject to the provisions of Section 9(b) (relating to title to certain improvements) and Article 12 (Removal and Relocation). Licensee's obligations under this Article will survive the Expiration Date or other termination of this Agreement and the applicable Site Supplement.

(b) Holding Over.

(1) With Consent. Any holding over after the Expiration Date with the express written consent of the Licensor will be construed to automatically extend the Term of this Agreement for the period specified in such written consent at a License Fee equal to 150% of the License Fee in effect immediately before the Expiration Date, and the Agreement otherwise will be on and subject to all of its express terms and conditions.

(2) Without Consent. Any holding over without the Licensor's consent will be a default by Licensee and entitle the Licensor to exercise any or all of its remedies, even if the Licensor elects to accept one or more payments of License Fees, Additional Fees, or other amounts payable to the Licensor from Licensee after the Expiration Date.

28. HAZARDOUS MATERIALS

(a) **Hazardous Materials in License Area.** Licensee covenants and agrees that neither Licensee nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated, disposed of, or Released in, on, under, at, above, or about the License Area, the City's ROW, any City Pole, or any other City Property, or transported to or from any City Property in violation of Environmental Laws, except that Licensee may use small quantities of Hazardous Materials as needed for routine operation, cleaning, and maintenance of Licensee's Equipment that are customarily used for routine operation, cleaning, and maintenance of such equipment and so long as all such Hazardous Materials are contained, handled, and used in strict and full compliance with Environmental Laws. Licensee shall immediately notify the Licensor if and when Licensee learns or has reason to believe any Release of Hazardous Material

has occurred in, on, under, at, above, or about the License Area, the City's ROW, any City Pole, or other City Property.

(b) **Licensee's Environmental Indemnity.** If Licensee breaches any of its obligations contained in this Article 28 (Hazardous Materials), or if any act, omission, or negligence of Licensee or any of its Agents or Invitees results in any contamination of the License Area, City's ROW, any City Pole, or other City Property, or in a Release of Hazardous Material from, on, about, in, at, under, or beneath any part of the License Area, City's ROW, any City Pole, or other City Property, or the violation of any Environmental Law, then Licensee, on behalf of itself and its successors and assigns, shall, to the fullest extent permitted by Law, indemnify, defend and hold harmless the Licensor and other Licensor Indemnified Parties, and their respective successors and assigns from and against any and all Claims (including, but not limited to, damages for decrease in value of the License Area, City's ROW, any City Pole, or other City Property, the loss or restriction of the use of usable space in the License Area, City's ROW, any City Pole, or other City Property and sums paid in settlement of Claims, attorneys' fees and costs, consultants' fees, and experts' fees and related costs) arising during or after the Term relating to such Release or violation of Environmental Laws; provided, however, Licensee shall not be liable for any Claims for which it is established that the such Release was proximately caused by the sole negligence or willful misconduct of the Licensor. Licensee's indemnification, defense and hold harmless obligations includes, without limitation, costs incurred in connection with any activities required to Investigate and Remediate any Hazardous Material brought onto, in, at, about, or under the License Area, the City's ROW, any City Pole, or other City Property by Licensee or any of its Agents or Invitees and to restore the License Area, City's ROW, City Pole(s), or other City Property to its condition prior to Licensee's introduction of such Hazardous Material or to correct any violation of Environmental Laws. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Licensor and the other Licensor Indemnified Parties from any Claim that actually or potentially falls within this indemnity, defense and hold harmless provision even if the allegations supporting the Claim are or may be groundless, fraudulent, or false, which obligation arises at the time such Claim is tendered to Licensee by the Licensor Indemnified Party and continues until the Claim is finally resolved. Without limiting the foregoing, if Licensee or any of its Agents or Invitees causes the Release of any Hazardous Material on, at, about, in, or beneath the License Area, the City's ROW, any City Pole, or other City Property, then in any such event Licensee shall, immediately, at no expense to any Licensor Indemnified Party, take any and all necessary actions to return the License Area, City's ROW, City Pole, or other City Property, as applicable, to the condition existing prior to the Release of any such Hazardous Materials on the License Area, City's ROW, City Pole, or other City Property or otherwise abate the Release in accordance and full conformance with all Environmental Laws, unless such Release was proximately caused by the sole negligence or willful misconduct of the Licensor. Licensee shall afford the Licensor a full opportunity to participate in any discussions with Regulatory Agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

29. FREQUENCY INTERFERENCE.

(a) Licensee shall use its best efforts to operate its communications equipment in a manner that is consistent with all applicable frequencies assigned to it by the FCC, if any, and in compliance with all applicable FCC rules, standards, and regulations.

(b) Licensee will not cause, permit or allow the installation, operation, maintenance or use of the Small Cell Facility(ies) and/or related Equipment, or any other equipment installed pursuant to this Agreement or any Site Supplement to interfere with: (1) any Licensor use of its Property; (2)

Licensors equipment used at its Property; (3) Licensor communications; and/or (4) or any pre-existing third party uses of the License Area or any other City Property, including, but not limited to uses of communications equipment, which uses were authorized or planned by Licensor prior to the execution of this Agreement.

(c) Licensee shall ensure that its use of the Small Cell Facility(ies) and related Equipment does not interfere with any communication transmissions in the vicinity of the License Area, including without limitation, the City's public safety transmissions, police and fire communications, the Licensor's internal or external communications, or communications by the Licensor's tenants. Licensee shall operate the Small Cell Facility(ies) and related Equipment in such a manner that all communications sent or received by the Small Cell Facility(ies) and Equipment shall be separated from all Licensor (and City department) communications frequencies, including without limitation, City communications listed in the preceding sentence, by at least 1 megahertz.

(d) If Licensee's construction, installation, maintenance, operation, use, relocation, or removal of the Small Cell Facility(ies) and Equipment violates the requirements of this Article 29, Licensee shall immediately (and at its sole cost and expense) eliminate such violation or interference.

30. GENERAL PROVISIONS

(a) **Governing Law.** This Agreement and all Site Supplements shall be interpreted and enforced according to, and the Parties' rights and obligations governed by, the domestic law of the State of California, without regard to its laws regarding choice of applicable law. Any proceeding or action to enforce this Agreement and/or any Site Supplement shall occur in the federal court with jurisdiction over Santa Cruz County or the state courts located in Santa Cruz County, California.

(b) **Compliance with Local Ordinances.** Nothing in this Agreement or any Site Supplement shall be interpreted to limit the authority of the City to adopt, from time to time, ordinances, rules and regulations that are generally applicable to occupants of the City's ROW that it determines necessary in the exercise of the City's governmental powers. Licensee shall abide by any ROW Laws that do not conflict or are otherwise preempted by state or federal law.

(c) **Expenses.** Licensee shall bear any and all costs and expenses associated with any work performed by Licensee or its Agents, and/or any costs, liabilities, and/or expenses incurred by Licensee relating to this Agreement and/or any Site Supplement.

(d) **Notices.** All notices to be given by one Party to the other shall be in writing, mailed or personally delivered to Licensor and Licensee at the following addresses:

To CITY: City of Santa Cruz
Public Works Department
809 Center Street, Room 201
Santa Cruz, California 95060
Attn: Director of Public Works
Telephone: (831) 420-5160

With a mandatory copy which shall not constitute legal notice to:

Office of the City Attorney
City of Santa Cruz

333 Church Street
Santa Cruz, California 95060
Telephone: (831) 420-6200

To LICENSEE: CROWN CASTLE NG WEST LLC
c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: Ken Simon, General Counsel
Telephone: (724) 416-2000

with a copy which shall not constitute legal notice to:

CROWN CASTLE NG WEST LLC
c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: Small Cell Contracts Administration
Telephone: (724) 416-2000

Mailed notices shall be sent by United States Postal Service, commercial overnight courier service, or certified or registered mail, postage prepaid, and shall be deemed to have been given on the date of posting in the United States Postal Service. Either Party may, by proper notice, at any time designate a different address to which notices shall be sent

(e) **Binding Effect.** This Agreement and the applicable Site Supplement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors, assigns and transferees.

(f) **Not an Agent of the City/Licensor.** Nothing in this Agreement or any Site Supplement shall be construed to render Licensor in any way or for any purpose a partner, joint venturer, or associate in any relationship with Licensee other than that of Licensor and Licensee, nor shall this Agreement or any Site Supplement be construed to authorize Licensee or any of its Agents to act as an agent or employee for Licensor for any purpose.

(g) **Conflict of Interest.** Licensee shall avoid all conflict of interest or the appearance of conflict of interest in the performance of this Agreement and any Site Supplement.

(h) **Nondiscrimination.** Licensee and its Agents shall not discriminate against any person because of race, color, religion, ancestry, age, sex, national origin, disability, genetic information, sexual preference, housing status, marital status, familial status, weight, height, or any other legally protected characteristic of such person. Licensee shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, disability, genetic information, sexual preference, housing status, marital status, familial status, weight, height, or other legally protected characteristic of such person. Licensee covenants that in all of the activities Licensee conducts or allows to be conducted on, in, at or about the City's ROW, License Area, and/or City Pole, Licensee shall accept and enforce the statements of policy set forth in the Municipal Code regarding discrimination. If Licensee is found in violation of the nondiscrimination provision of the Municipal Code or the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the conduct of its activities under this Agreement or any Site Supplement by the State of California Department of Fair

Employment and Housing or the equivalent federal agency or officer, it shall thereby be found in default under this Agreement (and the applicable Site Supplement), and such default shall constitute a material breach of this Agreement (and the applicable Site Supplement). The Licensor shall then have the power to cancel or suspend this Agreement (and the applicable Site Supplement) in whole or part.

(i) **Severability.** If any one or more of the provisions of this Agreement or a Site Supplement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision or provisions shall be deemed separable from the remaining provisions of this Agreement and the applicable Site Supplement and shall in no way affect the validity of the remaining portions of this Agreement or the applicable Site Supplement.

(j) **Captions and Paragraph Headings.** Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement or any Site Supplement and shall not be used in construing this Agreement or any Site Supplement.

(k) **Authority.** The signer of this Agreement for the Licensee and the Licensor hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of the Licensee or the Licensor, respectively.

(l) **Drafting.** The Parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wording or language of any kind shall not be construed against the drafting Party in accordance with California Civil Code Section 1654, and that each party to this Agreement waives the effect of such statute.

(m) **Exhibits.** All Exhibits referenced in this Agreement are hereby incorporated as though set forth in full herein.

(n) **Entire Agreement; Modification; Waiver.** This Agreement and the exhibits incorporated herein, any Site Supplement(s), and the required Regulatory Approvals constitute the entire agreement between the Parties relating to the subject matter hereof. All prior and contemporaneous agreements, representations, negotiations, and understandings of the Parties, oral or written, relating to the subject matter hereof, are merged into and superseded by this Agreement. Any modification or amendment to this Agreement (or any Site Supplement) shall be of no force and effect unless it is in writing and signed by the Parties. No waiver of any of the provisions of this Agreement (or any Site Supplement) shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit either Party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the Party making the waiver.

(o) **Counterparts.** This Agreement may be executed in multiple counterparts, each of which is an original. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all Parties.

(p) **Further Assurances.** The Parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional

document(s), however, may alter the rights or obligations of the Parties as contained in this Agreement.

(q) **Time of the Essence.** Time is, and shall be, of the essence for each term and provision of this Agreement.

(r) **No Waiver.** The Parties do not intend, and nothing in this Agreement (or any Site Supplement) shall be interpreted as, a waiver of any of the Licensor's or Licensee's rights under state and/or federal law, including, but not limited to, Public Utilities Code section 7901 and 7901.1, Government Code section 50030, Section 332 of the Telecommunications Act (47 U.S.C. § 332), and Article 11, sections 5 and 7, of the California constitution.

(s) **Prevailing Wage.** To the extent applicable by Law to Licensee's (or its Secondary Parties') work or activities under this Agreement and the applicable Site Supplement, Licensee (and/or the subject Secondary Party) shall pay prevailing wages and fully comply with all applicable prevailing wage Laws.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF SANTA CRUZ

CROWN CASTLE NG WEST LLC

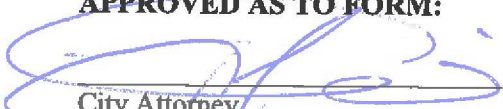
(Signature)

(Signature)

Printed Name: _____
Title: _____
Date: _____

Printed Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:



City Attorney

**EXHIBIT A
SITE SUPPLEMENT**

This Site Supplement is made this _____ day of _____, 20____ by and between the City of Santa Cruz, a municipal corporation ("**City**" or "**Licensor**"), and Crown Castle NG West LLC, a Delaware limited liability company ("**Licensee**") (Licensor and Licensee are at times collectively referred to hereinafter as the "**Parties**" or individually as the "**Party**") pursuant to that certain MASTER LICENSE AGREEMENT BETWEEN THE CITY OF SANTA CRUZ AND CROWN CASTLE NG WEST LLC, FOR THE USE OF CITY POLES AND RIGHTS-OF-WAY FOR SMALL CELL FACILITIES POLE INSTALLATION ("**Master Agreement**") dated _____, 20____ between the Parties.

All of the terms and conditions of the Master Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Master Agreement. In the event of any conflict, contradiction, modification or inconsistency between the terms of the Master Agreement and this Site Supplement, the terms of this Site Supplement shall prevail and control. Capitalized terms used in this Site Supplement shall have the same meanings as such terms are defined in the Master Agreement unless otherwise expressly indicated herein.

Site Supplement No. _____

Site Location (Address or Intersection): _____

APN: _____

Location Description and Maps: See Exhibits A-1 and A-2

Construction Drawings, Plans and Specifications: See Exhibit A-2

Equipment List for Small Cell Facility(ies): See Exhibits A-1 and A-2

Licensor Contact Information:

City of Santa Cruz
Public Works Department
809 Center Street, Room 201
Santa Cruz, California 95060
Attn: Director of Public Works
Telephone: (831) 420-5160

Licensee Local Contact Information: _____

Certificate of Insurance and Endorsements: (to be attached)

1. Project Description and License Area. Licensee shall have the right to use the specific portion of the City's ROW and City Pole(s) for Licensee's Small Cell Facility(ies) and associated Equipment as further specified and described in **Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area)** attached hereto and incorporated herein (the "**Licensed Area**").

2. Equipment. The Equipment to be installed at, on, in, and/or about the Licensed Area and City Pole(s) is described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein.
3. Term. The term of this Site Supplement shall be coterminous with the Master Agreement, the Term of which is set forth in Article 4 of the Master Agreement.
4. Fees. The Administrative and Transactional Fees (initial deposit) and Annual License Fee for the Small Cell Facility(ies) and Equipment governed by this Site Supplement are set forth in Exhibit A-3 (Administrative and Transactional Fees and License Fee Schedule) and determined in accordance with the Master Agreement. Such fees are subject to adjustment as provided in the Master Agreement.
5. Ratification of Master Agreement. Except as supplemented and modified in this Site Supplement, all of the terms, conditions, covenants, provisions, and representations contained in the Master Agreement shall remain in full force and effect and are hereby ratified, confirmed, reaffirmed and republished in all respects and the Master Agreement is deemed supplemented and modified to reflect the terms and supplements set forth in this Site Supplement.
6. Effective Date. This Site Supplement is executed and effective as of the last date written below and, upon execution will be the Licensor's authorization for the City Public Works Department and Planning and Community Development Department (as applicable) to begin its/their review
7. Licensee acknowledges that: (a) this Site Supplement will not be effective until the Licensor returns a fully executed copy of this Site Supplement to Licensee; (b) the Licensor may require Licensee to supplement the Administrative and Transactional Fee and Security Deposit pursuant to the terms and conditions set forth in Articles 5 (License Fees; Administrative Fees; Additional Fees and Other Charges) and 26 (Security Deposit) of the Master Agreement; and (c) Licensee will not have the right to access, use, occupy or install Small Cell Facility(ies) or Equipment on, in, at or about the License Area or any City Pole until after: (i) Licensee has obtained all Regulatory Approvals necessary for the Permitted Use on the subject License Area; (ii) Licensee has submitted a complete Acknowledgement Letter to the Licensor with all information and funds required; (iii) Licensee has submitted to the Licensor evidence of insurance as specified in Article 21 (Insurance) of the Master Agreement; and (iv) Licensor has given Licensee notice to proceed by delivering the countersigned copy of the Acknowledgment Letter or letter confirming the Commencement Date under Section 5(b) (Commencement) of the Master Agreement.
8. Misc. The section headings contained in this Site Supplement are for convenience only and shall in no manner be construed as part of this Site Supplement. This Site Supplement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

[signatures on following page]

CITY OF SANTA CRUZ

CROWN CASTLE NG WEST LLC

(Signature)

Printed Name: _____

Title: _____

Date: _____

(Signature)

Printed Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

For City Use Only

Zone: _____

Site Supplement Effective Date: _____ Initial Payment Amount Due: _____

Additional Provisions: _____

EXHIBIT A-1

SMALL CELL FACILITY(IES), PROJECT DESCRIPTION, AND LICENSE AREA

Licensee: _____ Date: _____

License#: _____

Licensee Project Manager: _____

Licensee's On-Call Representative: _____

Pole Location(s)/ License Area(s):

Licensee Site ID #	Communication Coordinates	Site	GIS	Type and Description of Small Cell Facility(ies)

Pole Type	Pole Alteration	Attachment Height	Attachment Weight	Attachment Dimensions	Location of Equipment Shelter
[City Pole] [Historic or decorative Pole]	[Pole Reinforcement] [Pole Replacement] [New Pole]				[Installed on Pole] [Installed on Ground] [Installed underground] [Other Location]

LICENSEE SHALL PROVIDE THE FOLLOWING IF/AS APPLICABLE:

- Site plan and engineering design and specifications for installation of the Small Cell Facility(ies) and all associated Equipment, including the location of radios, antenna facilities, transmitters, equipment shelters, cables, conduit, point of demarcation, backhaul solution,

electrical distribution panel, electric meter, and electrical conduit and cabling. Where applicable, the design documents should include specifications on design, pole modification, and ADA compliance.

- Include documentation from the City verifying that the subject City Pole(s) is eligible for attachment. Also include a load bearing study that determines whether the City Pole requires reinforcement or replacement in order to accommodate attachment of Small Cell Facility. If pole reinforcement or replacement is warranted, the design documents should include the proposed pole modification. Any such modification shall be subject to Licensor's approval and shall be at Licensee's sole cost and expense.
- If the proposed installation will require reinforcement or replacement of an existing City Pole, provide applicable design and specification drawings.
- The number, size, type and proximity to the facilities of all communications conduit(s) and cables to be installed.
- Description of the utility services required to support the facilities to be installed.
- All necessary permits and letters of authorization from all affected parties.
- List of the contractors and subcontractors (including, but not limited to, each contractor and subcontractors CA license number and DIR registration number), and their contact information, authorized to work on the project.

LICENSEE REPRESENTATIVE: _____

PRINT NAME: _____

TITLE: _____

_____ **FOR CITY USE ONLY** _____

RECEIPT DATE: _____ **APPLICATION NO.:** _____

APPROVED BY: _____

PRINT NAME: _____

TITLE: _____

APPROVAL DATE: _____

**EXHIBIT A-2
LICENSEE'S PLANS AND SPECIFICATIONS**

[Licensee to attach plans and specifications for all Small Cell Facilities and associated Equipment, including, but not limited to, required and permitted signage, to this cover sheet and submit with application]

EXHIBIT A-3
ADMINISTRATIVE AND TRANSACTIONAL FEES AND LICENSE FEE SCHEDULE

Administrative and Transactional Fees

Initial Deposit: \$9,500

Plus any additional costs, fees and expenses incurred by the Licensor in excess of such Initial Deposit: _____

Estimated License Fee Schedule

Annual License Fee Per Pole for 2017 (Maximum of 2 antennas per City Pole)	\$1,500 (Subject to increase as provided in Article 5 of the Agreement)
Annual License Fee Per Pole for 2018 (Maximum of 2 antennas per City Pole)	\$1,560
Annual License Fee Per Pole for 2019 (Maximum of 2 antennas per City Pole)	\$1,622.40
Annual License Fee Per Pole for 2020 (Maximum of 2 antennas per City Pole)	\$1,687.30
Annual License Fee Per Pole for 2021 (Maximum of 2 antennas per City Pole)	\$1,754.79

Initials of Licensee _____

EXHIBIT B
FORM OF ACKNOWLEDGEMENT LETTER

[Date]

City of Santa Cruz
Public Works Department
809 Center Street, Room 201
Santa Cruz, California 95060
Attn: Director of Public Works
Telephone: (831) 420-5160

Re: Master License Agreement Between the City of Santa Cruz and Crown Castle NG West LLC, for the Use of City Poles and Rights-of-Way for Small Cell Facilities Pole Installation
Site Supplement No. _____

Dear Director of Public Works:

This letter is issued in reference to the Master License Agreement Between the City of Santa Cruz and Crown Castle NG West LLC, for the Use of City Poles and Rights-of-Way for Small Cell Facilities Pole Installation, dated _____ ("Master Agreement") and the above-referenced Site Supplement between the City of Santa Cruz ("Licensor") and Crown Castle NG West, LLC ("Licensee"). This will confirm the following: (1) that Licensee has obtained all Regulatory Approvals required for the Permitted Use under the Master Agreement and this Site Supplement, copies of which are attached to this letter, as specified below; and (2) the Commencement Date of this Site Supplement is _____, 20____, which is the earlier of: (i) the first anniversary of the Effective Date of this Site Supplement; and (ii) the first day of the month after Licensee obtained all Regulatory Approvals necessary for the Permitted Use on the subject License Area.

This letter also confirms that Licensee has submitted all required insurance information to the Licensor in compliance with Article 21 (Insurance) of the Master Agreement. A check for the Security Deposit (if not already provided), Administrative and Transactional Fees (initial deposit), and the License Fee for the first Site Supplement Year of this Site Supplement is attached (or has been wired to the Licensor).

Please acknowledge Licensor's receipt of this letter and the items listed below, and issue Licensor's approval for Licensee to begin installation of the Small Cell Facility(ies) and Equipment on the specified City Pole(s) and License Area(s) by signing and returning a copy of this letter.

Sincerely

Name: _____
Title: _____

Enc.

- ☐ Encroachment Permit
- ☐ [List other Regulatory Approvals]
- ☐ [List other Regulatory Approvals]
- ☐ [List other Regulatory Approvals]
- ☐ Insurance certificates and endorsements
- ☐ Contractor's bonds and insurance certificates
- ☐ Security Deposit
- ☐ First Year's License Fee
- ☐ Administrative and Transactional Fees (Initial Deposit)
- ☐ Emissions Report

Dear Licensee:

This countersigned copy of your Acknowledgment Letter serves as Licensor's notice to Licensee that Licensor has: (1) received the Security Deposit (if not already provided), Administrative and Transactional Fees (initial deposit), and the License Fee for the first Site Supplement Year of this Site Supplement; (2) approved the requested City Pole Locations and the plans and specifications for installation of the Small Cell Facility(ies) and Equipment on the License Area; (3) received satisfactory evidence of insurance, including, without limitation, contractors' insurance and bonds; and (4) received copies of the Regulatory Approvals listed above, as well as a copy of the Emissions Report.

Licensor concurs with the Commencement Date for this Site Supplement as specified above. [alternative: After reviewing the Regulatory Approvals, Licensor has determined that the correct Commencement Date for this Site Supplement is: _____, 20 ____.] The Administrative and Transactional Fees and License Fee Schedule for the Site Supplement is attached to the Site Supplement and hereto.

Licensee is authorized to proceed with the installation of the Small Cell Facility(ies) and Equipment on the License Area identified in the Site Supplement and Exhibit A-1 (Small Cell Facility(ies), Project Description, and License Area) attached thereto in accordance with the Approved Plans and other requirements of the Master Agreement.

By: _____
Martin Bernal, City Manager

Date: _____

Enc.

[] Administrative and Transactional Fees and License Fee Schedule