

17 MUNICIPAL ACCESS AGREEMENT

This Municipal Access Agreement (the "**Agreement**") shall be effective as of the 17 day of March 2022 (the "**Effective Date**").

B E T W E E N :

(the "**Municipality**")

[•**Vermilion**]

- and -

Alberta Broadband Networks GP

("the **Company**")

(Each, a "**Party**" and, collectively, the "**Parties**")

RECITALS:

- A. **WHEREAS** the Company wishes to construct and operate a broadband network in the Municipality and the Municipality owns, directs or controls municipal rights-of-way within the Municipality except for those that are under the direction and control of the Province of Alberta; and
- B. **WHEREAS** in order to construct and operate a broadband network the Company must construct, maintain and operate its Equipment in, on, over, under, across or along ("**Within**") the highways, streets, road allowances, lanes, bridges or viaducts which are under the jurisdiction of the Municipality (collectively, "**Rights-of-Way**" or "**ROWS**") or on other Municipal Structures agreed to by the Parties; and
- C. **WHEREAS** the Company requires the Municipality's consent to construct its Equipment within the ROWs and the Municipality is willing to grant the Company a non-exclusive right to access and use the ROWs.
- D. **WHEREAS** the Parties have agreed that it would be mutually beneficial to outline the terms and conditions pursuant to which the Municipality hereby provides its consent; and
- E. **NOW THEREFORE** in consideration of the mutual terms, conditions and covenants contained herein, the Parties agree and covenant with each other as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

- (a) **"Costs"** means the reasonable and verifiable costs and expenses of either Party.
- (b) **"Emergency"** means an unforeseen situation where immediate action must be taken to preserve the environment, public health, safety or an essential service of either of the Parties.
- (c) **"Equipment"** means the transmission and distribution facilities owned by or under the direction and control of the Company, comprised of fibre optic, coaxial or other nature or form of cables, pipes, conduits, poles, ducts, manholes, handholds, wireless equipment and ancillary structures, accessories, structures, and devices used for the transmission of wireless communications including telecom hut infrastructure and all other equipment used for the purpose of Telecommunications. Equipment may be installed in the ROW, attached to buildings, or in the case of telecom hut infrastructure, constructed in secure enclosures on Municipal property along the backbone of the Equipment route.
- (d) **"Hazardous Substance"** means any harmful substance including, without limitation, electromagnetic or other radiation, contaminants, pollutants, dangerous substances, dangerous goods and toxic substances, as defined, judicially interpreted or identified in any applicable law (including the common law).
- (e) **"Municipal Structures"** means buildings or property other than ROWs owned by the Municipality for which the Municipality has provided Municipal Consent.
- (f) **"Permit"** means a Municipal consent respecting a Utility Line Assignment (ULA) Application or a Right of Way Construction Activity Permit or both, and "Permits" has the corresponding meaning.
- (g) **"Service Drop"** means a cable for the sole purpose of connecting the backbone of the Equipment to not more than one individual customer or building point of presence or property, and "Service Drops" has the corresponding meaning.
- (h) **"Work"** means, but is not limited to, any installation, removal, construction, maintenance, repair, upgrade, replacement, relocation, operation, adjustment or other alteration of the Equipment performed by the Company Within the Municipal and Utility ROWs, or on Municipal Structures, including the excavation, repair and restoration of the ROWs.
- (i) **"Work on Municipal Structures"** meaning the installation, removal, construction, maintenance, repair, replacement, relocation, operation, adjustment or other alteration of all Equipment whether or not attached to Municipal Structures with respect to telecommunication equipment, including any necessary attachments.

- 1.2 **Recitals and Schedules.** The Recitals and Schedules annexed hereto are incorporated by reference and form part of this Agreement:

Schedule A – Permits Required by the Municipality

Schedule B – Relocation Costs

Schedule C – Work on Municipal Structures

1.3 In the event of any conflict or inconsistency, the terms in the body of this Agreement shall take precedence over any terms in the Schedules.

2. USE OF RIGHTS OF WAYS (ROWS)

2.1 **Consent to use.** The Municipality hereby consents to the Company's use of the Municipal and Utility ROWs for the purpose of performing its Work, subject to the terms and conditions of this Agreement and in accordance with all applicable municipal bylaws, rules, policies, standards and guidelines ("**Municipal Design and Construction Standards**") pertaining to the Equipment and the use of the ROWs and Municipal Structures.

2.2 **Proviso.** Notwithstanding Section 2.1, to the extent that any Municipal Design and Construction Standards are inconsistent, the terms of this Agreement take priority.

2.3 **No ownership rights.** The Parties acknowledge and agree that the use of the ROWs or Municipal Structures under this Agreement shall not create nor vest in the Company any ownership or property rights in the ROWs or Municipal Structures and the placement of the Equipment Within the ROWs shall not create or vest in the Municipality any ownership or property rights to the Equipment.

2.4 **Condition of ROWs.** The Municipality makes no representations or warranties as to the state of repair of the ROWs and Municipal Structures and the Company agrees to accept the ROWs and Municipal Structures on an "as is" basis.

2.5 **Damage.** The Company shall notify the Municipality of any damage caused by the Company in connection with the Work or Equipment and shall forthwith repair such damage at its own cost. In the event that repairs are not made within a reasonable period of time, the Municipality will notify the Company and may undertake such reasonable work to repair, and the Company shall reimburse the Municipality within thirty (30) days of receiving an invoice.

2.6 **No Liens.** The Company shall not permit any lien to be filed or registered against any ROWs.

2.7 **General Construction Standards and Specifications.** The Company shall comply with the following requirements when carrying out the Work:

- (a) All buried facilities shall be at a minimum depth 0.6 to 1.0 metres below the existing grade in urban areas and at a depth of at least 1.0 metres below the existing grade on all road crossings, as defined by the Municipality.
- (b) Construction of proposed underground facilities will be by either directional drilling, open cut, or by Equipment being placed in existing third-party duct as negotiated.
- (c) All underground construction will follow generally accepted civil engineering and construction standards, the Municipal Design and Construction Standards or as specified

by the Municipality. The company will refer to the same standards as the City of Lloydminster, AB.

3. PERMITS TO CONDUCT WORK

3.1 Where Permits required.

- (a) Work within the Utility and municipal ROWs by is subject to the requirements of the Municipality as set out in Schedule A.
- (b) For each Permit the Company shall submit to the Municipality a completed application, in a form(s) specified by the Municipality. The Municipality will determine the Permit fee based on the scope of Work.

3.2 **No Permits for routine Work.** Notwithstanding Section 3(1), the Company may, with advance notice to the Municipality:

- (a) utilize existing ducts or similar structures of the Equipment,
- (b) carry out routine maintenance and field testing to its Equipment;
- (c) install and repair Service Drops on private property and with 1m of property to access service vault.
- (d) repair, replace or upgrade Equipment attached to Municipal Structures or located within secured telecom infrastructure huts, provided that:
 - i. in no case shall the Company break up or otherwise disturb the physical surface of the ROW without the Municipality's prior written consent.
 - ii. such routine Work will not have any impact on the flow of both pedestrian or vehicular traffic, and if in the Municipality's sole discretion, it does create such an impact, the Municipality can require a ROWCAP; and
 - iii. such routine Work will not change any Equipment size or location.

3.3 **Expiry of Permit.** In the event that the Company has not commenced construction of the approved Work within six (6) months of the date of issuance of a Permit and has not obtained an extension, which extension shall not be unreasonably withheld, the Permit shall be null and void. In such circumstances, fees paid in respect of the expired Permit shall not be refunded.

3.4 **Restoration of the Company's service during Emergencies.** Notwithstanding Section 3.1, in the event of an Emergency, the Company shall be permitted, provided that the Company gives notice to the Municipality as soon as reasonably practicable, to perform such remedial Work as is reasonably necessary to restore its services without complying with Section 3.1; provided that the Company does comply with Section 3.1 within five (5) business days of completing the Work.

4. MANNER OF WORK

- 4.1 **Compliance with Applicable Laws, etc.** All Work shall be conducted and completed to the satisfaction of the Municipality and in accordance with the applicable laws, bylaws, rules, regulations and guidelines of any federal, provincial, municipal or other competent authority for the time being in force (including, but not limited to, all laws and codes relating to occupational health and safety.
- 4.2 **Coordination of Work.** The Company shall use reasonable efforts to minimize the necessity for road cuts, construction and the placement of new Equipment within the ROWs by coordinating its Work and sharing support structures with other existing and new occupants of the ROWs.
- 4.3 **Utility co-ordination committee.** The Company shall participate and have an open line of communication in any utility co-ordination committee established by the Municipality and contribute its equitable share of the reasonable costs of the operation and administration of the committee. This communication will be a regular scheduled meeting with all required stakeholders.
- 4.4 **Emergency contact personnel.** The Company and the Municipality shall provide to each other a list of 24-hour emergency contact personnel, available at all times, including contact particulars, and shall ensure that the list is kept current.
- 4.5 **Emergency work by Municipality.** In the event of an Emergency, the Municipality shall contact the Company and, as circumstances permit, allow the Company a reasonable opportunity to remove, relocate, protect or otherwise deal with the Equipment, having regard to the nature of the Emergency. Notwithstanding the foregoing, the Municipality may take all such measures it deems necessary to address the Emergency and otherwise re-establish a safe environment.
- 4.6 **Where Equipment is located incorrectly.** Where the location of any portion of the Equipment in a ROW is located outside a distance of 0.5 metres horizontally (centre-line to centre-line) from the location approved in the Permit or as shown on the as-built drawings (as accepted by the Municipality) and, as a result, the Municipality is unable to install its facilities within the affected ROWs in the manner it expected as a result, the Parties will work to resolve the conflict and the Company may be required to pay any added costs of the Municipality that result.
- 4.7 **Agents and Sub-contractors.** Each Party agrees to work with the other Party directly to resolve any issues arising from any the acts, omissions or performance of its agents and sub-contractors.
- 4.8 **Workers' Compensation Board Coverage.** The Company agrees that it shall at its own expense procure and carry or cause to be procured and carried and paid for, full Workers' Compensation Board coverage for itself and all workers, employees, contractors, servants, agents and others engaged in or upon any Work.
- 4.9 **Compliance with Health and Safety Laws, Suspension of Work.** The Municipality may suspend Work performed by or on behalf of the Company on any part of the ROWs where conditions of danger exist that would likely result in injury to any person. Such suspension shall continue until the lack of compliance or danger is eliminated.

5. REMEDIAL WORK

- 5.1 **General.** Following the completion of any Work, the Company shall leave the ROW in a neat, clean, and safe condition and free from nuisance, all to the satisfaction of the Municipality. Where the Company is required to break or otherwise disturb the surface of a ROW to perform its Work, it shall repair and restore the surface of the ROW to substantially the same condition it was in before the Work was undertaken.
- 5.2 **Permanent Road Restoration.** If the Company has excavated or otherwise disturbed the surface of a ROW, the requirements for completing the road restoration work are as follows:
- (a) if Company requires utility sight hole (200 mm diameter typical) in ROW then Company is responsible to restore to original condition with compactable material and matching aggregate cover.
- 5.3 **Temporary repair.** Where weather limitations or other external conditions beyond the control of the Company do not permit it to complete a timely final repair the Company may complete a temporary repair to the ROW, provided that the Company replaces the temporary repair with a final repair within a reasonable period of time.
- 5.4 **Repairs completed by Municipality.** The Municipality may affect such work necessary to perform a temporary repair if the Company fails to do so, and the Company shall pay the Municipality's reasonable costs within thirty (30) days of receipt of an invoice respecting the same.

6. LOCATING FACILITIES IN ROWs

- 6.1 **Locates.** The Company agrees that, throughout the Term (as hereinafter defined) it shall, at its own cost, record and maintain adequate records of the locations of its Equipment. Each Party shall, at its own cost and at the request of the other Party, physically locate its respective facilities by marking the ROW using paint, staking or other suitable identification method ("Locates"). The Company will be partnered with Dig Safe AB (AB 1 Call) and all facilities will be recorded in the provincial database.
- 6.2 **Provision of Mark-ups.** The Parties agree to respond within fourteen (14) days to any request from the other Party for a mark-up of municipal infrastructure or Equipment design drawings showing the location of any portion of the municipal infrastructure or Equipment, as the case may be, located within the portion of the ROWs shown on the plans (the "Mark-ups"), and shall provide such accurate and detailed information as may be reasonably required by the requesting Party. In case of a Utility service affecting emergency or a major construction casualty. Emergency locaters will be onsite within 24hrs to locate the company's infrastructure.
- 6.3 **Inaccurate Locates.** Where the Company's Locates do not accurately correspond with either the Mark-ups or physical location of the Equipment, and as a result, the Municipality is unable to install its facilities within the affected ROWs in the manner it expected based on the Locates provided by the Company (the "Error"), the Municipality will notify the Company of the Error, following which the Company shall, in consultation with the Municipality, attempt to resolve the Error and where the Municipality must resolve the error, the Company shall pay the Municipality the Municipality's Costs.

7. RELOCATION OF EQUIPMENT

- 7.1 **General.** The Municipality may require the Company to relocate its Equipment for reasons related to safety or to accommodate work at or for the benefit of a municipal facility. The Municipality shall notify the Company in writing and, subject to Section 7.3, the Company shall, within ninety (90) days or such other time as agreed to by the Parties perform the relocation and any other required and associated Work to the satisfaction of the Municipality.
- 7.2 **Municipality's efforts.** The Municipality will provide alternative routes for the Equipment affected by the relocation to provide uninterrupted service to the Company's customers and shall process on a priority basis, all Permits required for this purpose.
- 7.3 **Reimbursement by Municipality for the Company's Relocation Costs.** The Municipality shall reimburse the Company for all or part of its Costs of completing a relocation requested by the Municipality based upon the principles, methodologies and procedures set out in Schedule B. The Company shall submit estimates of the relocation Costs for approval by the Municipality prior to such relocation being completed, with reimbursement being provided after the Company has provided proof of payment following completion of the work.
- 8. FEES AND OTHER CHARGES**
- 8.1 **General.** The Company covenants and agrees to pay to the Municipality the fees, charges and Municipality's Costs.
- 8.2 **Invoices.** The Parties agree that all payments shall be made in full by no later than thirty (30) days after the date of receipt of an invoice, in writing.
- 8.3 **Payment of taxes.** The Company shall pay all taxes, rates, duties, levies, fees, assessments and charges lawfully imposed now or in future by the Municipality or any regional, provincial, federal, parliamentary or other governmental body, corporate authority, agency or commission (including, without limitation, school boards and utility commissions), that are attributable to the Company's Equipment and use of the ROW.
- 8.4 **Payment of Services and Utilities.** The Company shall be responsible for the payment of the costs of all services and utilities consumed in respect of the Company's operations and Equipment within the ROW.
- 9. TERM AND TERMINATION**
- 9.1 **Initial term and renewal.** This Agreement shall have an initial term of twenty (20) years commencing on the Effective Date (the "Term") and shall be renewed automatically for successive five (5) year terms unless:
- (a) this Agreement is terminated by either Party in accordance with this Agreement;
 - (b) a Party delivers initial notice of non-renewal to the other Party at least one hundred and eighty (180) days prior to the expiration of the then current term; or
 - (c) this Agreement is replaced by a New Agreement (as defined below) between the Parties.
- 9.2 **Termination for material breach.** In the event of a material breach, where notice of breach has been given and the Party alleged to have breached the Agreement has not remedied or disputed

the breach, either Party may terminate this Agreement without further obligation to the other Party, by providing at least forty-eight (48) hours' notice of intention to terminate. If the Parties agree that it is not possible to remedy or cure the breach within the thirty (30) day period, then the breaching Party shall commence work within such thirty (30) day period and shall complete the remedy or cure within the time period agreed to in writing by the Parties.

9.3 **Termination by Municipality.** The Municipality may terminate this Agreement by providing the Company with at least twenty-four (24) hours' written notice in the event that:

- (a) the Company becomes insolvent, makes an assignment for the benefit of its creditors, has a liquidator, receiver or trustee in bankruptcy appointed for it or becomes voluntarily subject as a debtor to the provisions of the Companies' Creditors Arrangement Act or the Bankruptcy and Insolvency Act;
- (b) the Company assigns or transfers this Agreement or any part thereof other than in accordance with Section 15.6; or

9.4 **Obligations and rights upon termination or expiry of Agreement.** Notwithstanding any other provision of this Agreement, if this Agreement is terminated or expires without renewal, then, subject to the Company's rights to use the ROWs pursuant to the Telecom Act and, unless the Company advises the Municipality in writing that it no longer requires the use of the Equipment:

- (a) the terms and conditions of this Agreement shall remain in full force and effect until a new municipal access agreement (a "**New Agreement**") is executed by the Parties; and
- (b) the obligations of the Parties for all payments due and obligations incurred under this Agreement prior to the date of such expiry or termination continue.

9.5 **Removing Equipment.** The Company may advise the Municipality in writing that it no longer requires the use of Equipment, and the Company shall be responsible to remove and make safe any remaining infrastructure to the satisfaction of the Municipality and at its own cost.

10. **INSURANCE**

10.1 Throughout the term of this Agreement the Company shall obtain and maintain, in full force and effect the following insurance coverage:

- (a) General liability insurance with policy limits of not less than Five Million (\$5,000,000.00) Dollars per occurrence for personal injury and property damage.
- (b) Environmental impairment liability insurance with policy limits of not less than Two Million (\$2,000,000.00) Dollars per occurrence; and
- (c) Automobile liability insurance with policy limits of not less than Five Million (\$5,000,000.00) Dollars per occurrence.

10.2 With respect to all insurance required to be obtained and maintained by the Company hereunder, such insurance policies shall:

- (a) provide that the respective insurers shall provide the Municipality with at least thirty (30) days' prior written notice of cancellation, non-renewal or any material change of such policies;
 - (b) name the Municipality as an additional insured; and
 - (c) be at the sole cost and expense of the Company.
- 10.3 The Municipality may require the Company to provide additional insurance coverage if deemed necessary due to changing conditions.

11. INDEMNIFICATION

- 11.1 **Indemnification by the Company.** The Company hereby indemnifies the Municipality from and against all losses and costs incurred by the Municipality in connection with this Agreement as a result of any claim, including but not limited to a Claim of injury to any person or damage to any property of any third party, caused by the willful misconduct or negligence of the Company or a third party operating under an agreement with the Company as authorized in Section 2.9 of this Agreement.
- 11.2 **Indemnification by Municipality.** The Municipality hereby indemnifies the Company from and against all Losses and Costs incurred by the Company in connection with this Agreement as a result of any Claim, including but not limited to a Claim of injury to any person or damage to any property of any third party, caused by the willful misconduct or negligence of the Municipality.
- 11.3 **No liability, Municipality.** Except for Claims or Losses arising from the negligence or willful misconduct of the Municipality, the Municipality shall not be responsible, either directly or indirectly, for any damage to the Equipment howsoever caused.

12. ENVIRONMENTAL LIABILITY

- 12.1 **Municipality not responsible.** The Municipality is not responsible for any damage to the natural environment or property of the Company, including any nuisance, trespass, negligence, or injury or death to any person, arising from the presence, deposit, escape, discharge, leak, spill or release of any Hazardous Substance in connection with the Company's occupation or use of the ROWs
- 12.2 **Company to assume environmental liabilities.** The Company agrees to assume all environmental liabilities relating to its use of the ROWs, including, without limitation, any liability for the clean-up, removal or remediation of any Hazardous Substance within or around the ROWs that result from the use, operations or activities of the Company or from any Equipment, products or goods brought or placed on or under the ROWs by the Company or by any person with the consent, express or implied, of the Company.
- 12.3 The Company agrees to immediately notify the Municipality of any Hazardous Substances it discovers on Municipal land and to fully disclose any test results which identify contamination of Municipal Lands

13. DISPUTE RESOLUTION

13.1 **Resolution of Disputes.** The Parties will attempt to resolve any dispute ("**Dispute**") promptly through discussions at the operational level. In the event an amicable resolution is not achieved, the disputing Party shall provide the other Party with written notice of the Dispute and the Parties shall attempt to resolve such Dispute between senior officers who have the authority to settle the Dispute. All negotiations conducted by such officers shall be confidential and shall be treated as compromise and settlement negotiations. If the Parties fail to resolve the Dispute within thirty (30) days of notice, either Party may submit the dispute to binding arbitration before a sole arbitrator, under the Arbitration Act, R.S.A. 2000, c.A-43 for resolution.

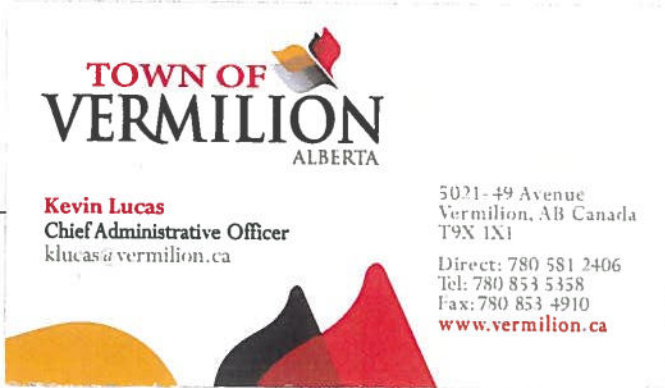
13.2 **Continued performance.** Except where clearly prevented by the nature of the Dispute, the Municipality and the Company agree to continue performing their respective obligations under this Agreement while a Dispute is subject to the terms of this Article 14.

14. NOTICES

14.1 **Method of Notice.** Any notice required may be sufficiently given by registered mail, personal delivery, email or facsimile transmission to either Party at the following addresses:

If to the Municipality:

With a copy to:



If to the Company:

With a copy to:

14.2 **Delivery of notice.** Any notice made by registered mail shall will be deemed to have been given on the fifth day after it is posted. Any notice given by personal service, email or facsimile during regular business hours shall be deemed to have been given on the day it was served or sent and if given after business hours on the next business day.

14.3 Any change to an address for service must be provided in writing to be effective.

15. GENERAL

15.1 **Entire agreement.** This Agreement together with the Schedules attached hereto, constitutes the complete and exclusive statement of the understandings between the Parties with respect to the rights and obligations of each.

- 15.2 **Gender and number.** In this Agreement, words importing the singular include the plural and vice versa, words importing gender, include all genders.
- 15.3 **Sections and headings.** The division of this Agreement into sections and the insertion of headings are for convenience of reference only and do not affect the interpretation of this Agreement.
- 15.4 **Statutory references.** A reference to a statute includes all regulations and rules made pursuant to the statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes the statute or the regulation.
- 15.5 **Currency.** References in this Agreement to money amounts are in Canadian dollars.
- 15.6 **Assignment.** This Agreement may be assigned, in whole or in part, on 30 days notice and without the prior written consent of the other Party.
- 15.7 **Amendments.** Except as expressly provided in this Agreement, no modification of or amendment to this Agreement shall be effective unless agreed to in writing by the Municipality and the Company.
- 15.8 **Survival.** The terms and conditions contained in this Agreement that are intended to survive the expiration and termination of this Agreement include provisions with respect to indemnification, environmental liability of the Company, and the making of any and all payments due hereunder.
- 15.9 **Governing law.** This Agreement shall be governed by the laws of the Province of Alberta.
- 15.10 **Waiver.** Failure by either Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.
- 15.11 **Severability.** Should any provision of this Agreement be void or unenforceable, it shall be considered separate and severable, and the remainder of this Agreement shall continue in full force and effect.
- 15.12 **Inurement.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors, and permitted assigns, and may not be changed or modified except in writing, duly signed by the Parties.
- 15.13 **Compliance with Laws.** The Parties shall carry out all their obligations hereunder in compliance with any and all statutes, bylaws, rules regulations and orders of any federal, provincial, municipal or other competent authority for the time being in force.
- 15.14 **Time of the Essence.** Time is of the essence in this Agreement.
- 15.15 **No Authority.** Except as may from time to time be expressly stated in writing by the one Party, the other Party has no authority to assume or create any obligation whatsoever, expressed or implied, on behalf of or in the name of the other Party, nor to bind the other party in any manner whatsoever.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by their duly authorized representatives.

Vermilion



Kevin Lucas
Name

Title CAO



Name Marylee Prior
Title Economic Development

Alberta Broadband Network GP



Authorized Signatory

Name Ken Spangler

Title CEO Alberta Broadband Network GP

Authorized Signatory

Name

Title

SCHEDULE A

PERMITS REQUIRED BY THE MUNICIPALITY

1. ROWCAP

Unless otherwise determined by the Municipality, a ROWCAP is required for:

- (a) Work taking place Within Municipal and Utility ROW's.
- (b) Work taking place on Municipal Structures that are not located in these ROW's where such Work involves performing any activities within an adjacent ROW's or interferes with traffic flow within an adjacent ROW's; and
- (c) Work that adversely affects public transit, bus stops, bus routes, or transit timing, or that is located near a major bus station.

2. MUNICIPAL PERMITS

Municipal and Utility Permits are required for installations of Equipment that requires Excavation¹ in or proximate to the Municipal and Utility ROW's, including:

- (a) the installation of buried Equipment crossing a road.
- (b) the installation of new Above-ground Equipment²;
- (c) the relocation of buried Equipment or Above-ground Equipment.
- (d) the replacement of existing Above-ground Equipment with Equipment that is significantly larger; and
- (e) the installation of buried Service Drops that cross a road or a break the hard surface of the ROW.
- (f) the installation of attachments; the restoration back to initial condition of hard and soft surfaces and
- (g) Municipality and Company to agree on final construction design and issue permit packages accordingly.

The Company shall submit all required construction plans prior to undertaking any Work, showing the locations of the proposed and existing Equipment and other facilities, and specifying the boundaries of the area within the Municipality within which the Work is proposed to take place

¹ "Excavation" means the breaching or breaking up of the hard and soft surface of the ROW, and includes activities such as daylighting, test pitting, digging pits and directional boring but excludes hand-digging.

² "Above-ground Equipment" means, in all cases above, any structure located on the surface of the ROW used to house or support the Equipment, and includes cabinets, pedestals, secured telecom huts, poles and lamp poles but excludes aerial Equipment.

SCHEDULE B

RELOCATION COSTS

1. **Reimbursement for Relocation Costs.** Relocation Costs (for "in kind" or "like-for-like" Equipment) shall be based upon the permit approval dates and the formula set out herein, with the Company being responsible for any additional costs, including any costs to augment its network:
 - (a) within five (5) years of the Permit approval being granted, the Municipality shall be responsible for 100% of Relocation Costs;
 - (b) after five (5) years of the Permit approval being granted, the responsibility for the cost shall be shared by the Parties hereto on a 50/50 basis, and thereafter the percentage of the costs assumed by the Municipality will be reduced by 10% in each subsequent year;
 - (c) after ten (10) years of the permit approval being granted, all Relocation Costs shall be the responsibility of the Company; however
 - (d) The provisions of this section do not apply to the relocation of telecom huts, where the Party requesting relocation shall remain responsible for the full cost of relocating the concrete pad, building and fencing that house the infrastructure.
2. **Equipment affected by Municipality's Capital Works Plan.** Prior to the issuance of a Permit, the Municipality will advise the Company in writing if the Company's proposed location for new Equipment will be affected by the Municipality's 5-year capital works plan. If the Municipality advises that the new Equipment will be affected and the Company, requests a permit after being made aware of this, then the Municipality may issue a conditional Permit stating that the Company will be required to relocate the Equipment at its own cost, notwithstanding Section 1.
3. **Beautification.** All costs for relocations of Equipment initiated by the Municipality for purposes such as beautification projects will be the sole responsibility of the Municipality.
4. **Third Party Relocation Costs.** Unless otherwise agreed to between the Parties and the third party, in no event shall the Parties be responsible for the costs of the Company to relocate Equipment at the request of a third party or the costs of relocating the facilities of a third party installed on or in the Equipment.
5. **Where Equipment is located incorrectly.** Notwithstanding any other provision herein, where the location of any portion of the Equipment is located outside a distance of 0.5 metres horizontally (centre-line to centre-line) from the location approved in the Permit or as shown on the as-built drawings (as accepted by the Municipality), then the Municipality shall not be responsible for the Relocation Costs for relocating such Equipment or portion thereof. In circumstances where the conditions of the applicable ROW have changed materially from what was described in the Permit, the Parties agree to act reasonably when sharing or allocating the associated Relocation Costs.
6. **Equipment Upgrades.** The Parties agree that the Relocation Costs shall not reflect upgrades but shall be based on the use of the same approximate quantity, quality and type of Equipment and manner of construction for the new installation as was used for the original, subject to any adjustments required due to:

- (a) technological change or industry construction methods;
 - (b) the need for an installation of greater length or other modifications due to, for example, space constraints or the presence of Third-Party equipment; or
 - (c) the undergrounding of aerial Equipment where required as part of the relocation where cost sharing is permitted under this Agreement.
7. **Relocation performed by Municipality.** If the Company fails to complete the relocation in accordance with Section 7.1 of the Agreement, the Municipality may, upon notice to the Company, complete such relocation and the Company shall pay the Municipality's reasonable costs of the relocation within thirty (30) days of receipt of an invoice respecting the same.
8. **Attachments on Municipal Structures.** Notwithstanding any other provision in this Agreement, where the Company has placed attachments on Municipal Structures, the Company shall, at its expense, relocate any such Equipment, in whole or in part, to an alternative location, in accordance with Article 7 of the Agreement and this Schedule B.

SCHEDULE C

WORK ON MUNICIPAL STRUCTURES

1. The Municipality hereby grants the Company a non-exclusive right to place, attach, install, operate, upgrade, maintain, Work and remove the attachments.
2. The Municipality grants the Company a non-exclusive right to use any of the Municipality's existing conduit to run power and fibre to any telecom huts and to each attachment, and the Municipality also grants the Company the right to connect to the Municipality's existing power source, whenever possible. With the Company paying all service and utility charges for the operation of the equipment.
3. **Approval.** The Company will provide the Municipality the following:
 - (a) A detailed description of the telecom hut or attachment;
 - (b) A detailed engineering plan showing the proposed location of the telecom hut or attachment;
 - (c) A detailed description of the scope of the Work required to place, attach or install the telecom hut or attachment;
 - (d) A schedule setting out the proposed timetable for the commencement, performance and completion of the Work; and
 - (e) Any other information as the Municipality may reasonably require.
4. **Standards of Work.** The Company will conduct Work on Municipal Structures in accordance with the Agreement, and will comply with the following conditions for Work on Municipal Structures:
 - (a) The Work shall be performed in a manner that safeguards and protects all other support structures, transmission lines, equipment, facilities and improvements of any kind present on the Municipal Structure;
 - (b) Upon completion of any Work, the Company shall repair and restore any damage to the Municipal Structure caused by the Work to the condition which existed prior to the Work, reasonable wear and tear excepted; and
 - (c) If the Company fails to repair and restore the Municipal Structure within thirty (30) days of being notified by the Municipality, the Municipality may make such repairs and the Company shall pay the Municipality's Costs within thirty (30) days of receipt of an invoice respecting the same.
5. **Interference.** In the event any required repair, improvements or maintenance of the Municipal Structure, the Municipality shall provide the Company thirty (30) business days' prior written notice unless the work required is due to an Emergency such that, it would be reasonably necessary to act sooner, in which case the Municipality will provide as much notice as possible.

- a) The Company agrees that the Municipality will not be responsible for any costs, losses or damages suffered by the Company, as a result of the Municipality's reasonable interference with the Attachments, unless caused by the willful misconduct or negligence of the Municipality or anyone for whom the Municipality is responsible by law

- (b) The Municipality shall not grant any third party a right to unduly interfere with any telecom hut or the attachments and further agrees to fully cooperate with the Company if any third party using the Municipal Structures interferes with the either a telecom hut or the attachments.