

**MASTER OUTDOOR DISTRIBUTED ANTENNA SYSTEM POLE
LICENSE AGREEMENT**

between

**CITY AND COUNTY OF SAN FRANCISCO, by and through its
MUNICIPAL TRANSPORTATION AGENCY,
as Licensor**

and

**MOBILITIE INVESTMENTS III, LLC,,
as Licensee**

**FOR THE LICENSED USE OF SFMTA UTILITY POLE(S)
IN SAN FRANCISCO, CALIFORNIA**

April 23, 2015

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INCLUDED APPENDICES

- Appendix A – Description of Premises— Pole Locations
- Appendix B – Form Pole License Agreement
- Appendix C – Form Commencement Letter
- Appendix D – Tenant’s Conceptual Plans and Specifications

**MASTER OUTDOOR DISTRIBUTED ANTENNA SYSTEM POLE
INSTALLATION LICENSE AGREEMENT**

This MASTER OUTDOOR DISTRIBUTED ANTENNA SYSTEM POLE INSTALLATION LICENSE AGREEMENT_ ("Master License" or "Agreement") dated for reference purposes only as of April 23, 2015, is made between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, by and through its MUNICIPAL TRANSPORTATION AGENCY ("SFMTA" or "City"), and MOBILITIE INVESTMENTS III, LLC, a Delaware limited liability company ("Licensee").

City and Licensee hereby covenant and agree as follows:

1. PURPOSE OF AGREEMENT AND BASIC LICENSE INFORMATION

1.1 Purpose of Master License.

(a) This Master License establishes the legal relationship and framework under which a Licensee may apply and obtain permission to install Equipment on a Pole or Poles owned by the SFMTA. This Master License governs the fees, charges, procedures, requirements, terms and conditions by which the SFMTA may issue such Pole License(s). This Master License is not in and of itself authorization to Licensee to install, maintain and operate Equipment on SFMTA Poles. Licensee can only install Equipment on a Pole as provided in an approved Pole License issued under this Master License. The Pole Location(s) and any site constraints or installation or maintenance requirements specific to a particular Pole Location will be set out in the Pole License, which shall be subordinate to and conditioned upon the terms and conditions of this Master License. A Pole License cannot amend any term or condition of this Master License.

(b) This Master License supersedes all previous agreements and understandings, written and verbal, on the subject matters addressed herein.

(c) This Master License does not accord Licensee exclusive rights to install Equipment on any SFMTA pole(s) except as specifically provided herein. Licensee acknowledges and agrees that other entities will be afforded similar opportunity to install Equipment on SFMTA poles on terms and conditions substantially identical to those set out in this Master License. This Master License is not a needs agreement; the parties acknowledge and agree that Licensee may seek to install Equipment on Poles owned by other City agencies or by private utilities, and Licensee may seek to install its Equipment on facilities owned by private parties. The parties further acknowledge and agree that this Master License does not impair Licensee's ability to apply to the San Francisco Department of Public Works to install its own poles in the City's right-of-way.

1.2 Basic License Information.

The following is a summary of basic information (the "Basic License Information") concerning the license granted by this Master License. Each item below shall be deemed to incorporate all of the terms set forth in this Master License pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Master License, the more specific provision shall control.

Master License Reference Date: April 23, 2015

SFMTA: SAN FRANCISCO MUNICIPAL

TRANSPORTATION AGENCY

Licensee: MOBILITIE INVESTMENTS III, LLC

Pole A vertical pole owned by the SFMTA installed in the City's right-of-way or on SFMTA property that is used to support transit overhead traction power cables. A pole is deemed owned or controlled by the SFMTA if infrastructure used to support Muni overhead traction power lines is installed on the pole.

Pole License

Pole Location(s) (Appendix A): The executed document (based on the form in Appendix A) that subject to the terms and conditions of this Master License authorizes Licensee to install the Equipment described in the Pole License on the Pole(s) identified in the Pole License.

A Pole (and its geographic identifying information) on which Licensee will install Equipment.

Premises: The space under the jurisdiction of the SFMTA on all Poles licensed under approved under Pole License(s) authorizing installation of Licensee's approved Equipment on the Poles, . See "Pole Locations", Appendix A.

Term (Section 3.1): Nine Years, with an estimated Effective Date of: April 23, 2015

Expiration date: April 22, 2024

Effective Date: The date upon which the Licensee and the SFMTA Board adopts a resolution approving this Master License and the parties have duly executed this Master License.

Commencement Date: One Hundred Eighty (180) days after SFMTA approval of a Pole License issued to Licensee, or the first day of the month following approval of all required permits, whichever occurs earlier. Rent is calculated from and commences upon the Commencement Date.

Annual Rent (Section 4.1): \$4,000 per year per licensed Pole for the first fifty approved Pole Licenses issued to Licensee; \$3,750 for every Pole License approved after fifty for Poles that have adjacent conduit accessible to Licensee; \$3,600 for every Pole License approved after fifty for Poles that do not have SFMTA conduit accessible to Licensee.

Adjustment Dates (Section 4.2):

CPI increase or 3% annually on January 1 of each year, whichever is greater, beginning January 1, 2015, subject to Section 4.2.

Use (Section 5.1):

Licensee shall use the Premises for Licensee's installation, operation and maintenance of Equipment for the transmission and reception of wireless, cellular telephone and data communication and the installation, maintenance and operation of related communications equipment ("Communications Site"). Licensee shall not use the Premises for any other purposes without the written consent of SFMTA.

Equipment (Section 6):

Antennas, transmitters, receivers, power supplies, and ancillary fiber optic cables and wiring, and support/structural elements necessary for the transmission and reception of radio communication signals for cellular phones and related data transmission installed on a Pole . All such equipment and improvements, if any, shall be installed by Licensee at its sole cost. Licensee's Equipment is limited to that approved for a particular Pole Location in a Pole License, including any design or Equipment modifications required by other necessary approvals, subject to the final approval of SFMTA, including type of antenna and any associated utility or equipment box, power meter and/or power feed, battery backup, and ancillary equipment and infrastructure listed in a Pole License.

Utilities and Services (Section 12.1):

All utilities and services necessary for Licensee's use of the Premises shall to be procured by Licensee at its sole cost; City is not responsible for provision of any utilities or services to the Premises necessary for or to facilitate Licensee's use of the Premises, except as expressly stated in this Master License.

Security Deposit (Section 25):

Fifty Thousand Dollars (\$50,000)

Notice Address of SFMTA (Section 29.2):

San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 8th Floor
San Francisco, California 94102
Attn: Real Estate Section

Re: **MOBILITIE ODAS MLA**

Fax No.: (415) 554-4755

with a copy to:

____NONE_____

Attn: _____
Re: [Identify Project/Property]
Fax No.: _____

Key Contact for SFMTA: Same as above
Telephone No.: (415)701-4794
Notice Address for Licensee (Section 28.1):
Mobilitie Investments III, LLC
Attn: Mark Askelson
2220 University Drive
Newport Beach, CA 92660
Telephone No.: (949)999-4554
With a copy to:
Mobilitie Investments III, LLC
Attn: Legal Department
2220 University Drive
Newport Beach, CA 92660
Key Contact for Licensee: Mark Askelson
Telephone No.: (949)999-4554
Alternate Contact for Licensee
Telephone No.: NONE

2. SCOPE OF LICENSE

2.1 Licensed Premises.

(a) Subject to the terms, covenants and conditions set forth in this Master License, SFMTA grants to Licensee a non-exclusive, terminable license to use the Pole(s) specified in the Pole License(s) approved under this Master License (collectively, the "Premises"), subject to and conditioned upon Licensee obtaining all necessary permits and approvals for Licensee's installation of its Equipment on said Pole(s). Such license shall terminate upon the termination or expiration of this Master License.

(b) This Master License applies only to Poles identified in approved Pole Licenses. This Master License shall not be construed to authorize installation of Equipment or other materials on any pole or other City-owned facility other than those specified in approved Pole Licenses.

2.2 No Property Interest or Exclusive Grant to Premises or Pole.

(a) Licensee acknowledges and agrees that this Master License does not constitute, create or effect a lease, possessory interest, easement or franchise or any other real property interest in the Premises or any Pole or any portion of the City's right of way, and such real property interest shall not be created or granted under this Master License or any Pole License. Licensee further acknowledges and agrees that in the absence of this Master License and an approved Pole License, Licensee would not have a right to install Equipment or otherwise access Poles owned by the SFMTA.

(b) This Master License and an approved Pole License, taken together, grants to Licensee only a nonexclusive, revocable license to: (1) enter onto the Premises (that is, the Pole(s) identified in approved Pole Licenses; (2) install Equipment on said Pole(s); and, (3) operate, maintain, repair, replace (as authorized by SFMTA) said Equipment. The SFMTA may revoke and terminate said license in whole or in part at any time in accordance with the provisions of this Master License.

(c) Nothing in this Master License or any Pole License may be construed to create a partnership or joint venture between the City and Licensee.

(d) Licensee's sole remedy for City's breach or threatened breach of this Master License or any Pole License shall be an action for damages.

(e) Licensee's rights hereunder are subject to current and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency now or hereafter having jurisdiction over the Premises or Licensee's use thereof.

(f) The license created for Licensee's use of Pole(s)/Premises that is created under this Master License and approved Pole License(s) grants to Licensee only a non-exclusive license (authorization) to install Equipment on an approved Pole. The SFMTA, as Licensor, shall have the right to grant, renew and extend rights and privileges to others (who are not parties to this Master License), by contract or otherwise, to use any Pole(s) covered by this Master License. Nothing contained in this Master License shall be construed as a limitation, restriction or prohibition against the SFMTA entering into agreements with other parties regarding use of SFMTA poles or other facilities or the City issuing permits for the use of its right of way. The SFMTA, in negotiating such third party agreements, shall give due and reasonable regard to the Licensee's interest in the Premises, but such interest shall not be treated as superior to any other interest, except as determined by the SFMTA in its reasonable discretion. The SFMTA will not license a Pole to more than one Licensee for use as a Communication Site without the existing Licensee's authorization. The foregoing provisions are subject to Sections 28.5 and 28.6.

(g) Co-location of Equipment is prohibited unless expressly authorized in writing by the SFMTA under a Pole License. Co-location means a Communications Site comprised of more than one Licensee.

(h) Nothing in this Master License or any Pole License may be constructed to limit, alter, or waive the right of the City to use the Premises or any portion thereof for their primary intended use as infrastructure established and maintained for the benefit of the City.

2.3 As-Is Condition of the Premises.

Licensee's attention is directed to the following:

(a) Licensee expressly acknowledges and agrees that each and any of the Poles or other portion of the Premises that may be licensed to Licensee under this Master License are licensed to and accepted by Licensee in their "as-is, with all faults" condition. The City makes no representation or warranty of any kind as to the condition or suitability of said Premises for Licensee's use. Any license to use said Premises is subject to and conditioned upon Licensee's proposed use the Premises meeting all City requirements, including but not limited to design review, engineering, radio interference, and zoning ordinances.

(b) Licensee represents and warrants to SFMTA that Licensee has conducted a reasonably diligent investigation, either independently or through agents of Licensee's choosing, of the condition of the Premises and of the suitability of the Premises for

Tenant's intended use, and Tenant is relying solely on its independent investigation. Licensee further represents and warrants that its intended use of the Premises is the use described in the Basic Lease Information and any applicable Pole License(s).

(c) Licensee agrees that neither City nor any of its employees or agents have made, and City disclaims, any representations or warranties, express or implied, with respect to the physical, structural or environmental condition of the Premises or the present or future suitability of the Premises for the installation of Equipment, operation of a Communication Site or other conduct of Licensee's business, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

(d) Under California Civil Code Section 1938, to the extent applicable to this Agreement, Permittee is hereby advised that the Permit Area has not undergone inspection by a Certified Access Specialist ("CASp") to determine whether it meets all applicable construction-related accessibility requirements

3. TERM

3.1 Term of Master License.

The Premises are licensed for a term (the "Term") of nine (9) years, commencing and terminating as set forth below. The Term of this Master License shall begin on the Effective Date and shall end on the Expiration Date specified in the Basic License Information, or such earlier date on which this Master License terminates pursuant to the terms hereof. No delay in the commencement of this Master License beyond the Estimated Effective Date specified in the Basic License Information shall serve to extend the Initial Term beyond the Expiration Date. In any circumstance where Licensee would continue to occupy the Premises or any Pole after the expiration or termination of this Master License, such holding over shall not be deemed to operate as a renewal or extension of this Master License or any Pole License, and Licensee shall pay the City rent as provided in Section 29.12.

3.2 Commencement Date.

The Commencement Date shall be 180 days after SFMTA approval of a Pole License issued to Licensee, or the first day of the month following Licensee's notice to SFMTA in writing that Licensee has obtained all permits and approvals necessary for Licensee to be legally entitled to install Equipment on a Pole, whichever occurs earlier (the "Commencement Date"), under the first Pole License approved under this Master License.

3.3 Delay in Commencement Date.

If within 180 Days from the date the SFMTA approves a Pole License, Licensee does not obtain all necessary permits and approvals from agencies other than the SFMTA that are necessary for Licensee to be legally entitled to install Equipment at Pole Locations approved under a Pole License, then either City or Licensee may terminate the applicable Pole License by written notice to the other party following such 180-day period, and neither party shall have any further rights or obligations hereunder. If Licensee is unable to obtain said necessary approvals or permits, Licensee may request within the first 150 Days of said 180-Day period s of that the SFMTA exercise reasonable efforts in assisting Licensee to identify an alternate pole, which location shall be subject to DPW permitting in the same manner as any other Pole application. Prior to the expiration of the 180-day period, Licensee may extend the Commencement Date an additional 100 days by issuing written notice to the SFMTA and paying one thousand dollars (\$1,000) to the SFMTA as consideration for the extension.

4. RENT; ADDITIONAL CHARGES

4.1 Rent.

(a) Beginning on the Commencement Date, for each Pole Location for which access is granted Licensee under approved Pole Licenses, Licensee shall pay to City during the Term the annual Rent specified in Section 4.1(b) as the same may be increased pursuant to Section 4.2 (Adjustments in Rent) (the "Rent"). The Rent shall be payable in equal consecutive annual payments due within fifteen (15) days of the Commencement Date of the first Pole License issued to Licensee, in advance, by good check or electronic money transfer to the SFMTA at the address specified in the Basic License Information, or such other place as the SFMTA may designate in writing.

(b) Rent shall be calculated as follows:

(1) For the first fifty (50) Poles on which Licensee receives an approved Pole License, Licensee shall pay the SFMTA Four Thousand Dollars (\$4,000) annual Rent. A Pole License that is among the first fifty issued to Licensee that is terminated by Licensee shall not count towards the set of 50 Poles described in this Section 4.1(b)(1).

(2) Commencing with the fifty-first approved Pole License and for every approved Pole License thereafter, Licensee shall pay the SFMTA annual Rent of Three Thousand Seven Hundred Fifty Dollars (\$3,750) for Poles for which the SFMTA makes available SFMTA conduit to serve that Pole.

(3) Commencing with the fifty-first approved Pole License and for every approved Pole License thereafter, Licensee shall pay the SFMTA annual Rent of Three Thousand Six Hundred Dollars (\$3,600) for Poles for which the SFMTA does not make available conduit to serve that Pole.

(c) If during the Term of this Master License the SFMTA agrees with a wireless telecommunications (cellular telephone) carrier other than Licensee to charge annual Rent in an amount less than the Rent value specified in the Basic License Information, then commencing on the next annual anniversary of the Commencement Date, the Rent charged Licensee under this Master License shall be reduced to match the lesser Rent amount charged to such other wireless carrier. Said reduction of Rent shall not apply if the reduced Rent charged the other wireless carrier is a result of court order or settlement of a lawsuit. If Rent charged a Licensee is reduced due to settlement of a lawsuit, Rent charged to all Licensees shall be reduced the same amount, but only for Poles licensed under Pole Licenses approved after the date of said settlement, and the Rent for Poles licensed under Pole Licenses approved prior to the settlement shall not be changed.

(d) The payment of any application fee, permit fee, inspection Fee or any other fee is compensation to the SFMTA only for reviewing the Licensee's application and inspecting its installation of Equipment; such payments shall not be considered Rent, other rent or a regulatory fee. A payment to the Department of Public Works for review of Personal Wireless Service Facility Site Permit is not Rent or other rent, but is a regulatory fee.

4.2 Adjustments in Rent.

On each date specified in the Basic License Information for the adjustment of Rent (an "Adjustment Date") during the Term, the Rent payable by Licensee under Section 4.1 (Rent)

above shall be adjusted by an amount not less than three percent or according to the Consumer Price Index (as set out below), whichever is greater.

The Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), which is published most immediately preceding the Adjustment Date (the "Adjustment Index"), shall be compared with the Index published most immediately preceding the Commencement Date in the case of the first Adjustment Date or, in the case of any subsequent Adjustment Date, the Adjustment Index for the previous Adjustment Date (the "Base Index").

If the Adjustment Index has increased over the Base Index, then the Rent payable on and after the Adjustment Date shall be set by multiplying the Rent by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index.

If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4.3 Late Charges.

If Licensee fails to pay any Rent within ten (10) days after delivery of notice that the same is due and payable, such unpaid amounts will be subject to a late payment charge equal to six percent (6%) of the unpaid amounts in each instance. The late payment charge has been agreed upon by City and Licensee, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that will be incurred by City as a result of any such failure by Licensee, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and shall be paid to City together with such unpaid amounts.

4.4 Default Interest.

Any Rent, if not paid within ten (10) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under law. However, interest shall not be payable on late charges incurred by Licensee nor on any amounts on which late charges are paid by Licensee to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest and late charges shall not excuse or cure any default by Licensee.

4.5 Records of Account.

Licensee shall maintain during the term of this Master License and for a period of three years after expiration or termination of this Master License the following records in an electronic format or photocopies, at a place of business within the San Francisco Bay Area: identification and location of all Poles under active Pole Licenses; amount and dates of paid Rent; permits and approvals obtained authorizing installation of Equipment, correspondence with the City concerning payment of Rent, SFMTA approval of Pole Licenses, DPW approval of required permits, and objections/appeals to installation of Equipment. The SFMTA, or a consultant acting on its behalf, shall upon thirty (30) days notice to Licensee have the right to inspect and audit said records at Licensee's place of business during regular business hours.

5. USE RESTRICTIONS

5.1 Permitted Use.

Licensee shall use the Pole Locations licensed hereunder for the Term of this Master License solely for such uses as are specified in this Master License and the applicable Pole License, and for no other use. Licensee shall not interfere with the SFMTA's use and operation of the Premises or any Pole as an asset and element of the SFMTA's transit operations.

Licensee shall use the Premises solely for installing, operating, maintaining, and repairing the Equipment specifically approved under the applicable Pole License or equivalent smaller replacement Equipment and such other items as may be approved by the City in its sole discretion in writing as a modification to the applicable Pole License.

5.2 No Illegal Uses or Nuisances.

Without limiting the foregoing, Licensee shall not use or occupy any of the Pole Locations in any unlawful manner or for any illegal purpose or in any manner that constitutes a nuisance. Licensee shall take all precautions to eliminate any nuisances or hazards in connection with its use of the Pole Locations.

5.3 Identification of Licensee's Equipment.

(a) Licensee shall place one identification plate on the Pole at each Pole Location, which plate shall be 1" x 3" and shall be reasonably approved in advance by City, in order to identify Licensee's Equipment as belonging to Licensee. The plate shall indicate the corporate name of the Licensee and the telephone number at which the Licensee's on-call representative (listed in Section 9.3) can be reached.

(b) Licensee shall provide to the SFMTA prior to installing Equipment to a Pole as-built drawings, maps of installations, and narrative descriptions of all equipment installed in both CAD and PDF file formats.

5.4 Damage.

Licensee shall not remove, damage or alter in any way any improvements or personal property of the City upon the Premises without the City's prior written approval. Licensee shall repair any damage or alteration to the City's property to as good as or better than existed before the damage or alteration.

6. EQUIPMENT INSTALLATION APPROVALS

6.1 SFMTA Approval Required.

Licensee's installation of Equipment on any Pole is subject to the prior approval of the SFMTA under a Pole License, as provided this Master License and the applicable Pole License. In determining whether to approve Licensee's Application to install Equipment on any Pole, the SFMTA will consider: (a) whether the Pole has the strength to support the Equipment; (b) impacts to SFMTA transit operations; (c) aesthetic impacts of the Equipment, including but not limited to noise and visual clutter; (d) whether the SFMTA intends to utilize the Pole for transit purposes for the foreseeable future. To the extent that SFMTA has them, the SFMTA will provide to Licensee designs and engineering load calculations regarding pole(s) for which Licensee has submitted a Pole License application. Said documents and information will be provided for informational purposes only; the SFMTA does not warrant that said documents and information are complete or accurate.

In reviewing a Pole License application, the SFMTA may consult with the San Francisco Planning Department. Licensee acknowledges and agrees that such consultation between the SFMTA and the Planning Department and any advice that the SFMTA may receive and/or follow provided by the Planning Department is not an exercise of regulatory (governmental police) power, but is advisory and intended to assist the SFMTA in assessing whether a proposed Equipment installation is appropriate for a given location.

6.2 Department of Public Works Approval Required.

Licensee's installation of Equipment on any Pole is subject to the prior approval of the San Francisco Department of Public Works (DPW) as provided in Article 25 of the San Francisco Public Works Code, other applicable City requirements, and DPW implementing regulations and orders. A DPW determination of a Pole License application or other decision may be appealed to the San Francisco Board of Permit Appeals.

6.3 Pole License Application and Review Process.

Licensor shall apply for a Pole License and the City shall review, approve or deny said application as set out in Appendix B to this Master License. The SFMTA's determination of a Pole License is not a regulatory determination subject to appeal, but is an exercise of the SFMTA's proprietary authority over its facilities as provided in Section 8A.102(b) of the City Charter. The SFMTA will review and process Pole License applications in a reasonably prompt manner, but the Agency will not process or review more than ten (10) Pole License applications per week, in the order (date and time) of submission. The SFMTA will not give priority to any application or licensee over another application or licensee, but the SFMTA will review, process and determine Pole License applications in the order (date and time) in which the SFMTA receives them.

7. INSTALLATION OF EQUIPMENT

7.1 Approved Plans and Specifications.

Following SFMTA's and the DPW's respective approvals of a Pole License application and right-of-way Personal Wireless Facility Site Permit, Licensee shall be authorized to install approved Equipment and related improvements at the Pole Locations listed in the Pole License in accordance with the plans and specifications approved by City ("Approved Plans") that Licensee submitted with its Pole License and Personal Wireless Facility Site Permit applications. The Approved Plans may be altered, if required for Licensee to obtain any permits or approvals necessary for installation of the Equipment, including but not limited to Personal Wireless Facility Site Permits, temporary street occupancy permits (and related traffic control permits), and building permits, as may be required by City codes. Any changes to the Approved Plans must be approved by the SFMTA and DPW (as required), which shall be a condition of approval of any Pole License. Licensee shall not commence installation of Equipment on a Pole until Licensee has first obtained all necessary permits and approvals authorizing said installation. Licensee acknowledges that as of the Effective Date of this Master License, the City has not approved or promised to approve any plans, specifications or permits necessary for Licensee to install Equipment to a Pole. Amendment of Approved Plans requires written authorization from the SFMTA (and DPW if said requested changes alter Licensee's Personal Wireless Facility Site Permit in the right-of-way from that described in the approved Personal Wireless Facility Site Permit). Failure by the City to respond to a Licensee's request to amend Approved Plans shall not be deemed approval.

Approval of plans and specifications and the issuance of any permits by the City shall not release Licensee from the responsibility for and obligation to correct any errors, omissions, or other mistakes that may be contained in the Approved Plans and related specifications and/or

permits. Licensee shall notify the SFMTA and the DPW immediately upon discovery of such omissions and/or errors and Licensee shall obtain any amendments for corrected City-approved permits as may be required.

7.2 Installation of Period.

Licensee shall complete installation of Equipment to a Pole within 275 Days of Licensee's receipt of all necessary approvals and permits authorizing Licensee to install its Equipment to a Pole.

7.3 Cost of Equipment and Installation.

Licensee shall be responsible for all direct and indirect costs (labor, materials and overhead) for designing, purchasing, and installing its Equipment in accordance with the Approved Plans and all applicable laws. Licensee shall further be responsible for and shall bear all costs of obtaining all permits and licenses required in connection with said Equipment installation, and Licensee shall satisfy any conditions or mitigation measures required in connection therewith. Licensee shall timely pay of all labor, materials, and Equipment and all professional services related to Licensee's installation and operation of the Equipment.

7.4 No Alteration of Existing Equipment or Infrastructure.

Licensee shall not remove, damage or alter in any way any improvements or property of the City, including but not limited to Poles and supporting infrastructure, without the express written permission of the SFMTA and other City agencies that have jurisdiction over said improvements or property.

7.5 Standard of Work.

All installation of Equipment shall be performed and diligently pursued to completion in a skillful and workman-like manner only by qualified and properly trained persons and appropriately licensed contractors. (See Section 13.2.) No less than 10 calendar days before commencing installation of Equipment on any Pole, Licensee shall provide the SFMTA (1) a schedule of all installation activities; (2) a list of the names, places of business, and license numbers of all contractors who will perform the Installation work. In performing installation and/or removal of Equipment on a Pole, Licensee shall leave the Pole in the as good or better condition the prior to said installation or removal work. Licensee's Equipment as installed shall be high quality, safe, fire resistant, modern in design and attractive in appearance, all as approved by SFMTA.

7.6 Project Manager.

Upon execution of this Master License, the City and Licensee will each designate a project manager to coordinate the parties' participation in the design and installation of Licensee's Equipment and who will serve as the respective primary point of contact between the City and Licensee. The City's project manager will not be exclusively assigned to this Master License or Licensee's Pole License applications. Licensee acknowledges that the City's project manager's authority is limited to the administration of the requirements of this Master License and any Pole License application or approved Pole License. Licensee shall be fully responsible for obtaining all required permits and approvals and shall satisfy all governmental requirements necessary for installation of Equipment, and Licensee shall not rely upon the SFMTA or the City's project manager to obtain such permits, approvals or meet such requirements.

7.7 Coordination of Work.

Licensee shall be responsible for coordination of its Equipment installation work to avoid any interference with existing utilities, substructures, facilities and/or SFMTA transit operations. Licensee shall be the City's point of contact for all Equipment installation and except in case of emergency, all communications concerning Equipment installation shall be through Licensee's field representatives.

7.8 Construction and Parking Regulations.

During construction, Licensee must abide by all City and County of San Francisco standard 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/or its contractors for vehicle parking. SFMTA will not pay or void any citations or reimburse Licensee for traffic citations or fines.

8. ALTERATIONS

8.1 Licensee's Alterations.

Licensee shall not make or permit any alterations to a Pole or anything that is part of, installed on, or appurtenant to a Pole (collectively, "Existing Pole Conditions"), except with SFMTA's prior written consent in each instance which may be withheld in City's sole discretion. All alterations shall be done at Licensee's sole expense in accordance with plans and specifications approved by City, only by duly licensed and bonded contractors or mechanics, and subject to all other conditions which City may reasonably impose. The SFMTA may in its sole discretion repair or replace any Pole damaged by Licensee's installation or removal of Equipment, and Licensee shall reimburse the SFMTA its costs for said Pole repair or replacement.

8.2 Installation of Equipment.

Licensee shall not deviate from the Equipment installation plans, including but not limited to the type(s) and design of the Equipment to be installed as approved under a Pole License without express written authority of the SFMTA and DPW.

8.3 Title to Improvements and Removal of Licensee's Equipment.

Except as otherwise provided in this Master License, the City has no claim of ownership of Licensee's Equipment installed at and affixed to a Pole but any structural improvements to the Pole, or a replacement of the Pole, as approved by SFMTA, made by Licensee shall become SFMTA's property and remain on the Pole should Licensee vacate or abandon use of the Pole. Licensee shall not grant to any vendor of installed Equipment or contractor that installs Equipment any security interest or other lien in said Equipment and other equipment affixed to or installed on a Pole. Licensee may at any time, including any time it vacates a Pole (excluding the structural improvements referenced above), remove all of Licensee's Equipment from the Pole, subject to the provisions of Section 26 (Surrender of Premises). Notwithstanding anything to the contrary in this Master License, City can elect at any time prior to the Expiration Date or within thirty (30) days after termination of this License to require Licensee to remove on the Expiration Date or any earlier termination of this Master License in accordance with Section 26 (Surrender of Premises) at Licensee's sole expense, all or part of any structural improvements to the Pole made by City or Licensee that were made to provide sufficient support for Licensee's Equipment.

9. CITY'S CONTROL OF POLES

9.1 Alterations and Repairs.

City reserves the right at any time to make alterations, additions, repairs, deletions or improvements to all or any part of a Pole or the Premises, for any purpose including but not limited to maintenance and improvement of municipal services (including but not limited to transit services), service public and private utilities, SFMTA compliance with mandatory regulations or voluntary controls or guidelines, subject to the following terms and conditions. In performing such work, City shall make good faith efforts to give Licensee prior notice of such work and shall make reasonable efforts not to disrupt Licensee's normal use of Licensee's Equipment on the Pole, but the SFMTA's authority and ability to make changes to any Pole necessary to maintain transit service shall not be impeded or delayed in any way. The making of any such alterations, additions, repairs, deletions or improvements shall in no event entitle Licensee to any damages, relieve Licensee of the obligation to pay the full Rent and additional charges or to perform each of its other covenants hereunder or constitute or be construed as a constructive termination of this Master License, provided that Licensee can still operate the Licensee's Equipment as a Communications Site.

9.2 Licensee On-Call Representative.

Licensee shall at all times a representative assigned on-call and available to the SFMTA to supervise the installation and operation of the Equipment. The Licensee's representative shall be qualified and experienced in the operations of the Equipment, and shall be authorized to act on behalf of the Licensee in any emergency and day-to-day operations of the Equipment. The contact information for Licensee's representative is listed in Section 9.3. If the SFMTA performs maintenance, repair or other activities at a Pole that may impair the operation of Licensee's Equipment on said Pole, the SFMTA will attempt to contact Licensee at the telephone number printed on the identification plate installed on the Pole. The SFMTA shall not be required to delay repair or maintenance activities pending discussion with or arrival of Licensee's on-call representative.

9.3 Emergencies.

In the event of an emergency, the City's work and needs shall take precedence over any operations of Licensee on a Pole. (See Section 22.3.) The parties shall notify each other of any emergency situation related to a Pole at the emergency phone numbers listed below:

City: SFMTA Central Control Center
(415)759-4326

Licensee: Mobilitie 24 Hour Emergency Call Center
(877)204-8155

9.4 Access to Pole Not Guaranteed.

(a) This Master License does not grant Licensee a permanent right of access to any Pole or a right of access to any Pole other than those specifically covered under a Pole License. The SFMTA reserves to itself the right in its absolute discretion to terminate a Pole License prior to its expiration or to terminate all Master Licenses at any time, subject to the provisions of this Master License.

(b) Nothing contained in this Master License shall be construed to require the SFMTA to grant a Pole License where the placement of Licensee's Equipment would interfere with existing SFMTA transit services or transit facilities or equipment or other City services, or would interfere with the use of SFMTA Pole(s) by others, or would create a hazardous or unsafe condition.

(c) Nothing contained in this Master License shall be construed to require Licensor to construct, retain, extend, place or maintain any Pole or other facilities that are not needed for SFMTA transit operations.

(d) The SFMTA reserves the right to remove any Pole(s) from service as transit infrastructure support if the SFMTA determines that said Pole(s) are unnecessary for transit service operations. If the SFMTA removes a pole from infrastructure support, the SFMTA may dismantle or demolish the Pole. The SFMTA will assist Licensee in locating a replacement pole for installation of Licensee's Equipment, subject to the required approvals and permits described in this Master License.

10. REPAIRS AND MAINTENANCE

10.1 City's Maintenance and Repairs.

City shall maintain and perform at its cost repairs to a Pole necessary to maintain the Pole for its intended municipal uses and to correct any immediately life-threatening or hazardous condition concerning a Pole. Licensee shall reimburse the City for the costs of repair to any Pole where damage has resulted from the acts, omissions or negligence of Licensee or its agents. Licensee shall not make any repairs to Pole, except with the express written authorization of the SFMTA. The SFMTA shall not be responsible to repair any condition of a Pole where that condition pre-existed Licensee's installation of its Equipment and such condition could have otherwise been discovered by Licensee through a reasonably diligent inspection of the Premises prior to Licensee's submittal of the Pole License application. Licensee shall give the City written notice of the need for any repair to a Pole, but Licensee's agreement to provide written notice shall in no event be interpreted as an assumption of liability for any life-threatening or hazardous conditions unless Licensee would otherwise be responsible for such conditions hereunder. In the event that the costs of making the corrections or repairs to a Pole exceed Ten Thousand Dollars (\$10,000), City may elect to terminate that portion of the relevant Pole License, remove that Pole from the licensed Premises in lieu of making such corrections or repairs, and adjust (prorate) the Rent accordingly. In such instance, however, Licensee may elect to pay the portion of such costs in excess of Ten Thousand Dollars (\$10,000) necessary in order to make such correction or repairs, in which case City will proceed with the correction or repair.

10.2 Licensee's Repairs.

Licensee shall at its sole expense maintain Licensee's Equipment, including but not limited to any device or equipment used to attach or install Licensee's Equipment to a Pole. Licensee shall make all repairs and replacements: **(a)** at Licensee's expense and at such time and, when required hereunder, in such manner as reasonably approved by City; **(b)** by duly

licensed and bonded contractors or mechanics; **(c)** in a manner and using equipment and materials which will not interfere with or impair City's operations; and, **(d)** in accordance with any and all applicable laws, rules and regulations of the City or other governmental authorities having jurisdiction over the Premises or Licensee's activities.

Licensee shall not be required to seek SFMTA's written approval for any repair, maintenance, replacement or other installation of Equipment in the event that (i) the Equipment in question was previously contained in the Approved Plans, and (ii) the repair, maintenance, replacement or other installation is otherwise reasonably consistent with the Approved Plans, taking into consideration availability of the specific Equipment and advancements in technology. Licensee hereby waives any right it may have to make repairs at City's expense under any applicable law, statute or ordinance now or hereafter in effect.

11. LIENS AND CONTRACTOR'S BONDS AND INSURANCE

11.1 Liens.

Licensee shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Licensee. Licensee shall inform each and every contractor and material supplier that provides any work, service, equipment or material to Licensee in any way connected with Licensee's use of Pole that the Pole is public property and is not subject to mechanics lien or stop notice. In the event Licensee shall not, within thirty (30) days following the attempt of any contractor, service provider, equipment or material supplier to impose any such lien, cause said lien to be released of record by payment or posting of a proper bond, City shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Licensee upon demand. Licensee shall give to City at least fifteen (15) days' prior written notice of commencement of any repair or construction on a Pole except for minor and routine repair and maintenance of Licensee's Equipment for which Licensee is responsible hereunder. Licensee shall not create, permit or suffer any other encumbrances affecting any portion of the Premises.

11.2 Performance Bonds and Insurance.

The SFMTA shall require as a condition of approval of a Pole License, that Licensee provide proof that its contractor(s) that will install the Equipment have bonds to guarantee the performance of the work and the payment of subcontractors and suppliers and general liability insurance acceptable to the City's Risk Manager in form and amount of coverage.

12. UTILITIES AND POLE ACCESS

12.1 Utilities and Services.

Licensee shall furnish, at its cost, any and all utilities or services necessary or appropriate for Licensee's use of the Premises, including but not limited to any power feed required to operate the Equipment. Licensee shall either install a utility meter at the Premises or shall contract with SFPUC (or another power provider if SFPUC power is not available for estimated electrical use. Licensee shall be solely responsible directly to the serving utilities for all utilities required for Licensee's use of the Premises. Licensee agrees to promptly pay for all such utilities. Licensee shall not: **(a)** connect or use any electrical equipment that exceeds the capacity of the electrical system available to service the Pole; or **(b)** connect any apparatus, machine or device through electrical service except in the manner for which such service are designed, except for such modifications to the Premises as may be shown on the Approved

Plans and for any other such modifications that are made at Licensee's sole cost and are approved in writing in advance by City. Licensee may request access to City-owned conduit adjacent to a pole. If the conduit is owned or controlled by the SFMTA and Licensee's proposed use of the conduit will not impede SFMTA operations or use of the conduit or attached facility or infrastructure, the SFMTA will not unreasonably deny Licensee access and use. Approval of SFMTA-owned or controlled conduit will be administered through approval of the relevant Pole License. Licensee's access and use of conduit and other infrastructure owned by City agencies other than SFMTA requires approval of those agencies.

12.2 Utility Charges.

Notwithstanding the provisions of Section 12.1, above, in the event utilities are provided to Licensee by City, Licensee shall pay as additional rent the actual cost of utility services provided to the Premises and demonstrably attributable to Licensee's use ("Utility Charge"). If Licensee is required to pay a Utility Charge to City, at least annually during the Term, City (or at City's election, Licensee) shall calculate the actual Utility Charge for the immediately preceding twelve (12) months based on readings from the utility meters at the Premises and on the rates currently charged by the applicable utility or by agreement without the installation of a meter pay an annual flat rate. Calculation of the actual Utility Charge due shall be made by City. City shall not be liable for, and Licensee shall not be entitled to any abatement or reduction of Rent by reason of City's failure to furnish utilities when such failure is caused by accident, breakage, repairs (including replacements), strikes, lockouts or other labor disturbance or labor disputes of any character, or for any other causes other than the negligence or willful misconduct of City. To the extent Licensee determines that separate metering of utilities is useful or necessary, Licensee may contract with the applicable utility to pay any charges directly, and the cost or installing any meters and equipment in connection therewith shall be borne solely by Licensee.

12.3 Mandatory or Voluntary Restrictions.

Notwithstanding the provisions of Section 12.1, above, in the event City provides any utilities and any governmental entity promulgates or revises any statute, ordinance or building, fire or other code or imposes mandatory or voluntary controls or guidelines on City or the Premises or any Pole, relating to the use or conservation of energy or electricity, or in the event City is required or elects to make alterations to the Premises or any Pole to comply with such mandatory or voluntary controls or guidelines, such compliance and the making of such alterations shall in no event entitle Licensee to any damages, relieve Licensee of the obligation to pay the full Rent and additional charges reserved hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Licensee, provided that Licensee can still operate the Premises as Communications Sites.

12.4 Pole Limits.

Without the prior written consent of City, which City may give or refuse in City's sole discretion, Licensee shall not place or install on a Pole any Equipment, structure or other improvement the weight of which shall exceed the approved load bearing capacity of a Pole or the size of which shall exceed the approved wind sheer strength of the Pole, as those factors are determined by the SFMTA and set out in Approved Plans.

12.5 Pole Types.

SFMTA poles consist of "feeder poles" and "support poles." A "feeder pole" distributes power to Muni's overhead traction lines. A "support pole" provides anchor or other support of cabling that holds overhead traction lines in place. Pole Licenses will be limited to support poles only; the SFMTA will not issue a Pole License for use of or access to feeder poles or to any conduit holding traction power lines, irrespective of whether said lines are energized.

13. COMPLIANCE WITH LAWS

13.1 Compliance with Laws.

(a) Licensee, at Licensee's expense, shall install, maintain and promptly repair any damage to the Equipment installed on a Pole, including the means and devices used to attached said Equipment to the Pole, as well as any peripherals and ancillary improvements, including but not limited to wiring, cabling and power feeds. Licensee shall install, use and maintain said Equipment, peripherals and ancillary improvements in strict compliance with all present and future statutes, ordinances, codes, orders, regulations and implementing requirements of federal, state, county and municipal authorities (collectively, "Laws") relating to the Premises or the use or occupancy thereof, whether foreseen or unforeseen, ordinary as well as extraordinary. Such Laws shall include, without limitation, all Laws relating to 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 pursuant to the provisions of this Section shall be made in conformity with and subject to applicable Laws and any additional requirements of the SFMTA. In making any application to City's Planning Department for the Pole Location, Licensee agrees to act as both "Applicant" and "Project Sponsor."

(b) The parties acknowledge and agree that Licensee's obligation to comply with all Laws as provided herein is a material part of the bargained-for consideration under this Master License and each approved Pole License, irrespective the degree to which such compliance may interfere with Licensee's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Law involved, and whether the Law involved is related to Licensee's particular use of the Premises. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Licensee from its obligations hereunder, or shall give Licensee any right to terminate this Master License or any Pole License in whole or in part or to otherwise seek redress against City. Except as expressly provided herein, Licensee waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Master License or any Pole License, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel City to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

13.2 Personnel Safety Training.

(a) The majority of Poles to be licensed under this Master License support SFMTA overhead traction power lines, as stanchion supports for guy cables and/or power feed cables. SFMTA traction power averages 615 volts DC, 1600 - 6500 amperes. Licensee acknowledges and agrees that the installation and maintenance of Equipment on Poles that service 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. Therefore, all installation and maintenance of Equipment shall be performed by Licensee or by a qualified and licensed contractor in privity with Licensee.

(b) Persons performing installation and maintenance of the Equipment shall be appropriately trained and licensed by the California State Contractors Licensing Board and as may be required by applicable CPUC regulations and rules. Licensee shall ensure that said persons observe all required safety requirements established by the SFMTA, CPUC and Cal-OSHA, including tag-out lock-out de-energization rules, ladder and lift restrictions, and track and street right-of-way safety requirements, and training in those subjects.

(c) During any period when Licensee or any contractor or agent of Licensee performs installation or maintenance of the Equipment, Contractor acknowledges and agrees

that the City has delegated control of the Pole (and any other effected portion of the Premises) to Licensee, who shall be solely responsible for any injury or damage to property arising from or related to said installation or maintenance of Equipment. Said delegation notwithstanding, Licensee's contractor(s) must complete any training or site orientation required by the SFMTA. By providing safety training and/or certification to Licensee personnel and contractor(s), the SFMTA shall not be considered a co-employer of any employee of Licensee or any employee of Licensee's contractor(s) or agents, and SFMTA shall not have any liability for any loss, injury, death or other claim of any employee of Licensee or any employee of Licensee's contractor(s) or agents. Licensee agrees that it shall fully defend and indemnify the City (as provided in Section 19) against any claim of loss, injury or death or other claim brought by any employee of Licensee or any employee of Licensee's contractor(s) or agents arising from or related to Licensee's installation of Equipment on any Pole or other activities of Licensee or its contractors in the SFMTA's right of way.

13.3 Compliance with Public Works Code Article 25.

Licensee shall comply with the requirements set out in San Francisco Public Works Code Article 25, and as that Article may be amended, and all DPW implementing regulations. Licensee shall prior to installing Equipment on a Pole obtain all required permits from DPW.

13.4 Compliance with CPUC General Order 95.

Licensee shall install and maintain Equipment in accordance with the requirements of California Public Utilities Commission General Order 95 and the Rules and other requirements enacted by the CPUC under that General Order, as applicable and as that Rule may be amended. Said Rules include but are not limited to installation clearances, licensing, qualification, and training of personnel, de-energizing of power lines, and marking of Poles and Equipment. For purposes of CPUC General Orders and Rules, the Poles subject to this Master License shall be considered Joint Poles (as that term is defined in CPUC General Orders) that are owned by the SFMTA.

13.5 Compliance with Electric Codes.

Licensee shall install and maintain its Equipment in accordance with the requirements of California Electric Code, National Electric Safety Code IEEE C2 (NESC) and any applicable local electrical code, existing and as any of those codes may be amended. To the extent that CPUC General Order 95 does not address installation of cellular telephone antennas on poles carrying electrical lines, Licensee shall apply applicable provisions of the NESC, with particular attention to paragraphs 224, 235C, 235F, 238, 239, 239H, section 22, 41 and 44. Where any conflict exists between the NESC, the State Code, a local code and CPUC General Orders, the more stringent code requirement(s) shall apply, as may be determined by the SFMTA.

13.6 City's Exercise of its Proprietary Interests.

Licensee acknowledges and agrees that City is entering into this Master License in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this License shall limit in any way Licensee's obligation to obtain any required regulatory approvals from any City department, board or commission, or other governmental agency that has proprietary or regulatory authority over the Premises or over Licensee's proposed activities on the Premises. By entering into this License, City is in no way modifying or limiting Licensee's obligation to cause the Premises to be used and occupied in accordance with all Laws as provided above.

13.7 Licenses and Approvals.

Licensee represents and warrants that prior to and as a condition of installation of Equipment on a Pole, Licensee will acquire all licenses, permits, and other approvals required under all federal, state, and local laws for the operation of Licensee's Equipment on that Pole. Licensee shall maintain all such licenses, permits or other approvals for Equipment installed on a Pole throughout the Term of this License and for as long as Equipment is installed on the Pole.

13.8 Radiofrequency Radiation and Electromagnetic Fields.

Without limiting Section 13.1 above, Licensee shall comply with all Laws relating to allowable presence of or human exposure to Radiofrequency Radiation ("RFs") or Electromagnetic Fields ("EMFs") on or off the Premises, including without limitation, all applicable standards adopted by the Federal Communications Commission ("FCC"), whether such RF or EMF presence or exposure results from Licensee's Equipment alone or from the cumulative effect of Licensee's Equipment added to all other sources on a Pole or the Premises. City shall not agree to allow any third party seeking to co-locate its Equipment on a Pole covered by this Master License after the Commencement Date to cause an increase in RF or EMF levels on a Pole or the Premises such that the cumulative levels exceed allowable levels. If the cumulative effect of all users of a Pole or the Premises or any part thereof, including Licensee's use hereunder and other licensee(s) whose use predated the Commencement Date, exceeds such standards, Licensee shall have the right to terminate this Master License or applicable Pole License without penalty upon ninety (90) days' prior written notice to City.

13.9 Compliance with City's Risk Management Requirements

Licensee shall not do anything, or permit anything to be done by anyone under Licensee's control, in or about the Premises which would create any unusual fire risk, and shall take commercially reasonable steps to protect City from any potential premises liability by reason of Licensee's use of the Premises. Licensee, at Licensee's expense, shall comply with all reasonable rules, orders, regulations or requirements of City's Risk Manager and the Director of Transportation.

14. EQUIPMENT DISCONNECT DEVICE

Licensee shall install or cause to be installed at every Pole a disconnect device , such as a fused linkage, cut-off switch or similar mechanism. The disconnect device must disable and de-energize the Equipment, so that SFMTA personnel performing maintenance on the Pole or attached traction power lines and support cabling may quickly and safely shut down the Equipment so that they are not exposed to RF or EMF generated by the Equipment. The disconnect device must be clearly identified and easily accessed, and the operation of the cut-off switch must be obvious and intuitive. The SFMTA will instruct its overhead line personnel to use the disconnect device to de-activate the Equipment while performing work in proximity to said Equipment. Licensee shall provide the SFMTA with information and diagrams describing the use, function and operation of the disconnect device for the instruction of SFMTA overhead line personnel.

15. DAMAGE OR DESTRUCTION

In the event of damage to a Pole by any cause, City shall have no obligation to replace, rebuild or repair said Pole. If City, in City's sole and absolute discretion, determines to repair or rebuild, City shall give Licensee written notice of its determination and its good faith estimate of the amount of time to repair or rebuild, within thirty (30) days of the date of such damage or destruction. If such repairs or rebuilding cannot be completed within two hundred ten (210)

days after the date of such damage or destruction, or if City elects not to repair or rebuild as provided above, then Licensee shall have the right, at its election, to terminate the applicable Pole License(s) upon thirty (30) days prior written notice to City.

The SFMTA shall not charge rent for any Pole that has been destroyed or so damaged (in the reasonable determination of the SFMTA) by acts of third parties or circumstances outside the control of the Licensee or its contractors (that is, Acts of God or force majeure) that the Equipment installed on said Pole cannot be operated as a Communications Site. The SFMTA will assist Licensee in locating a replacement pole for installation of Licensee's Equipment, subject to the required approvals and permits described in this Master License.

The parties understand and agree that the provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of damage or destruction, and Licensee and City each 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 law, statute or ordinance now or hereafter in effect.

16. EMINENT DOMAIN

16.1 Eminent Domain.

If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, the Pole Licenses for said Poles or Premises shall terminate as to the part so taken as of the date of taking. In the event of a taking, the total Rent (Rent and additional charges) thereafter to be paid shall be equitably reduced by the Rent agreed under the relevant Pole License(s) for the taken Poles.

In the event of any taking, City shall be entitled to any award which may be paid or made in connection therewith. Licensee shall have no claim against City for the value of any unexpired term of any Pole Agreement or this Master License or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's relocation expenses or loss or damage to Licensee's Equipment.

The parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of a taking. Licensee and City each hereby waives and releases any right to terminate this Master License 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), to the extent such statutes are applicable to this Master License (which the parties agree is not a lease), or under any similar law, statute or ordinance now or hereafter in effect.

16.2 Temporary Takings.

Notwithstanding the foregoing, if a taking occurs with respect to all or any portion of the Premises for less than ninety (90) days, this Master License shall remain unaffected thereby, and Licensee shall continue to perform all of the terms, conditions and covenants of this Master License, except that Licensee shall be entitled to an abatement in Rent to the extent that its use of a portion of the Premises as a Pole Location is materially impaired. In the event of any such temporary taking, Licensee shall be entitled to receive that portion of any award which represents compensation for the use or occupancy of the Premises during the Term up to the total Rent and additional charges owing by Licensee for the period of the taking, and City shall be entitled to receive the balance of any award.

17. ASSIGNMENT

17.1 Restriction on Assignment.

Except as specifically provided herein, Licensee shall not directly or indirectly (including, without limitation, by merger, acquisition, or other transfer of any controlling interest in Licensee), voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet or sublicense any portion of the Premises (which actions are referenced collectively herein as "Assignment") without City's prior written consent. City's consent to an Assignment shall not be unreasonably withheld in each instance, as provided herein below and subject to the exception for certain permitted transfers as provided in Section 17.6 (Permitted Assignment). Notwithstanding anything to the contrary contained in this Master License, in no event shall Licensee have the right to encumber by a mortgage, deed of trust, security agreement, or otherwise, any part of the Premises or City's interest therein.

17.2 Notice of Proposed Assignment.

If Licensee desires to enter into an Assignment of this Master License or any Pole License issued hereunder, Licensee shall give written notice (a "Notice of Proposed Assignment") to City of its intention to do so. The Notice of Proposed Assignment shall provide in detail the terms and conditions for such proposed Assignment and complete information, including financial statements, business history, and references about the Assignee and such other information about the proposed assignee (collectively, "Assignee") as is reasonably requested by City to make a fully informed decision about consent to Licensee's request.

17.3 City's Response.

City shall make its election to approve or disapprove such assignment within thirty (30) days after City's receipt of the Notice of Proposed Assignment (the "Response Period"). If City approves the proposed assignment in writing, then Licensee shall be entitled for a period of one-hundred (100) days following such date to enter into the proposed Assignment. However, the value of any Rent or other consideration realized by Licensee under any such Assignment in excess of the Rent and additional charges payable hereunder (or the amount thereof proportionate to the portion of the Premises subject to such assignment) shall be paid to City.

Notwithstanding anything to the contrary in this Section, if any monetary or other material event of default by Licensee is outstanding hereunder at the time of Licensee's Notice of Proposed Assignment (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then City may elect by notice to Licensee to refuse to consent to Licensee's proposed Transfer and pursue any of its right or remedies hereunder or at law or in equity.

17.4 Effect of Assignment.

No Assignment by Licensee nor any consent by City thereto nor any Assignment by Licensee permitted hereunder without City's consent shall relieve Licensee of any obligation on its part under this Master License. Any Assignment that is not in compliance with this Article 17 Section shall be void and, at City's option, shall constitute a material default by Licensee under this Master License. The acceptance of any Rent or other payments by City from a proposed Assignee shall not constitute consent to such Assignment by City or recognition of any Assignee, or a waiver by City of any failure of Licensee or other transferor to comply with this Section.

17.5 Assumption by Transferee.

Each Assignee shall assume all obligations of Licensee under this Master License and shall be and remain liable jointly and severally with Licensee for the payment of the Rent and additional charges, and for the performance of all of the terms, covenants, conditions and agreements herein contained on Licensee's part to be performed. No Assignment shall be binding on City unless Licensee or Assignee shall deliver to City evidence satisfactory to City that it has obtained all permits, licenses, or other approvals required to operate as a wireless telecommunications service provider on the Premises, a counterpart of the Assignment (or other document reasonably satisfactory to the City in the event of an Assignment permitted under Section 17.6 (Permitted Assignment)) and an instrument in recordable form that contains a covenant of assumption by such Assignee satisfactory in substance and form to City, and consistent with the requirements of this Section. However, the failure or refusal of such Assignee to execute such instrument of assumption shall not release such Assignee from its liability as set forth above. Except for a permitted Assignment as provided in Section 17.6, Licensee shall reimburse City on demand for any reasonable costs that may be incurred by City in connection with any proposed Assignment, including, without limitation, the costs of making investigations as to the acceptability of the proposed Assignee and legal costs incurred in connection with the granting of any requested consent.

17.6 Permitted Assignment.

City agrees that Licensee shall be permitted to enter into an Assignment of this Master License, without City's prior consent but with notice to City as provided below, to:

- (a) an Affiliate, which is an entity that directly or indirectly controls, is controlled by or is under the common control with, Licensee, and has a net worth of at least Ten Million Dollars (\$10,000,000);
- (b) a Subsidiary, which is an entity controlled by Licensee and has a net worth of at least Ten Million Dollars (\$10,000,000);
- (c) an entity which acquires all or substantially all of Licensee's assets in the market in which the licensed Premises are located (as the market is defined by the Federal Communications Commission (FCC)) due to an order or directive of the FCC;
- (d) an entity that acquires Licensee by change of stock ownership or partnership interest.

An Assignment is permitted (that is, does not require the SFMTA's consent) under the circumstances stated above, only to the extent that the Assignee will use the Premises in the same manner as Licensee under this Master License and will hold all licenses, permits, and other approvals necessary to lawfully install Equipment on a Pole. As used above, the term "control" shall mean **(a)** as to a corporation, the ownership of stock having the right to exercise more than fifty percent (50%) of the total combined voting power of all classes of stock of the controlled corporation, issued and outstanding, and **(b)** as to partnerships and other forms of business associations, ownership of more than fifty percent (50%) of the beneficial interest and voting control of such association. Licensee shall provide SFMTA notice (30) days before the effective date such Assignment. Said notice shall include the contact information for the proposed Assignee and financial information establishing that the proposed Assignee meets the capital and fiscal qualifications stated in this Section. This section shall not apply if the Licensee is in default of this Master License.

18. DEFAULT

18.1 Events of Default.

Any of the following shall constitute an event of default by Licensee of this Master License:

(a) Any failure to pay any Rent or additional charges as and when due, provided Licensee shall have a period of thirty (30) calendar days from the date of written notice from City within which to cure any default in the payment of Rent; provided, however, that City shall not be required to provide such notice regarding Licensee's failure to make such payments when due more than twice during the term of this Master License, and any such failure by Licensee after Licensee has received two such notices from City shall constitute a default by Licensee hereunder without any requirement on the part of City to give Licensee further notice prior to removing Licensee's Equipment and making the Pole(s) licensed to Licensee available to be licensed by other parties.

(b) Any failure to perform or comply with any other covenant, condition or representation made under this Master License, provided Licensee shall have a period of thirty (30) days from the date of written notice from City within which to cure such default under this Master License, or, if such default is not capable of cure within such thirty (30)-day period, Licensee shall have a reasonable period to complete such cure if Licensee promptly undertakes action to cure such default within such thirty (30)-day period and thereafter diligently prosecutes the same to completion and Licensee uses its best efforts to complete such cure within sixty (60) days after written notice of default from City;

(c) Any vacation or abandonment of the Premises for more than sixty days such that the Premises are no longer being used for the purposes set forth in Section 5.1; and

(d) The appointment of a receiver due to Licensee's insolvency to take possession of all or substantially all of the assets of Licensee, or an assignment by Licensee for the benefit of creditors, or any action taken or suffered by Licensee under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

18.2 Remedies.

Upon the occurrence of an event of default by Licensee which is not cured by Licensee within the applicable grace period, if any, specified in Section 18.1 (Events of Default), City may terminate any Pole License the terms of which Licensee is in default or, if said Licensee's default is of such serious nature that it materially affects the purposes of this Master License, the City may terminate this Master License in whole or in part, in addition to all other rights and remedies available to City at law or in equity.

19. LICENSEE'S INDEMNITY

Licensee, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") City, its Agents and Invitees, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from : **(a)** injury to or death of a person, including, without limitation, employees of Licensee, or loss of or damage to property, occurring on or

about the Premises or arising in connection with Licensee's the use of the Premises under this Master License ; **(b)** any default by Licensee in the observation or performance of any of the terms, covenants or conditions of this Master License to be observed or performed on Licensee's part; **(c)** the use or occupancy or manner of use or occupancy of the Premises by Licensee, its Agents or Invitees or any person or entity claiming through or under any of them; **(d)** the condition of the Premises or any occurrence on the Premises from any cause attributable to the events described in clauses (a), (b) or (c) of this Section; or **(e)** any acts, omissions or negligence of Licensee, its Agents or Invitees, in, on or about the Premises ; all regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except 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 Master License and further except to the extent such Claim is caused by the willful misconduct or active negligence of the Indemnified Parties. The foregoing indemnity provisions shall cover claims and actions incurred in connection with or arising in whole or in part from the presence of or exposure to RFs or EMFs resulting from Licensee's use of the Premises. The foregoing Indemnity shall also include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Claim. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by City and continues at all times thereafter. Licensee's obligations under this Section shall survive the termination of the Master License.

20. INSURANCE

20.1 Licensee's Insurance.

(a) Licensee shall procure and keep in effect at all times during the Term, at Licensee's cost, insurance in the following amounts and coverages:

(i) Commercial General Liability insurance (including, but not limited to, premises-operations; explosion, collapse and underground hazard; broad form property damage; products/completed operations; contractual liability; independent contractors; personal injury) with limits of at least two million dollars (\$2,000,000) combined single limit for each occurrence.

(ii) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident.

(iii) Commercial Automobile Liability Insurance with limit not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles.

(b) Commercial General Liability and Commercial Automobile Liability Insurance policies shall be endorsed to provide the following:

(i) Name as additional insured the City and County of San Francisco, its officers, agents and employees.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Master License, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce

or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(c) All insurance policies required to be maintained by Licensee hereunder shall be endorsed to provide thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to both Licensee and City. Notice to City shall be mailed to the address(es) for City set forth in the Basic License Information.

(d) Should any of the required insurance be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of three (3) years beyond the expiration or termination of this Master License, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Master License, such claims shall be covered by such claims-made policies.

(e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(f) Licensee shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverages required hereunder, on or before the Commencement Date, together with complete copies of the policies promptly upon City's request, and Licensee shall provide City with certificates or policies thereafter promptly upon City's request.

(g) Licensee's compliance with the provisions of this Section shall in no way relieve or decrease Licensee's liability under Section 19 (Indemnity), or any other provision of this Master License.

(h) Notwithstanding anything to the contrary in this Master License, City may elect, in City's sole and absolute discretion, to terminate this Master License if Licensee allows any required insurance coverage to lapse by: **(1)** providing Licensee written notice of such lapse; and **(2)** immediately providing written notice of termination if Licensee fails to reinstate the lapsed coverage within three (3) business days of City's notice of such default.

(i) The Licensee's insurance companies must be licensed to do business in the applicable state(s) and must meet or exceed an A.M. Best rating of A-X or its equivalent.

(j) All insurance must be in effect before SFMTA will authorize Licensee to install Equipment on any Pole and shall remain in force until such Equipment has been removed from all Poles. Licensee is responsible for determining whether the above minimum insurance coverages are adequate to protect its interests. The above minimum coverages shall not constitute limitations upon Licensee's liability.

(k) Licensee may propose and the SFMTA may accept an alternative insurance program, if that program provides equivalent protections to the City as the insurance requirements set out in this Section, which shall be determined by the SFMTA in its sole and exclusive discretion, in consultation with the City's Risk Manager. The SFMTA's acceptance of an alternate insurance program shall not effect an implied waiver or amendment of any requirement of this Master License. Any amendment of these insurance requirements must be set out in writing as an Addendum and Modification of this Master License, executed in the same manner as this Master License.

20.2 Insurance of Licensee's Property.

Licensee shall be responsible, at its expense, for separately insuring Licensee's Property.

20.3 City's Self Insurance.

Licensee acknowledges that City self-insures against casualty, property damage and public liability risks. City agrees to maintain an adequate program of self-insurance for public liability risks during the Term and shall not be required to carry any third party insurance with respect to the Premises or otherwise.

20.4 Waiver of Subrogation.

Notwithstanding anything to the contrary contained herein, City and Licensee each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance obtained by the Waiving Party under this Master License or is actually covered by insurance obtained by the Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Building or the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

20.5 Contractor's Liability Insurance.

Licensee shall require that its contractors that install, maintain, repair, replace or otherwise perform work on the Premises have and maintain insurance of the same coverage and amounts as required herein of licensee.

21. LIMITATION OF CITY'S LIABILITY

21.1 Limitation on City's Liability.

City shall not be responsible for or liable to Licensee, and Licensee hereby waives all Claims against City and its Agents and releases City and its Agents from, all Claims for any injury, loss or damage to any person or property (including the Equipment) in or about the Premises by or from any cause whatsoever (other than to the extent caused by the active negligence or willful misconduct of City and its Agents), including, without limitation, acts or omissions of persons using the sidewalk or street adjoining or adjacent to or connected with the Premises; theft; burst, stopped or leaking water, gas, sewer or steam pipes; or gas, fire, oil or electricity in, flood, or vehicle collision, on or about the Premises.

21.2 Consequential Damages.

Licensee expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of City for any consequential or incidental damages including, but not limited to, lost profits arising from the disruption to Licensee Improvements. City would not be willing to enter into this Master License in the absence of a complete waiver of liability, to the fullest extent permitted by Law, for consequential or incidental damages due to the acts or omissions of City or its Agents, and Licensee expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Licensee or other waivers contained in this Master License and as a material part of the consideration for this Master License, Licensee fully releases, waives and discharges forever any and all claims, demands, rights, and causes of action against City for consequential and incidental damages

(including without limitation, lost profits) arising out of this Master License, including, without limitation, any interference with uses conducted by Licensee pursuant to this Master License, regardless of the cause, and whether or not due to the active or passive negligence or willful misconduct of City or its Agents, and covenants not to sue for such damages City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them.

21.3 No Relocation Assistance.

This Master License creates no right in Licensee to receive any relocation assistance or payment for any reason under the Relocation Assistance Act (California Government Code Section 7260 et seq.), the Uniform Relocation Assistance Act (42 U.S.C. Section 4602 et seq.) as such acts may be amended or revised or under any existing or future law upon any termination of tenancy except as provided in Section 16 (Eminent Domain) hereof.

To the extent any of the aforementioned authorities may apply here, Licensee fully waives, releases and relinquishes forever any and all claims, demands, rights and causes of action that it may have against the City under any existing or future laws, for any compensation from City not otherwise provided for herein, upon any termination of tenancy hereunder.

In connection with the releases under Sections 21.1 (Limitation on City's Liability), 21.2 (Consequential Damages), and 21.3 (No Relocation Assistance), Licensee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Licensee acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, anticipated and unanticipated claims. Licensee realizes and acknowledges that it has agreed upon this Master License in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Master License.

22. ACCESS TO PREMISES

22.1 Licensee's Access to the Premises.

City hereby grants to Licensee during the Term of this Master License and for the limited purposes and subject to the terms and conditions set forth herein, a nonexclusive license in and over the Premises. The license granted to Licensee hereunder is for the sole purpose of installing, maintaining, restoring, replacing and operating Licensee's Equipment located on Pole(s) under Pole Licenses, including any necessary electrical conduits and feeds, in accordance with the Communications Site use permitted under this Master License. Licensee or its contractor(s) shall contact SFMTA transit operations, overhead lines and traction power maintenance division before entering any SFMTA-owned manholes or vaults in connection with the installation, repair, maintenance or operation of Licensee's Equipment installed on the Premises.

22.2 City's Access to the Premises.

City and its designated Agents shall the right to enter the Premises or any licensed Pole at any time without notice for any purpose.

22.3 Emergency Access.

If safe and practicable, the SFMTA will allow Licensee to remove its Equipment prior to removing or replacing a Pole in an emergency situation or other exigent circumstances. But if in the determination of the SFMTA it is not 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 SFMTA will remove the Equipment from the Pole, exercising reasonable care to avoid damage. The SFMTA will hold the Equipment for retrieval by Licensee, which may reinstall said Equipment or equivalent at Licensee's expense on the repaired or replaced Pole. The City's removal of Licensee's Equipment in emergency or exigent circumstances shall not be deemed to be a forcible or unlawful entry into or an interference with Licensee's license to the Premises. (See Section 9.3.)

22.4 No Liability.

City shall 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 City's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of City or its Agents and not contributed to by the acts, omissions or negligence of Licensee, its Agents or Invitees.

22.5 No Abatement.

Licensee shall not be entitled to any abatement in Rent if City exercises any rights reserved in this Section 22 unless City's activities causes Licensee to be unable to operate its Equipment for its intended use on any Pole for a period of ten (10) calendar days, in which case, subject to proof, Rent shall be abated for the entire period that Licensee is unable to operate its Equipment on said affected Poles.

22.6 Minimize Disruption.

City shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section 22 in a manner that, to the extent practicable, will minimize any disruption to Licensee's use hereunder.

23. REQUIRED RECORDS

23.1 Estoppel Certificates.

Licensee, at any time and from time to time upon not less than ten (10) days' and after receipt of written notice from City, shall execute, acknowledge and deliver to City or to any party designated by City, a certificate of Licensee stating: **(a)** that Licensee has accepted the Premises (or, if Licensee has not done so, that Licensee has not accepted the Premises and specifying the reasons there for), **(b)** the Commencement Date of existing Pole Licenses, **(c)** the Effective Date and Expiration Date of this Master License, **(c)** that this Master License is unmodified and in full force and effect), **(d)** whether or not there are then existing any defenses against the enforcement of any of the obligations of Licensee under this Master License (and if so, specifying the same), **(e)** whether or not there are then existing obligations of City under this Master License (and if so specifying the same) and whether Licensee believes that the City has failed to meet any of said obligations and identifying them, **(f)** the dates, if any, to which the

Rent and additional charges have been paid, and **(g)** any other information that may be required by any such persons.

23.2 Regulatory and Bankruptcy Records.

Licensee shall provide to City without request copies of:

(a) Any pending application communications or other documents related to any filing by the licensee of bankruptcy, receivership, or trusteeship; and

(b) All relevant petitions, applications, communications and reports submitted by the Licensee to the Federal Communications Commission (FCC), or any other federal or State regulatory commission or agency having jurisdiction that is directly related to the Licensee's installation or operation of Equipment on SFMTA Poles or other SFMTA property.

To the extent allowed under applicable law, the SFMTA will treat documents and information obtained under this Section 23.2 as proprietary to Licensee and will endeavor to provide notice to Licensee before releasing said documents and information pursuant to court order or other requirement of law.

24. RULES AND REGULATIONS

Licensee shall faithfully comply with any and all reasonable rules, regulations and instructions, written or oral which may be established during the Term by the City with respect to use of any part of the Premises.

25. SECURITY DEPOSIT

Upon execution of this Master License, Licensee shall deposit with City the sum specified as the security deposit in the Basic License Information (the "Security Deposit"), in cash, to secure Licensee's faithful performance of all terms, covenants and conditions of this Master License. Licensee agrees that City may (but shall not be required to) apply the Security Deposit in whole or in part to remedy any damage to the Premises 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 Rent or other sum due hereunder either before or after a default), without waiving any of City's other rights and remedies hereunder or at law or in equity and without any obligation. Licensee waives the provisions of Section 1950.7 of the California Civil Code or any similar law, statute or ordinance now or hereafter in effect and agrees that SFMTA may retain any portion of Security Deposit reasonably necessary to compensate SFMTA for any other foreseeable or unforeseeable loss or damage caused by the acts or omissions of Licensee, its Agents or Invitees. Without limiting the foregoing, Licensee understands and agrees that SFMTA may apply some or all of the Security Deposit to the payment of future Rent following a Licensee default.

Should City use any portion of the Security Deposit to cure any default by Licensee hereunder, Licensee shall immediately replenish the Security Deposit to the original amount. If the Rent is increased pursuant to any of the provisions of this Master License, Licensee shall increase the amount of the Security Deposit accordingly. City's obligations with respect to the Security Deposit are solely that of debtor and not trustee. City shall not be required to keep the Security Deposit separate from its general funds, and Licensee shall not be entitled to interest on the Security Deposit. The amount of the Security Deposit shall in no way limit the liabilities of Licensee under any provision of this Master License.

26. SURRENDER OF PREMISES

Upon the Expiration Date or other termination of this Master License or any Pole License, Licensee shall peaceably remove its Equipment from Poles, quit and surrender to City the licensed Premises in good order and condition, normal wear and tear excepted, free of debris and hazards, after having made the last necessary repair required by Licensee under this Section (and damage caused by casualty or condemnation excepted). The Premises shall be surrendered free and clear of all liens and encumbrances. Licensee shall, immediately before the Expiration Date or other termination of this Master License, remove all of Licensee's Equipment and repair any damage resulting from the removal. Licensee's obligations under this Section shall survive the Expiration Date or other termination of this Master License. Any items of Licensee's Equipment that remains on a Pole or otherwise on the Premises after the Expiration Date of this Master License may, at the option of City, be deemed abandoned and in such case may be disposed of by City in any lawful manner after the City has issued a 60-day notice to Licensee to remove the Equipment. Licensee agrees that Civil Code Section 1980 et seq. and similar provisions of the Civil Code addressing abandoned property by residential or commercial tenants shall not apply to the Equipment.

27. HAZARDOUS MATERIALS

27.1 Definitions.

As used herein, the following terms shall have the meanings set forth below:

(a) "Environmental Laws" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted.

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "Investigate and Remediate" shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises or that has been, is being or threatens to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

(d) "Property" shall mean the real property underlying the Premises.

(e) "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing on, under or about the Premises or the Property or the environment.

27.2 Hazardous Materials in Premises.

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 or about the Premises or any other part of the Property, or transported to or from the Property in violation of Environmental Laws, except that Licensee may use small quantities of Hazardous Materials as needed for routine operation of, cleaning and maintenance of Licensee's Equipment which are customarily used for routine operation, cleaning and maintenance of such equipment and so long as all such materials are contained, handled and used in compliance with Environmental Laws. Licensee shall immediately notify SFMTA if and when Licensee learns or has reason to believe there has been any Release of Hazardous Material on or about the Premises or the Property.

27.3 Licensee's Environmental Indemnity.

If Licensee breaches any of its obligations contained in this Section, or if any act, omission or negligence of Licensee or any of its Agents or Invitees results in any contamination of the Premises or any other part of the Property or in a Release of Hazardous Material from, on, about, in, or beneath any part of the Premises or the Property or the violation of any Environmental Law, then in any such event Licensee, on behalf of itself and its successors and assigns, shall Indemnify City, its Agents and Invitees, and their respective successors and assigns, and each of them, from and against any and all Claims (including, without limitation, damages for decrease in value of the Premises or the Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Premises or the Property and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees) arising during or after the Term of this Master License relating to such Release or violation of Environmental Laws; provided, however, Licensee shall not be liable for any Claims to the extent such Release was caused by the active negligence or willful misconduct of City or its Agents. The foregoing Indemnity includes, without limitation, costs incurred in connection with any activities required to Investigate and Remediate any Hazardous Material brought onto the Premises or the Property by Licensee or any of its Agents or Invitees and to restore the Property to its condition prior to Licensee's introduction of such Hazardous Material or the correction of any violation of Environmental Laws. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by City and continues at all times thereafter. Without limiting the foregoing, if Licensee or any of its Agents or Invitees cause the Release of any Hazardous Material on, about, in, or beneath the Premises or Property, then in any such event Licensee shall, immediately, at no expense to City, take any and all necessary actions to return the Premises or the Property, as applicable, to the condition existing prior to the Release of any such Hazardous Materials on the Property or otherwise abate the Release in accordance with all Environmental Laws, except to the extent such Release was caused by the active negligence of City or its Agents. Licensee shall afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

28. SPECIAL PROVISIONS

28.1 Licensee's Right to Terminate.

(a) In the event Licensee fails to obtain or loses its permits necessary to install or operate its Equipment on a majority of the Pole Locations for which it submitted applications due to reasons other than its failure to comply with the conditions of the permit and in spite of reasonable efforts by Licensee to obtain or maintain said permits, Licensee may terminate this

Master License with ninety (90) days' prior written notice to City, and upon the effective date of such termination, Rent shall no longer be owed.

(b) The term of any Pole License shall not be less than one (1) year; the SFMTA will not process Pole License applications submitted one hundred two (102) months after the Effective Date of this Master License. Absent the circumstances described in the preceding subsection 28.1(a), Licensee may terminate a Pole License upon 90 days notice at anytime following the one-year anniversary of the Commencement Date of said Pole License. Licensee may remove its Equipment from a Pole at anytime after giving the SFMTA required notice prior to performing work on a Pole (see Section 29.2), but the Pole License shall continue until the minimum time period described herein has expired. The parties do not intend that Licensee's right to terminate be used to relocate from a license Pole to another pole.

(c) Licensee may terminate this Master License at anytime by providing the SFMTA one year's written notice, as provided in Section 29.2.

28.2 Abandonment.

Should Licensee abandon the Equipment installed on a Pole or Poles before the natural expiration of the terms of the applicable Pole License(s) (or if the Equipment on all Poles be deemed abandoned, then this Master License), the SFMTA may continue this Master License and applicable Pole License(s) in effect by not removing Licensee's Equipment, in which event the SFMTA shall be entitled to enforce all of SFMTA's rights and remedies under this Master License, including the right to recover all Rent as it becomes due under this Master License and/or applicable Pole License(s). In the event that Licensee abandons its Equipment for a continuous period of sixty days, the SFMTA may in its discretion provide Licensee 30 days notice, and then remove the Equipment; upon the City's removal of the abandoned Equipment, this Master License and all Pole Licenses issued thereunder shall terminate. Failure to pay annual Rent for a period of 90 days after it is due shall constitute abandonment.

28.3 City's Right to Terminate.

City shall have the right to terminate any or all Pole License(s) or require that Licensee relocate Equipment from a particular Pole without penalty upon thirty (30) days' written notice to Licensee if, after notice and a reasonable time (not to exceed sixty (60) days) for Licensee to effect a remedy (cure), the Director of Transportation (or his or her designee) determines that Licensee's continued use of a Pole or Poles will adversely affects or poses a threat to public health and safety, constitutes a public nuisance, interferes with transit operations, or interferes with traffic regulation and control, or would require the SFMTA to maintain a Pole that is no longer required for a City. The foregoing notice requirements notwithstanding, the SFMTA may in its sole discretion determine that exigent circumstances exist that require, for reasons of public, health, safety, or needs of the SFMTA to provide public transit services and traffic regulation and control, and require that Licensee immediately remove the Equipment from a particular Pole. Within forty-eight (48) hours (or other time agreed by SFMTA) of receipt of such notice, Licensee shall remove the Equipment from the identified Pole.

28.4 Licensee's Obligation Not to Cause Interference.

Licensee will not permit its Equipment or its use of the Premises or any Pole(s) as a Communications Site to cause interference with or impairment of other communication (radio, telephone and other communications transmission and/or reception) or computer equipment lawfully used by any person, including but not limited to the City or any of its Agents. Such interference shall be deemed an event of default of this Master License by Licensee, and upon notice from City, the Licensee shall be responsible for eliminating such interference at no cost to the City. In the event any such interference does not cease promptly, the parties acknowledge

that continuing interference may cause irreparable injury and, therefore, City shall have the right to bring action to enjoin such interference or to terminate all Pole License(s) where the Equipment is causing said interference or impairment immediately upon notice, at City's election. The City and Licensee shall use the best reasonable efforts to remedy and cure such interference with or impairment of City operations, but Licensee's operation of its Equipment shall at all times be subordinate to and shall accommodate the requirements of City communications and operations. In addition, Licensee shall not in its installation or operation of Equipment on SFMTA Poles interfere with the City's intended uses of the Poles.

28.5 Licensee's Protection Against Interference by Third Parties.

So long as Licensee is not in default hereunder, after the Commencement Date City shall not grant a license to a third party for use of the Pole if such use would materially adversely interfere with Licensee's normal operation of its Equipment as a Communications Site. Any such future license granted to a third party that permits the installation of communication equipment to a Pole licensed to and occupied by Licensee shall be conditioned upon such potential (third party) licensee not causing measurable interference which materially impairs Licensee's ability to utilize the Pole as a Communications Site.

28.6 Licensee's Protection Against Interference by City

If any change in the nature of City's use of the Premises during the Term results in measurable interference which materially impairs Licensee's normal operation of its equipment located on the Premises and, as a result of such interference, it is necessary to alter the Licensee Improvements or Licensee's other equipment located on the Premises, Licensee shall notify City of such interference. Upon receipt of such notice, City shall investigate whether it can reasonably and economically mitigate that interference. If the City determines in its sole discretion that mitigation is not feasible or cannot be achieved for reasonable cost, the City and Licensee shall cooperate in locating another Pole on to which Licensee may transfer its Equipment, subject to DPW approval of a Personal Wireless Facility Site Permit for the new (substitute) Pole Location. The City will under such circumstances waive the Rent on the replacement Pole for six months to offset the cost of Licensee's relocation of Equipment. Said Rent waiver shall be the only compensation due Licensee for the costs incurred or otherwise arising from Licensee's removal and relocation of the Equipment, and shall constitute liquidated damages to Licensee fully compensating Licensee for all claims, damages or other harm that Licensee has incurred or may incur or that may arise or be related to said interference and removal and relocation of Equipment.

29. GENERAL PROVISIONS

29.1 Scope.

These terms and conditions of this Master License apply to all Pole Licenses and applications for said licenses. A Pole License shall be subordinate to this Master License.

29.2 Notices.

Notice given under this Master License shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail with a return receipt requested or overnight mail, return receipt requested, with postage prepaid, to: **(a)** Licensee at Licensee's address set forth in the Basic License Information, or at any place where Licensee or any agent, officer or employee of Licensee may be personally served if sent subsequent to Licensee's vacating, deserting, abandoning or surrendering the Premises; or **(b)** SFMTA at SFMTA's address set forth in the Basic License Information; or **(c)** to such other address as either City or Licensee may designate as its new address for such purpose by notice given to

the other in accordance with the provisions of this Section. All notices hereunder shall be deemed to have been given or received five (5) calendar days if delivered by first class mail and two (2) calendar days if sent by certified mail after the date when it shall have been mailed , or upon the date personal delivery is made. The parties will transmit copies of notices via email to the email addresses listed in the Basic License Information. Any notice of default, demand to cure, or notice of termination must be sent by certified mail or personally delivered.

29.3 No Implied Waiver.

No failure by either party to insist upon the strict performance of any obligation of the other under this Master License or any Pole License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, shall constitute a waiver of such breach. No acceptance by City or any Agent of City of full or partial Rent or additional charges during the continuance of any such breach shall constitute a waiver of such breach or of City's right to demand strict compliance with such term, covenant or condition or operate as a waiver of any requirement of this Master License or any Pole License. No express written waiver by either party of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof by either party shall not be deemed to be a waiver of a subsequent default or performance. The consent of City given in any instance under the terms of this Master License or any Pole License shall not relieve Licensee of any obligation to secure the consent of City in any other or future instance under the terms of this Master License or any Pole License.

29.4 Amendments.

Neither this Master License nor any term or provision hereof may be changed, waived, discharged or terminated orally, nor shall any breach thereof be waived, altered or modified, except by a written instrument signed by both parties hereto.

29.5 Authority.

If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of Licensee does hereby covenant and warrant that Licensee is a duly authorized and existing entity, that Licensee is qualified to do business in California, that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of Licensee are authorized to do so. Upon City's request, Licensee shall provide City with evidence reasonably satisfactory to City confirming the foregoing covenants and warranties.

29.6 Interpretation of License.

(a) The words "City" or "SFMTA" and "Licensee" as used herein shall include the plural as well as the singular. If there is more than one Licensee, the obligations and liabilities under this Master License imposed on said multiple Licensees shall be joint and several among them.

(b) As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors, subcontractors and representatives of such party, and the term "Invitees" when used with respect to either party shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of such party.

(c) The captions preceding the articles and sections of this Master License and in the table of contents have been inserted for convenience of reference and such captions in no way define or limit the scope or intent of any provision of this Master License.

(d) This Master License has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein.

(e) Provisions in this Master License relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day.

(f) All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through Director of Transportation or his designee, unless otherwise provided in this Master License, by City Charter or City Ordinance.

29.7 Successors and Assigns.

The terms, covenants and conditions contained in this Master License shall bind and inure to the benefit of City and Licensee and, except as otherwise provided herein, their successors and assigns.

29.8 Brokers.

Neither party has had any contact or dealings regarding the license of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the license contemplated herein (Broker), whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the party through which such broker contracted. In the event that any Broker perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the Licensee shall indemnify and hold harmless the City from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) brought by said Broker. The provisions of this Section shall survive any termination of this Master License.

29.9 Severability.

If any provision of this Master License or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Master License, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and to each provision of this Master License shall be valid and be enforced to the full extent permitted by law, except to the extent that enforcement of this Master License without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Master License.

29.10 Governing Law and Venue.

This Master License shall be construed and enforced in accordance with the laws of the State of California and City's Charter, without regard to the principals of conflicts of law. This Master License is made, entered, and shall be performed in San Francisco. Any action concerning this Master License shall be brought and heard in San Francisco.

29.11 Entire Agreement.

This instrument, including the exhibits hereto, which are made a part of this Master License, contains the entire agreement between the parties and all prior written or oral negotiations, understandings and agreements are merged herein. The parties further intend that this Master License shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Master License. Licensee hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises, the Building or this Master License except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Licensee by implication or otherwise unless expressly set forth herein.

29.12 Holding Over.

Any holding over after the expiration of the Term with the express consent of City shall be construed to automatically extend the Term of this Master License for a period of one (1) year at a Rent equal to one hundred fifty percent (150%) of the latest Rent payable by Licensee hereunder prior to such expiration, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options). Any holding over without City's consent shall constitute a default by Licensee and entitle City to exercise any or all of its remedies as provided herein, notwithstanding that City may elect to accept one or more payments of Rent and additional charges from Licensee.

29.13 Time of Essence.

Time is of the essence with respect to all provisions of this Master License in which a definite time for performance is specified.

29.14 Cumulative Remedies.

All rights and remedies of either party hereto set forth in this Master License shall be cumulative, except as may otherwise be provided herein.

29.15 Survival of Indemnities.

Termination of this Master License shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Master License, nor shall it affect any provision of this Master License that expressly states it shall survive termination hereof.

29.16 Signs and Advertising.

Licensee agrees that it will not erect or maintain, or permit to be erected or maintained by anyone under Licensee's control, any signs, notices, graphics or advertising of any kind upon or about a Pole, without obtaining the prior written consent and approval of City, which City may withhold or grant in its sole discretion.

29.17 Light and Air.

Licensee covenants and agrees that no diminution of light, air or signal transmission by any structure that may hereafter be erected (whether or not by City) shall entitle Licensee to any reduction of the Rent or additional charges under this Master License, result in any liability of City to Licensee, or in any other way affect this Master License or Licensee's obligations hereunder, except as described in Section 28.4 (City's Protection Against Interference).

29.18 Recording.

Licensee agrees that it shall not record this Master License nor any Pole License nor any memorandum or short form hereof in the Official Records of the City and County of San Francisco.

29.19 Taxes, Assessments, Licenses, Permit Fees and Liens.

(a) Licensee recognizes and understands that this Master License may create a possessory interest subject to property taxation and that Licensee may be subject to the payment of property taxes levied on such interest. Licensee further recognizes and understands that any sublicense or assignment permitted under this Master License and any exercise of any option to renew or extend this Master License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder.

(b) Licensee agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Licensee's usage of the Premises that may be imposed upon Licensee by law, all of which shall be paid when the same become due and payable and before delinquency. Licensee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Licensee, if so desiring, may have reasonable opportunity to contest the validity of the same.

(c) San Francisco Administrative Code Sections 23.6-1 and 23.6-2 require that the City and County of San Francisco report certain information relating to this Master License, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction; and that Licensee report certain information relating to any assignment of or sublicense under this Master License to the County Assessor within sixty (60) days after such assignment or sublicense transaction. Licensee agrees to provide such information as may be requested by the City to enable the City to comply with this requirement.

29.20 Non-Liability of City Officials, Employees and Agents.

No elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Licensee, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City under this Master License.

29.21 Wages and Working Conditions.

With respect to the installation Equipment or any alterations of a Pole that constitutes construction work on City property, including but not limited to the Premises and any Pole, , any employee performing said installation services for Licensee shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Licensee shall include in any contract for said installation of Equipment a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Licensee shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing installation of Equipment and any alterations to the Premises.

29.22 Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate.

In the performance of this Master License, Licensee agrees not to discriminate against any employee of, any City employee working with Licensee, or applicant for employment with Licensee, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

Licensee further acknowledges that the Americans with Disabilities Act requires that programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Subject to Section 13.1 (Compliance with Laws) hereof, Licensee acknowledges its obligation to comply with such Act and any other federal, state or local disability rights legislation. Licensee warrants that it will fulfill that obligation. Licensee also warrants that it will not discriminate against disabled persons in the provision of services, benefits or activities.

(b) Subcontracts.

Licensee shall include in all subcontracts for installation of Equipment a non-discrimination clause applicable to such subcontractor in substantially the form of Subsection (a) above. In addition, Licensee shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Licensee shall also include said language in any assignment or sublicense agreement affecting a Pole or the Premises or any portion thereof. Licensee's failure to comply with the obligations in this Subsection shall constitute a material breach of this Master License.

(c) Non-Discrimination in Benefits.

Licensee does not as of the date of this Master License and will not during the term of this Master License, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) HRC Form.

As a condition to this Master License, Licensee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission. Licensee hereby represents that prior to execution of this Master License, **(i)** Licensee executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and **(ii)** the HRC approved such form.

(e) **Incorporation of Administrative Code Provisions by Reference.**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Master License as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this Master License under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Master License may be assessed against Licensee and/or deducted from any payments due Licensee.

29.23 Requiring Health Benefits for Covered Employees.

Unless exempt, Licensee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this License as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Master License shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Licensee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Licensee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Licensee is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Subsection (a) above.

(c) Licensee's failure to comply with the HCAO shall constitute a material breach of this Master License. City shall notify Licensee if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Master License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Licensee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by Licensee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Licensee shall notify City's Purchasing Department when it enters into such a Subcontract and shall certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Licensee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Licensee based on the Subcontractor's failure to comply, provided that City has first provided Licensee with notice and an opportunity to obtain a cure of the violation.

(e) Licensee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Licensee's compliance or

anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) Licensee shall keep itself informed of the current requirements of the HCAO.

(h) Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(i) Licensee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) business days to respond.

(j) City may conduct random audits of Licensee to ascertain its compliance with HCAO. Licensee agrees to cooperate with City when it conducts such audits.

(k) If Licensee is exempt from the HCAO when this Master License is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000) [Fifty Thousand Dollars (\$50,000) for nonprofits], but Licensee later enters into an agreement or agreements that cause Licensee's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), all the agreements shall be thereafter subject to the HCAO. This obligation arises on the Commencement Date of any license or other agreement that causes the cumulative amount of agreements between Licensee and the City to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

29.24 MacBride Principles - Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Licensee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

29.25 Drug-Free Workplace

Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City Premises. Licensee agrees that any violation of this prohibition by Licensee, its employees, agents or assigns shall be deemed a material breach of this Master License.

29.26 Tropical Hardwood and Virgin Redwood Ban.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood wood product, virgin redwood or virgin redwood wood product except as expressly provided by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

29.27 Pesticide Prohibition.

Licensee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which **(i)** prohibit the use of certain pesticides on City property, **(ii)** require the posting of certain notices and the maintenance of certain records regarding pesticide usage and **(iii)** require Licensee to submit to the Director of Transportation an integrated pest management ("IPM") plan that **(a)** lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the Premises during the terms of this Master License, **(b)** describes the steps Licensee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and **(c)** identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Licensee, through the SFMTA, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

29.28 Prohibition of Advertising.

Licensee acknowledges and agrees that no advertising of any kind is allowed on the Premises or any Pole. Advertising does not include the installation of the name plate described in Section 5.3.

29.29 Preservative-Treated Wood Containing Arsenic.

As of July 1, 2003, Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this Master License unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Licensee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Licensee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

29.30 Conflicts of Interest.

Through its execution of this Master License, Licensee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Licensee becomes aware of any such fact during the term of this Master License, Licensee shall immediately notify the City.

29.31 Notification of Limitations on Contributions.

Through its execution of this Master License, Licensee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer,

the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensee further acknowledges that the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the name of each person, entity or committee described above.

29.32 Sunshine Ordinance.

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

29.33 Consideration of Criminal History in Hiring and Employment Decisions.

[Applies to contracts/agreements executed or amended in any manner on or after August 13, 2014. The grant of a Pole License for purposes of Administrative Code chapter 12T shall constitute an amendment of this Master License.]

(a) For every installation of Equipment on a Pole permitted after August 13, 2014, Licensee agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Master License as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org>. A partial listing of some of Licensee's obligations under Chapter 12T is set forth in this Section. Licensee is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Master License shall have the meanings assigned to such terms in Chapter 12T.

(b) The requirements of Chapter 12T shall only apply to the Licensee's or a subcontractor of Licensee's operations ("Covered Subcontractor") to the extent those operations are in furtherance of the performance of this Master License, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Master License.

(c) Licensee shall incorporate by reference in all agreements/subcontracts with Covered Subcontractors the provisions of Chapter 12T, and shall require all such Covered

Subcontractors to comply with such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this Master License.

(d) Licensee or Covered Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(e) Licensee or Covered Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection XX(d), above. Licensee or Covered Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(f) Licensee or Covered Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Master License, that the Licensee or Covered Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(g) Licensee and Covered Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Licensee or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Master License. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

(h) Licensee understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Master License.

29.34 Counterparts.

This Master License 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.

29.35 Effective Date and Commencement Date.

This Master License shall become effective on the date upon which the SFMTA Board of Directors has adopted a resolution approving this Master License and the parties hereto have duly executed this Master License. The Commencement Date is the date the SFMTA's approves the first Pole License issued under this Master License.

29.36 Cooperative Drafting.

This Master License has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Master License reviewed and revised by legal counsel. No party shall be considered the drafter of this Master License, and no presumption or rule (including that set out in California Civil Code section 1654) that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Master License.

29.37 Authority to Approve Agreement.

(a) The person signing this Master License and any Pole License on behalf of Licensee warrants and represents that he or she has the full right, power, and capacity to execute said agreement(s) on behalf of Licensee and has the authority to bind Licensee to the performance of its obligations under said agreement(s) without the subsequent approval or consent of any other person or entity.

(b) Notwithstanding anything to the contrary contained in this Master License or any Pole License, Licensee acknowledges that no officer or employee of the City has authority to commit the City to this Master License unless and until a resolution of SFMTA shall have been duly adopted approving this Master License, and authorizing appropriate City officers to carry out the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon, and subject to, due adoption of such a resolution by the SFMTA Board of Directors, and this Master License shall be null and void if such resolution is not adopted by the SFMTA Board of Directors, in their respective sole and absolute discretion, and in accordance with City's Charter and all other applicable laws. Approval of the transactions contemplated by this Master License by any department, commission or agency of City shall not be deemed to imply that such resolution will be adopted nor will any such approval create any binding obligations on City. If the SFMTA Board of Directors delegates authority to the Director of Transportation to execute Master License Agreements substantially in the same form as the agreement set out in this document, the Director of Transportation's signature shall bind the SFMTA to said Master License and any Pole Licenses approved hereunder.

29.38 Included Appendices.

The appended documents listed below are incorporated by reference to this Master License as if fully set out in the body of this agreement:

- Appendix A – Description of Premises— Pole Locations
- Appendix B – Form Pole License Agreement
- Appendix C – Form Commencement Letter

Remainder of this page intentionally left blank.

By the authorized signatures of their respective representatives, the SFMTA and Licensee have executed this Master License as of the date first written above.

<p><u>CITY/LICENSOR:</u></p> <p>City AND COUNTY OF SAN FRANCISCO, a municipal corporation</p> <p>By:  _____ EDWARD D. REISKIN Director of Transportation</p> <p>APPROVED AS TO FORM:</p> <p>DENNIS J. HERRERA City Attorney</p> <p>By:  4/15/2015 _____ Robert K. Stone Deputy City Attorney</p> <p>as2014\1000410\00937852.doc FINAL SIGNATURE</p>	<p><u>LICENSEE:</u></p> <p>MOBILITIE INVESTMENTS III, LLC a Delaware Limited Liability Company</p> <p>By: Mobilitie, LLC, a Nevada Limited Liability Company</p> <p>Its: Manager</p> <p>By:  _____ Its: <u>President</u></p> <p>Approved as to Legal Form MAR 17 2015 James Grass</p>
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APPENDIX A

DESCRIPTION OF PREMISES - POLE LOCATIONS

Pole Licenses shall upon approval and execution be deemed included in this Appendix A without further amendment to the Master License.

APPENDIX B

Form Pole License Agreement

Licensee Name: _____
Master License Agreement Approval Date: _____
Master License Agreement Expiration Date: _____
Date: _____

APPLICANT		FIELD CONTACT	
Name:		Name:	
Title:		Title:	
Company:		Company:	
Street Address:		Street Address:	
City, State, Zip:		City, State, Zip:	
Telephone Number:		Cell Phone:	
Email Address:		Email Address:	
Processing Fee of \$250 per pole is due to SFMTA upon filing of this application			
FOR SFMTA OFFICE USE ONLY			
Pole License Application Number:			
Date Complete Application Received:			
SFMTA Transit Signature:			Date:
Planning Department Design Review Signature:			Date:
SFMTA Pole License Approval Signature:			Date:

Project Description:

Attach the following:

1. A printed map showing the exact locations of the proposed Pole locations with City & County of San Francisco Pole numbers and nearest street address and cross street;
2. Photo of the existing Pole and other poles, utility boxes, and street furniture within a 60' radius;
3. A rendering of proposed Equipment installation, showing buildings and utilities in the vicinity;
4. Wet-stamped engineering drawing showing Equipment proposed for installation, including pole loading calculations;
5. Size and conduit occupancy details;
6. Size and number of pull boxes;
7. Typical installation details of equipment to be attached to the Pole.
8. An electronic file of all of the above, including GIS shape files for all Pole locations. E-mail is acceptable.

POLE LICENSE PROCESSING CONDITIONS:

I am submitting this Pole License Application with the full understanding of the following conditions:

1. An application fee of \$250 per pole is required for complete submittal of a Pole License Application.
2. The processing fee is a non-refundable fee required for SFMTA staff review of the proposed Pole License, work of a preliminary nature to be undertaken by SFMTA staff, including, without limitation, survey and field inspection work, review of engineering plans and specifications and other related work, that precede or are required to facilitate the approval of the Licensee's Equipment in, on, or about SFMTA poles.
3. To the extent practicable, Pole License applications should be submitted in batches no smaller than ten (10) Pole License applications.
4. Review of Pole License Applications will proceed according to the process as described in the *Policy for Placement of Wireless Facilities on SFMTA Owned and Managed Real Estate Assets*.
5. All proposed Equipment on SFMTA poles will be routed to the Planning Department as an exercise of SFMTA's proprietary authority.

Signature: _____ Date: ___/___/___

Please submit the completed form with authorized signature and direct questions to:

SFMTA Real Estate Section
1 S. Van Ness Ave, 8th Floor
San Francisco, CA 94103
Phone: (415) 701-46894
Email: odaslicense@sfmta.com

APPENDIX C

Form Commencement Letter

[Date]

SFMTA
Att'n: Real Estate Manager
One South Van Ness Avenue, 7th floor
San Francisco, California 94102

RE: Acknowledgment of Commencement Date and Expiration Date, Pole License No. _____, Between _____ (Licensee), and the City AND COUNTY OF SAN FRANCISCO (SFMTA), for Pole Location Premises located at _____, San Francisco

Dear Real Estate Manager:

This letter will confirm that for all purposes of the Pole License, the Commencement Date for payment of Rent (as defined in Section 3.2 of the Master License) is _____, 20__.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

By: _____

Title: _____

Accepted and Agreed:

By: _____

EDWARD D. REISKIN
Director of Transportation

Dated: _____