

TELECOMMUNICATIONS MUNICIPAL ACCESS AGREEMENT

This **MUNICIPAL ACCESS AGREEMENT** is effective from the date affixed to the last signature of the last party signing this agreement. (the "**Effective Date**").

B E T W E E N:

THE CORPORATION OF THE UNITED COUNTIES OF STORMONT,
DUNDAS AND GLENGARRY
(hereafter the "**Municipality**")

OF THE FIRST PART

- and -

XPLORNET COMMUNICATIONS INC.
(hereafter the "**Company**")

OF THE SECOND PART

WHEREAS:

- A. The Company is a "Canadian carrier" as defined in the *Telecommunications Act*, S.C. 1993, c.38 ("**Telecom Act**") or "distribution undertaking" as defined in the *Broadcasting Act*, S.C. 1991, c.11 (collectively, a "**Carrier**") and is subject to the jurisdiction of the Canadian Radio-television and Telecommunications Commission (the "**CRTC**");
- B. In order to operate as a Carrier, the Company requires to construct, maintain and operate its Equipment in, on, over, under, across or along ("**Within**") the highways, streets, road allowances, lanes, bridges or viaducts which are under the jurisdiction of the Municipality (collectively, the "**Rights-of-Way**" or "**ROWS**");
- C. Pursuant to section 43 of the *Telecom Act*, the Company requires the Municipality's consent to construct its Equipment Within the ROWs and the Municipality is willing to grant the Company a non-exclusive right to access and use the ROWs; provided that such use will not unduly interfere with municipal operations, equipment or installations and the public use and enjoyment of the ROWs, nor any rights or privileges previously conferred or conferred after the Effective Date by the Municipality on Third Parties to use or access the ROWs; and
- D. The Parties have agreed that it would be mutually beneficial to outline the terms and conditions pursuant under which the Municipality hereby provides its consent;

NOW THEREFORE in consideration of the mutual terms, conditions and covenants contained herein, the Parties agree and covenant with each other as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** Where not defined elsewhere in this Agreement, the following words and phrases shall have the following meanings:

- (a) "**Above Ground Equipment**" means, any structure located on the surface of the ROW used to house or support the equipment and includes cabinets,

pedestals, poles and lamp poles but excludes serial equipment;

- (b) **“Affiliate”** means “affiliate” as defined in the *Canada Business Corporations Act*;
- (c) **“Anti-Bribery Law”** means any anti-bribery law or international convention, as may apply now or in the future, including the Canadian Corruption of Foreign Public Officials Act, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and the OECD Convention on Combating Bribery of Foreign Public Officials;
- (d) **“Company”** shall mean Xplornet Communications Inc. and shall include an individual, an association, a partnership or a corporation or any other agents, contractor and subcontractors carrying out any works for the Company as described in the Second part of this agreement.
- (e) **“CRTC”** means the Canadian Radio-television and Telecommunications Commission;
- (f) **“Emergency”** means an unforeseen situation where immediate action must be taken to preserve the environment, public health, safety or an essential service of either of the Parties;
- (g) **“Excavation”** means the breaching or breaking up of the hard surface of the ROW, and includes activities such as day lighting, test pitting, digging pits and directional boring but excludes hand digging;
- (h) **“Equipment”** means the transmission and distribution facilities owned by the Company and/or its Affiliates, comprising fibre optic, coaxial or other nature or form of cables, pipes, conduits, poles, ducts, manholes, handholds and ancillary structures and equipment located Within the ROWs;
- (i) **“Hard Surface”** means any portion of the road including but not limited to the pavement layer(s), concrete layer(s), road base, road sub-base, gravel surface, road shoulder, shoulder rounding, sidewalks, multi-use pathway, curb and any other paved, concrete or gravel surfaces within the ROW.
- (j) **“Hazardous Substance”** means any harmful substance including, without limitation, electromagnetic or other radiation, contaminants, pollutants, dangerous substances, dangerous goods and toxic substances, as defined, judicially interpreted or identified in any applicable law (including the common law);
- (k) **“Municipal Consent”** or **“MC”** means the written consent of the Municipality, with or without conditions, to allow the Company to perform Work Within the ROWs that requires the excavation or breaking up of the ROWs;
- (l) **“Municipal Costs”** means the reasonable and verifiable costs and expenses of the Municipality, including the cost of labour and materials, plus a reasonable overhead charge of 15%.
- (m) **“Municipal Representative”** means the Municipality’s reviewing authority, or the individual designated by them.
- (n) **“Municipality”** shall mean the Corporation of the United Counties of Stormont, Dundas and Glengarry and shall include any employee or agent authorized by the Council of the said Municipality to act on its behalf as described in the First part of this agreement.
- (o) **“Roads Permit”** or **“Permit”** means a permit that provides approval, including, where required, Municipal Consent, Access/Entrance Permits, Work Permits, and Moving Oversize Load/Weight Vehicles Permits and any

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other permit / approval necessary to complete the proposed work as determined by by-law, policy or other process duly authorized by the Municipality.

- (p) **“Service Drop”** means a cable that, by its design, capacity and relationship to other fibre optic cables of the Company can be reasonably considered to be for the sole purpose of connecting backbone of the Equipment to not more than one individual customer or building point of presence.
- (q) **“Term”** means the Initial Term and the renewal options described in subparagraph 9.1(a) of this Agreement, subject to the termination provisions in subparagraphs 9.2, 9.3 and 9.4.
- (r) **“Third Party”** means any person that is not a party to this Agreement nor an Affiliate of either Party, and includes any person that attaches its facilities in, on or to the Equipment under an agreement with the Company.
- (s) **“Work”** means, but is not limited to, any adjustment, alteration, breaking up, construction, disturbance, excavation, installation, maintenance, removal, operation, relocation, repair, replacement, restoration on, under, over, or within any ROW, including any Equipment therein, and the use of any oversize/overweight vehicles in connection with the Work.

1.2 **Legislation.** All references to statutes in this Agreement shall include amendments thereto, regulations thereof, and successor legislation thereafter.

1.3 **Recitals, Schedules and Incorporated Documents.** The “recitals”, *Schedule “A” and Schedule “B”*, and Municipal Standards referred to in this Agreement are hereby incorporated by reference into this Agreement and form a part thereof:

Schedule “A” – Relocation Costs

Schedule “B” – Municipal Permissions and Permits Required

2. **USE OF ROWs**

2.1 **Consent to use ROWs.** The Municipality hereby consents to the Company’s use of the ROWs for the purpose of performing its Work, subject to the terms and conditions of this Agreement and in accordance with all applicable laws or other municipal by-laws, rules, policies, standards and guidelines (**“Municipal Standards”**) pertaining to the Equipment and the use of the ROWs; to the extent, however, that any municipal laws and the Municipal Guidelines are not inconsistent or in conflict with this Agreement or with applicable federal laws.

2.2 **Restrictions on use.** The Company shall not, in the exercise of its rights under this Agreement, unduly interfere with municipal operations, equipment or installations and the public use and enjoyment of the ROWs, nor any rights or privileges previously conferred or conferred after the Effective Date by the Municipality on Third Parties to use or access the ROWs

2.3 **Equipment acquired by the Company.** The Parties agree that, where the Company acquires, or has acquired, directly or indirectly, facilities from a Third Party that are located Within the ROWs (the **“New Equipment”**), then, effective the day of the acquisition of the New Equipment by the Company:

- (a) the New Equipment shall form part of the Equipment and shall be governed by the terms and conditions of this Agreement; and

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- (b) where that Third Party is a Party to a valid and existing municipal access agreement with the Municipality (the “**Old MAA**”) and the Company, directly or indirectly, acquires the rights and obligations under the Old MAA, the Old MAA shall be terminated.

2.4 No ownership rights. The Parties acknowledge and agree that:

- (a) the use of the ROWs under this Agreement shall not create nor vest in the Company any ownership or property rights in the ROWs; and
- (b) the placement of the Equipment Within the ROWs shall not create or vest in the Municipality any ownership or property rights to the Equipment.
- (c) Nothing herein contained shall be construed as giving the Company any title, right or interest in the Counties land and shall not relieve the Company responsibilities from any regulations, by-laws or standards.

2.5 Condition of ROWs. The Municipality makes no representations or warranties as to the state of repair of the ROWs or the suitability or fitness of the ROWs for any business, activity or purpose whatsoever, and the Company hereby agrees to accept the ROWs on an “as is” basis.

3. APPLICABLE PERMITS

3.1 Municipal Consents

- (a) Subject to Section 3.3, 3.5, and Schedule “B”, the Company shall not excavate, break up, disturb or do any Work within any ROW without first obtaining approvals from the Municipality, as the case may be.
- (b) For each Work specified in the Schedule “B”, the Company shall submit to the Municipality a completed application in the form / process as specified by the Municipality to the satisfaction of the Municipality.
- (c) The Municipality will take best efforts to issue the Municipal Consent approval within 30 days of receiving a complete application, or such other time as agreed to by the Parties having regard to the complexity of the Work covered by the application and the volume of applications before the Municipality at that time.

3.2 Permits

- (a) The Municipality shall relieve the Company of obtaining a road cut permit where a Municipal Consent approval is issued however the company shall comply with other Municipal Standards, as set out in section 2. This may include obtaining other types of permits such as entrance permits, oversized or overweight vehicle permit, reduced load permit or any other type of permit in accordance with municipal by-laws, as amended and the payment of all applicable fees and deposit for the said permit. If a culvert installation is required to access Equipment over or across a roadside ditch, the said culvert shall be installed in accordance with the Municipal Entrance By-law whereas an entrance permit is required, and all applicable fees and deposit are applicable.

3.3 No Municipal Consents for routine Work. Notwithstanding Section 3.1, the Company may conduct the activities identified in the “No Permissions Required” Category as identified in *Schedule “B”*, without first obtaining Municipal approval,

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provided that in no case shall the Company break up or otherwise disturb the hard surface of the ROW without the Municipality's prior written consent.

- 3.4 **Expiry of Municipal Consent.** In the event that the Company has not commenced construction of the approved Work associated with a particular MC within one year of the date of issuance of the MC and has not sought and received an extension to the MC from the Municipality, which extension shall not be unreasonably withheld, the MC shall be null and void. Furthermore, if onsite work has not commenced within 90 days of issuance of the permit, the Company must notify the Municipality one week prior to starting the work.
- 3.5 **Submission of plans.** Unless otherwise agreed to by the Municipality, the Company shall, prior to undertaking any Work that requires a Municipal Consent, submit the following to the Municipality, which are subject to approval and to the satisfaction of the Municipality:
- (a) construction plans of the proposed Work, showing the locations of the proposed and existing Equipment and other facilities, and specifying the boundaries of the area within the Municipality within which the Work is proposed to take place;
 - (b) Traffic control plans for the protection of the workers, public and traveling public including detours as required to minimize traffic disruption; and
 - (c) all other relevant plans, drawings and other information as may be normally required by the Municipality from time to time for the purposes of issuing Municipal Consent.
- 3.6 **Refusal to Issue a Municipal Consent.** The Municipality may refuse to provide Municipal Consent in accordance with Section 3.1 for any *bona fide* municipal purpose, including but not limited to reasons of public safety and health, conflicts with existing infrastructure, proposed road construction, or the proper functioning of public services, all as identified in writing by the Municipality. Without limiting the foregoing, the Municipality may refuse Municipal Consent where, in the opinion of the Municipality, there is insufficient space within a ROW to accommodate the proposed Equipment, taking into account existing and potential future public service infrastructure.
- 3.7 **Restoration of the Company's service during Emergencies.** Notwithstanding Section 3.1, in the event of an Emergency, the Company shall be permitted to perform such remedial Work as is reasonably necessary to restore its services without complying with Section 3.1; provided that such Work does not unduly disrupt any Municipal service or activity and provided that the Company does comply with Section 3.1 within five (5) business days of completing the Work.
- 3.8 **Temporary changes by Municipality.** Notwithstanding any other provision in this Agreement, the Municipality reserves the right to set, adjust or change the approved schedule of Work by the Company for the purpose of coordinating or managing any major events or activities, including the restriction of any Work during those restricted time periods; provided however, that any such adjustment or change shall be conducted so as minimize interruption to the Company's operations. The Municipality shall use its commercially reasonable efforts to provide to the Company forty-eight (48) hours advance written notice of any change to the approved schedule of Work, except that, in the case of any Emergency, the Municipality shall provide such advance notice as is reasonably possible in the circumstances.

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4. MANNER OF WORK

- 4.1 **Compliance with Applicable Laws, etc.** All Work shall be conducted and completed to the satisfaction of the Municipality and in accordance with:
- (a) the applicable laws (and, in particular, all laws and codes relating to occupational health and safety);
 - (b) the Municipal Guidelines;
 - (c) this Agreement; and
 - (d) the applicable Municipal Consent issued under Section 3.1.

The Company shall ensure that the performance of Work, whether by the Company or its employees, servants, agents, contractors, or subcontractors, shall be performed to not constitute an unreasonable nuisance or disturbance to abutting or nearby properties or to the owners thereof, and to be performed to not unduly interfere with the Municipality's seasonal operations. The Company shall comply with and ensure that all its contractors and subcontractors comply with any written instructions issued by the Municipality concerning any such nuisance or disturbance regardless of whether such instructions require positive action or discontinuance of action.

- 4.2 **Underground Equipment.** The Company shall place those portions of the Equipment that cross beneath streets or existing buried utilities in ducts, carrier pipes or encased in concrete, or as otherwise specified by the Municipality.
- 4.3 **Installation.** The Company shall utilize construction methods that minimize the impact on the ROWs, including but not limited to utilizing existing overhead infrastructure, trenchless installation technology and single trench installation methods.
- 4.4 **Stoppage of Work.** The Municipality may order the stoppage of the Work for any *bona fide* municipal purpose or cause relating to public health and safety, special events or any circumstances beyond its control. In such circumstances, the Municipality shall provide the Company with a verbal order and reasons to stop the Work and the Company shall cease the Work immediately and secure the site to the satisfaction of the Municipality. Within two (2) business days of the verbal order, the Municipality shall provide the Company with a written stop work order with reasons. When the reasons for the Work stoppage have been resolved, the Municipality shall advise the Company immediately that it can commence the Work.
- 4.5 **Coordination of Work.** To minimize the necessity for road cuts, construction and the placement of new Equipment within the ROW, the Company shall make best efforts to coordinate its work with other existing and new occupants of the ROW. Where the Company is installing equipment within a ROW, the Company shall use its best efforts to reach an agreement for the use of shared infrastructure wherever possible and demonstrate that those efforts have been made to the Municipality.
- 4.6 **Identification of contractors.** The Company shall ensure that all its contractors have proper identification visible on the Work site displaying the name of the person for which they work.
- 4.7 **Emergency contact personnel.** The Company and the Municipality shall provide a list of twenty-four (24) hour emergency contact personnel available at all times and shall ensure that the list is kept current.
- 4.8 **Emergency work by Municipality.** In the event of an Emergency, the Municipality may take such measures it deems necessary to re-establish a safe

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environment, and the Company shall pay the Municipality's reasonable and verifiable Municipal Costs that are directly attributable to the Work or the presence of the Equipment in the ROWs.

- 4.9 **“As-built” drawings.** The Company shall, no later than ninety (90) days after completion of any Work, provide the Municipal Representative with accurate “as-built” drawings, prepared in accordance with such standards as may be required by the Municipality, sufficient, for planning purposes, to accurately establish the plan and profile location of the Equipment installed Within the ROWs. As-built drawings to be provided in electronic format suitable to be incorporated into the Municipality's GIS mapping. The Municipality shall direct all inquires regarding the location of the Equipment to the Company. Access to Company As-Built records are for use by the Municipality only and shall not be distributed or disclosed to other parties without prior written consent of the Company.
- 4.10 **Where Equipment is located incorrectly.** Where the location of any portion of the Equipment in a ROW is located outside a distance of 1.00m horizontally and/or 0.50m vertically (centre-line to centre-line) from the location approved in the Permit or as shown on the as-built drawings (as accepted by the Municipality) and, as a result, the Municipality is unable to install its facilities within the affected ROWs in the manner it expected based on the Municipal Consent or as-built drawings (the “Conflict”), the following shall apply:
- (a) The Municipality shall notify the Company of the Conflict, and the Company shall, in consultation with the Municipality, attempt to resolve the Conflict.
 - (b) If the Company is unable to resolve the Conflict in a reasonable period time, taking into consideration the circumstances of the situation, then the Company shall pay the Municipality the Municipality's Costs as a direct result of the Conflict.
- 4.11 **Agents and Sub-contractors.**
- (a) Each Party agrees to work with the other Party directly to resolve any issues arising from any acts, omissions or performance of its agents and sub-contractors.
 - (b) The Company shall take full responsibility for all the Work completed, whether by the Company or its employees, servants, agents, contractors or subcontractors. The Company shall comply with and ensure that all of its contractors and subcontractors comply with any written instructions issued by the Municipality.

5. REMEDIAL WORK

- 5.1 **General.** Following the completion of any Work, the Company shall leave the ROW in a neat, clean, and safe condition and free from nuisance, all to the satisfaction of the Municipality. Subject to Section 5.5, where the Company is required to break or disturb the surface of a ROW to perform its Work, it shall repair and restore the surface of the ROW to the same or better condition it was in before the Work was undertaken, all in accordance with the Municipal Guidelines and to the satisfaction of the Municipality.
- 5.2 **Permanent Road Restoration.** If the Company has excavated, broken up or otherwise disturbed the surface of a ROW, the requirements for the Company completing the road restoration work shall be restored in accordance with the conditions as set out in the Municipal Consent approval. Note, general

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reinstatement requirements for roads that have been recently repaved are as follows:

- (a) if pavement has been repaved or overlaid during the five-year period immediately prior to the date of issuance of the Permit, then the Municipality may require that the Company grind and overlay the full lane width of pavement in the ROW. The length of reinstatement of the overlay will be as specified by the Municipality.
- (b) if pavement has been repaved or overlaid during the two-year period immediately prior to the date of issuance, then the Municipality may require that the Company grind and overlay the full width of the pavement in the ROW. The length of reinstatement of the overlay will be as specified by the Municipality.
- (c) in either subsections (a) or (b) above, if Third Parties, including the Municipality as a provider of services to the public, has excavated, broken up or otherwise disturbed the pavement to be ground and overlaid, the costs of that grind and overlay will be apportioned between the Company and the Third Parties based on the area of their respective cuts.

5.3 **Temporary repair.** Where weather limitations or other external conditions beyond the control of the Company do not permit it to complete a final repair to the ROW within the expected period of time, the Company may complete a temporary repair to the ROW; provided that, subject to Section 5.5, the Company replaces the temporary repair with a final repair within a reasonable period of time. All repairs to the ROW by the Company shall be performed in accordance with the Municipal Guidelines and to the satisfaction of the Municipality.

If a temporary repair gives rise to an unsafe condition, then this shall be deemed to constitute an Emergency and the provisions of Section 4.9 shall apply.

5.4 **Warranty of repairs.** The Company warrants its temporary repairs, to the satisfaction of the Municipality until such time as the final repair is completed, or where the Municipality will perform the final repair, until the final repair is undertaken by the Municipality or for a maximum of two (2) years, whichever is less. The Company shall warrant its final repairs for a period of two (2) years from the date of their completion.

5.5 **Repairs completed by Municipality.** Where:

- (a) the Company fails to complete a temporary repair to the satisfaction of the Municipality within seventy-two (72) hours of being notified in writing by the Municipality, or such other period as may be agreed to by the Parties; or
- (b) the Company and the Municipality agree that the Municipality should perform the repair,

then the Municipality may affect such work necessary to perform the repair and the Company shall pay the Municipality's reasonable and verifiable Municipal Costs of performing the repair.

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6. LOCATING FACILITIES IN ROWs

- 6.1. **Locates.** The Company agrees that, throughout the Term it shall, at its own cost, record and maintain adequate records of the locations of its Equipment. The Company agrees, at its own cost, to register as a member of Ontario One Call and shall comply with the Ontario Underground Infrastructure Notification System Act, 2012, as amended.
- 6.2. **Emergency Locate Request.** It is agreed that in an event of request for an Emergency Locates under the Ontario One Call system, the Company, at its own cost, shall take all reasonable steps to complete a Locate response (clear or locate) within two (2) hours from its receipt on the system that the Company has designated for those purposes.
- 6.3. **Utility co-ordination committee.** When requested by the Municipality, the Company shall participate in a utility co-ordination committee established by the Municipality and contribute to its equitable share of the reasonable costs of the operation and administration of the committee as approved by such committee.
- 6.4. **Provision of Mark-ups.** The Parties agree to respond within fifteen (15) days to any request from the other Party for a mark-up of municipal infrastructure or Equipment design drawings showing the location of any portion of the municipal infrastructure or Equipment, as the case may be, located within the portion of the ROWs shown on the plans (the "**Mark-ups**"), and shall provide such accurate and detailed information as may be reasonably required by the requesting Party.
- 6.5. **Inaccurate Locates.** Where the Company's Locates are found to be in error and, as a result, the Municipality is unable to install its facilities within the affected ROWs in the manner it expected based on the Locates provided by the Company, the Municipality will notify the Company of the error, following which the Company shall attempt to resolve the conflict. If the Company is unable to resolve the conflict in a reasonable time commensurate with the situation and to the Municipality's satisfaction, the Company will pay the Municipality for its reasonable and verifiable Municipal Costs incurred as a direct result of the conflict.

7. RELOCATION OF EQUIPMENT

- 7.1 **Municipal Request.** Where the Municipality requires and requests the Company to relocate its Equipment for a *bona fide* municipal purpose, the Municipality shall notify the Company in writing and, the Company shall complete the requested relocation within ninety (90) days thereafter or such other time as agreed to by the Parties at one hundred percent (100%) the Company's cost, subject to potential reimbursement by the Municipality as set out in **Schedule "A"**. The failure or refusal of the Company to relocate its Equipment to the standard required by the Municipality shall constitute a breach of this Agreement by the Company, and the Company and its representatives, successors and assigns hereby agree to a Consent Judgement Order in the Superior Court of Justice requiring the Company to complete the relocation of its Equipment as required by this agreement.
- 7.2 **Upon Request of the Company.** In the event that the Company wishes to relocate Equipment which has been previously installed in accordance with this Agreement at one hundred percent (100%) its own expense, the Company shall apply for Municipal Consent as specified in section 3.1 of this agreement which is subject to the approval and to the satisfaction of the Municipality

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- 7.3 **Required by Legislation or Lawful Order.** In the event relocation of Equipment is required as a result of the Municipality's compliance with a legislative requirement, Ministerial order or such other law or order of a body which has the ability to force the Municipality to act then the costs of the Relocation and/or related installation work associated with the Equipment shall be performed by the Company at one hundred (100%) its own cost.
- 7.4 **Request by Third Party.** Where relocation of Equipment is required due to the Municipality accommodating a third party (hereinafter "**Third Party Work**"), the required relocation or related installation work shall be conducted by the Company in accordance with the terms of this Agreement respecting installation, and the full cost of the amendment or Relocation shall be borne solely by the third party and paid in advance. The Municipality agrees to provide the Company with ninety (90) days' notice of the need for any such Third Party Work and to require that the relevant third party or parties bear the full cost of such Third Party Work and indemnify the Company against all claims and liabilities arising from the amendment or Relocation as a condition precedent to any such amendment or Relocation.
- 7.5 **Municipal efforts.** Where any relocation of Equipment occurs, the Municipality will make good faith efforts to provide alternative routes for the Equipment affected by the relocation to ensure uninterrupted service to the Company's customers. Once the Company has provided the Municipality with all information the Municipality requires to enable it to process a MC application, the Municipality shall provide, on a timely basis, all MC required to allow the Company to relocate the Equipment.
- 7.6 **Temporary Reconstruction or Realignment of Road Allowances.** The Company shall, upon reasonable prior notice to the Municipality, have the right to:
- (a) temporarily reconstruct or realign certain portions of the Road Allowances in order to permit the delivery or movement of Equipment.

8. PAYMENT OF FEES AND OTHER CHARGES

- 8.1 **General.** In addition to the Fees referred to in Section 8.2, the Company covenants and agrees to pay to the Municipality any Roads Permit fees, deposits and security associated with applicable Municipal By-laws, as amended or replaced.
- 8.2 **Municipal Consent Application Fee.** The Company shall pay to the Municipality a Municipal Consent application fee of \$100 + HST, subject to a three percent (3%) increase per year, per kilometre of ROW impacted by the Company's Work. No Municipal Consent application will be processed or granted by the Municipality until this fee is paid. In the event that the Municipality adopts a by-law to charge fees for the approval of all Municipal Consents, the Municipal Consent application fee prescribed by by-law shall supersede the fee set out in this section and the fee set out in this section shall no longer apply.
- 8.3 **Invoices.** Unless expressly provided elsewhere in this Agreement, where there are any payments to be made under this Agreement, the Party requesting payment shall first send a written invoice to the other Party, setting out in detail all amounts owing, including any applicable provincial and federal taxes and interest payable on prior overdue invoices, and the payment terms. The Parties agree that all payments shall be made in full by no later than sixty (60) days after the date of the invoice was received.

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9. TERM AND TERMINATION

9.1 **Initial term and renewal.** This Agreement shall have an initial term of five (5) years commencing on the Effective Date (hereinafter referred to as the “**Initial Term**”) and shall be renewed automatically for three (3) successive five (5) year terms unless:

- (a) this Agreement is terminated by either Party in accordance with section 9.2 and 9.3 of this Agreement;
- (b) a Party delivers initial notice of non-renewal to the other Party at least 180 days prior to the expiration of the then current term; or
- (c) this Agreement is replaced by a New Agreement (as defined below) between the Parties.

9.2 **Termination by either Party.** Either Party may terminate this Agreement without further obligation to the other Party, upon providing at least thirty (30) days written notice in the event of a material breach of this Agreement by the other Party after notice thereof and failure of the other Party to remedy or cure the breach within thirty (30) days of receipt of the notice. If, however, in the view of the non-breaching Party, it is not possible to remedy or cure the breach within such thirty (30) day period, then the breaching Party shall commence to remedy or cure the breach within such thirty (30) day period and shall complete the remedy or cure within the time period stipulated in writing by the non-breaching Party.

9.3 **Termination by Municipality.** The Municipality may terminate this Agreement by providing the Company with at least seven (7) days written notice in the event that:

- (a) the Company becomes insolvent, makes an assignment for the benefit of its creditors, has a liquidator, receiver or trustee in bankruptcy appointed for it or becomes voluntarily subject as a debtor to the provisions of the *Companies’ Creditors Arrangement Act* or the *Bankruptcy and Insolvency Act*;
- (b) the Company assigns or transfers this Agreement or any part thereof other than in accordance with Section 18.2; or
- (c) the Company ceases to be eligible to operate as a Carrier.

9.4 **Obligations and rights upon termination or expiry of Agreement.** Notwithstanding any other provision of this Agreement, if this Agreement is terminated (other than in accordance with Section 9.3) or expires without renewal, then, subject to the Company’s rights to use the ROWs pursuant to the Telecom Act and, unless the Company advises the Municipality in writing that it no longer requires the use of the Equipment:

- (a) the terms and conditions of this Agreement shall remain in full force and effect until a new municipal access agreement (a “**New Agreement**”) is executed by the Parties; and
- (b) the Parties shall enter into meaningful and good faith negotiations to execute a New Agreement and, if, after six (6) months following the expiry of this Agreement, the Parties are unable to execute a New Agreement, then either Party may apply to the CRTC to establish the terms and conditions of the New Agreement.

9.5 **Removing abandoned Equipment.** Where the Company advises the Municipality in writing that it no longer requires the use of any Equipment, the Company shall, at the Municipality’s request and within a reasonable period of time

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as agreed to by the Parties, act as follows at the Company's sole cost and expense:

- (a) Remove the abandoned Equipment that is above ground.
- (b) Subject to (c) immediately below, make safe any underground vaults, manholes and any other underground structures that are not occupied or used by a Third Party, (collectively "**Abandoned Underground Structures**").
- (c) Where, in the reasonable opinion of the Municipal Representative, the Abandoned Underground Structures will interfere with any municipally-approved or anticipated project that will require excavation or otherwise disturb the portions of the ROWs in which the Abandoned Underground Structures are located, then the Company shall, at or about the time the excavation of such portions of the ROWs for said project commences, remove the Abandoned Underground Structures therein.

Upon removal of the abandoned Equipment or upon the removal or making safe of Abandoned Underground Structures, the Company shall repair any damage resulting from such removal or making safe and restore the affected ROWs to the condition in which they existed prior to the removal or making safe. If the Company fails to remove Equipment or to remove or make safe Abandoned Underground Structures and restore the ROWs within the time specified above, and to the satisfaction of the Municipal Representative, the Municipality may complete said work and the Company shall pay the associated Municipal Costs.

- 9.6 **Continuing obligations.** Notwithstanding the expiry or earlier termination of this Agreement, each Party shall continue to be liable to the other Party for all payments due and obligations incurred hereunder prior to the date of such expiry or termination.

10. INSURANCE AND SECURITY

- 10.1 **General.** Throughout the term of this Agreement and any renewals or extension thereto, the Company shall maintain, at its sole expense, insurance (the "**Company Insurance**") in an amount and description as described below to protect the Company and the Municipality from claims for damages, bodily injury (including death) and property damage which may arise from the Company's operations under this Agreement, including the use or maintenance of the Equipment Within the ROWs or any act or omission of the Company and its employees, contractors and agents while engaged in the Work. Such insurance shall be placed with an Insurer licensed to conduct business in Ontario. The Company Insurance shall include all costs, charges and expenses reasonably incurred with any injury or damage. The company is responsible to keep their property / assets insured – failure to do so shall not impose any liability on the Municipality
- 10.2 **Comprehensive general liability.** Without limiting the generality of the foregoing, the Company shall obtain and maintain commercial general liability issued on an occurrence-based for an amount not less than Five Million Dollars (\$5,000,000.00) per claim / aggregate (exclusive of interest and costs); which:
- (a) covers claims and expenses for liability including, but not limited to, bodily injury and property damage including loss of use; personal injury; blanket contractual liability; premises, property & operations; non-owned automobile; broad form property damage; owners & contractors protective; occurrence property damage; products; broad form completed operations;

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employees as Additional Insured(s); contingent employers' liability; tenants legal liability; cross liability and severability of interest clause. Coverage shall not contain any exclusions with respect to explosion, collapse and under ground property damage hazards.

- (b) Such insurance shall add the Municipality as Additional Insured subject to a waiver of subrogation. This insurance shall be non-contributing with and applies as primary and not as excess of any insurance available to the Municipality.

10.3 **Automobile Liability Insurance** with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than Two Million Dollars (\$2,000,000) inclusive for each and every loss.

10.4 **Environmental Liability** for a limit of not less than Two Million Dollars (\$2,000,000) per Incident / Aggregate covering third party liability including on-site and off-site clean up cost and restoration. Coverage shall be written to include gradual and sudden/accidental basis. If coverage is written on a claims-made basis, coverage shall be maintained for a period of 2 years subsequent to the conclusion of services or contact 24 month extended reporting period

10.5 **General insurance conditions.**

- (a) Within 30 days of acceptance of this agreement and prior to the commencement of work, the Company shall obtain and maintain until the termination of the contract or otherwise stated and provide the Municipality with the certificates of insurance as described above which evidences the cross liability and severability clauses and confirms the Municipality as an "additional insured". Thereafter, the Company shall provide the Municipality with evidence of all renewals of the Company Insurance in a form acceptable to the Municipality.
- (b) Any and all deductibles applicable to the above noted insurance shall be the sole responsibility of the Company and the Municipality shall bear no cost towards such deductible.
- (c) that the Company Insurance shall not be cancelled, lapsed or materially changed to the detriment of the Municipality without at least thirty (30) business days' notice to the Municipality.
- (d) The Company will immediately notify the Municipality of any changes to or cancellation of the Company Insurance if they will directly affect or reduce the coverage made available to the Municipality.
- (e) The Municipality reserves the right to request evidence that the Company maintains other industry standard insurance to cover any additional exposures.

10.6 **Workplace Safety and Insurance Board.** The Company shall provide Workplace Safety and Insurance Board ("WSIB") clearance certificate that confirms the Company is in good standing with the WSIB. The Company shall ensure the WSIB clearance remains in effect when the Company's personnel are working within the ROWs.

10.7 **Security.**

- (a) If it is reasonably determined by the Municipality, in their sole discretion, that a security deposit is required because of a significant impact on municipal infrastructure, the Company shall provide a certified cheque, bank draft or electronic funds transfer (EFT) in a form satisfactory to the Municipality, for the amount of \$100 per kilometre of ROW impacted by the

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Company's Work (the "**Deposit**"). The Deposit is for general security purposes and will be deposited into an account held by the Municipality. The Municipality may draw upon the Deposit against any of the Company's outstanding or non-compliant obligations under this Agreement. The Company shall 'top-up' the Deposit in the event the Deposit needs to be drawn upon by the Municipality.

- (b) The Municipality agrees to release the Deposit once the Company has fulfilled the conditions of the applicable Work and restored the area to the satisfaction of the Municipality.
- (c) The Parties agree that form of security set out in this section is established as an interim measure and may be re-negotiated following the initial Term of the Agreement.

11. RESPONSIBILITY AND INDEMNIFICATION

- 11.1 **No liability Municipality.** The Company hereby acknowledges that the placement, installation, construction, reconstruction, inspection, maintenance, operation, alteration, enlarging, repair, replacement, relocation and/or removal of the Equipment by the Company is performed entirely at the risk of the Company and that the Municipality shall in no way or under any circumstances be responsible or liable to the Company, its contractors, agents, or customers for any damage or losses in consequence thereof, unless due to the negligence or willful misconduct of the Municipality or those for whom at law it is responsible.
- 11.2 **Company Indemnity.** Subject to subsection 11.5, the Company hereby releases, indemnifies, completely holds harmless, and agrees to defend the Municipality, their elected officials, officers, employees and agents from and against any and all claims, actions, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury or to damage to or destruction of tangible property including loss of revenue arising out of or attributable to the negligence or willful misconduct of the Company, their officers, employees, contractors, sub-contractors or others who the Company is legally responsible. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Company in accordance with this agreement and shall survive this agreement.
- 11.3 **Municipality Acknowledgement.** The Municipality hereby acknowledges that it is responsible for its negligence and the negligence of those for whom it is responsible for at law.
- 11.4 **Municipality Indemnity.** The Municipality hereby releases, indemnifies, completely holds harmless, and agrees to defend the Company, its officers, employees, legal counsel, agents and contractors, from and against any and all suits, judgments, claims, demands, expenses, actions, causes of action, duties, assessments, fees, penalties, liabilities, losses and costs which the Company and its successors and assigns may at any time or times hereafter bear, sustain, suffer, be put to or incur by reason of its negligence or willful misconduct and the negligence or willful misconduct of those for whom it is responsible at law.
- 11.5 **No liability, both Parties.** Notwithstanding any other provision in this Agreement, neither Party shall be liable to any person in any way for special, incidental, indirect, consequential, exemplary, or punitive damages, including damages for pure economic loss or failure to realize expected profits, howsoever caused, or contributed to, in connection with this Agreement and the performance or non-performance of its obligations hereunder.

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11.6 **Survival.** The obligation of a Party to indemnify, defend and save harmless the other Party shall survive the termination or expiry of this Agreement.

12. ENVIRONMENTAL LIABILITY

12.1. **Municipality not responsible.** The Municipality is not responsible, either directly or indirectly, for any damage to the natural environment or property, including any nuisance, trespass, negligence, or injury to any person, howsoever caused, arising from the presence, deposit, escape, discharge, leak, spill or release of any Hazardous Substance in connection with the Company's occupation or use of the ROWs, unless such damage was caused directly or indirectly by the negligence or wilful misconduct of the Municipality or those for which it is responsible in law.

12.2. **Company to assume environmental liabilities.** The Company agrees to assume all environmental liabilities, claims, fines, penalties, obligations, costs or expenses whatsoever relating to its use of the ROWs, including, without limitation, any liability for the clean-up, removal or remediation of any Hazardous Substance on or under the ROWs that result from:

- (a) the occupation, operations or activities of the Company, its contractors, agents or employees or by any person with the express or implied consent of the Company Within the ROWs; or
- (b) any Equipment brought or placed Within the ROWs by the Company, its contractors, agents or employees or by any person with the express or implied consent of the Company.

unless such damage was caused directly or indirectly in whole or in part by the negligence or wilful misconduct on the part of the Municipality or those for which it is responsible in law.

13. NO JOINT VENTURE, PARTNERSHIP OR CO-OWNERSHIP

13.1 **No Joint Venture.** The Parties hereby acknowledge and agree that this Agreement is solely an access agreement, and that no relationship is formed between the Parties in the nature of a joint venture, partnership co-ownership arrangement or other similar relationship.

14. FORCE MAJEURE

14.1 **Force Majeure.** Except for the Parties' obligations to make payments to each other under this Agreement, neither Party shall be liable for a delay in its performance or its failure to perform hereunder due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, flood, or other catastrophes; government, legal or statutory restrictions on forms of commercial activity; or order of any civil or military authority; national emergencies, insurrections, riots or wars or strikes, lock-outs or work stoppages ("**Force Majeure**"). In the event of any one or more of the foregoing occurrences, notice shall be given by the Party unable to perform to the other Party and the Party unable to perform shall be permitted to delay its performance for so long as the occurrence continues. Should the suspension of obligations due to Force Majeure exceed two (2) months, either Party may terminate this Agreement without liability upon delivery of notice to the other Party.

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15. DISPUTE RESOLUTION

15.1 **General.** The Parties hereby acknowledge and agree that:

- (a) this Agreement has been entered into voluntarily by the Parties with the intention that it shall be final and binding on the Parties until it is terminated or expires in accordance with its terms; and
- (b) it is the intention of the Parties that all Disputes (as defined in subsection 15.2) be resolved in a fair, efficient, and timely manner without incurring undue expense and, wherever possible.

15.2 **Resolution of Disputes.** The Parties will attempt to resolve any dispute, controversy, claim or alleged breach arising out of or in connection with this Agreement (“**Dispute**”) promptly through discussions at the operational level. In the event a resolution is not achieved, the disputing Party shall provide the other Party with written notice of the Dispute and the Parties shall attempt to resolve such Dispute between senior officers who have the authority to settle the Dispute. All negotiations conducted by such officers shall be confidential and shall be treated as compromise and settlement negotiations. If the Parties fail to resolve the Dispute within thirty (30) days of the non-disputing Party’s receipt of written notice, the Parties agree to utilize the informal mediation services of the CRTC in an attempt to resolve the Dispute. Should the Dispute fail to resolve using the CRTC’s informal mediation process, either Party may submit the Dispute to the CRTC for resolution.

15.3 **Continued performance.** Except where clearly prevented by the nature of the Dispute, the Municipality and the Company agree to continue performing their respective obligations under this Agreement while a Dispute is subject to the terms of this Section 15.

16. NOTICE

16.1 **Method of Notice.** Any notice or any other communication required or permitted to be given under this Agreement shall be in writing. E-mail correspondence shall be considered to be ‘in writing’ and shall be deemed effective if and at the time delivery is confirmed to the e-mail addresses of the representative officer of a party listed below or to such other e-mail address as provided by a party in writing during this Agreement to serve as an e-mail address to which notice may be provided. Notice may also be effective if delivered by facsimile (if applicable), registered mail or personal delivery and/or by courier with receipt verified by signature, to the officer position noted below for a party or to such other address as may be provided by a party in writing during this Agreement to serve as an address and officer to which notice may be provided. Notice shall be deemed effective at the time of delivery.

16.2 Any notice in writing may be delivered to each of the parties by delivering to the acting officers and addresses set out below:

To the Municipality:

The Corporation of the United Counties of Stormont, Dundas and
Glengarry

Attn: Kimberley Casselman, Clerk

26 Pitt Street, Cornwall Ontario, K6J 3P2

E: kcasselman@sdgcounties.ca

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To the Company:

Xplornet Communications Inc.
Attn: VP, Network Build
Address: 625 Cochrane Drive, Suite 1000
Markham, ON L3R 9R9
Email: chris.tsakopoulos@corp.xplornet.com

With copy to:

Xplornet Communications Inc.
Attn: Vice President, Legal
625 Cochrane Drive, Suite 1000
Markham, ON L3R 9R9
Email: xplornet.legal@corp.xplornet.com

- 16.3 **Delivery of Notice.** Any notice given pursuant to Section 16.1 shall be deemed to have been received on the date on which it was delivered in person, or, if transmitted by E-mail or facsimile (if applicable) during the regular business hours of the Party receiving the notice, on the date it was transmitted, or, if transmitted by E-mail or facsimile (if applicable) outside regular business hours of the Party receiving the notice, on the next regular business day of the Party receiving the notice; provided, however, that either Party may change its address and/or E-mail address or facsimile number (if applicable) for purposes of receipt of any such communication by giving ten (10) days' prior written notice of such change to the other Party in the manner described above.

17. FOREIGN CORRUPT PRACTICES ACT AND ANTI-BRIBERY INDEMNITY

- 17.1 Notwithstanding anything to the contrary herein, the Municipality, in its administration of this Agreement, shall refrain from offering, giving or promising, directly or indirectly, money or anything of value to a Canadian or foreign governmental official to influence the official in his or her official capacity, induce the official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person. For the purposes of this Section, "**anything of value**" includes, but is not limited to, cash or a cash equivalent, discounts, gifts, use of materials, facilities or equipment, entertainment, drinks, meals, transportation, lodging, insurance benefits, or promise of future employment. "Governmental official" shall mean any person holding any level of legislative, administrative, or judicial office of the Canadian or a foreign government or any of its departments or agencies or divisions; any person acting on behalf of the Canadian or a foreign government, including a local or provincial agency, enterprise, or organization; any official or agent of a Canadian or a foreign public administration or publicly funded organization; any official of a Canadian or a foreign political party; any officer or agent of a public international organization (e.g., World Bank, International Monetary Fund, World Health Organization, United Nations, World Trade Organization); or any relatives or close family/household members of any of those listed above. The Municipality shall indemnify and hold harmless the Company from all claims brought against the Company as a result of the Municipality or its representatives' failure to comply with Anti-Bribery Law. The Municipality shall immediately report any breach of Anti-Bribery Law by the Municipality or its representatives. The Municipality shall immediately report any breach of Anti-Bribery Law by the Municipality or its representatives'. The Company shall have the right to audit the Municipality's books and records with respect to payments made on behalf of the Company in the event that the

Initials: _____

Company believes that the Municipality has violated this Section 17. The Company shall have the right to immediately terminate all payments to the Municipality under this Agreement if the Municipality fails to comply with this Section 17.

18. GENERAL

- 18.1 **Entire Agreement.** This Agreement, together with the Schedules attached hereto, constitute the complete and exclusive statement of the understandings between the Parties with respect to the rights and obligations hereunder and supersedes all proposals and prior agreements, oral or written, between the Parties.
- 18.2 **Assignment.** This Agreement may not be assigned or transferred, in whole or in part, without the prior written consent of the other Party. Notwithstanding the above, the Company may assign this Agreement to an affiliate or a purchaser of substantially all of the assets of the Company without the consent of the Municipality provided that the Company provides the Municipality with notice of the assignment and the affiliate or purchaser has agreed to be one hundred percent (100%) responsible for all the obligations of the Company under this Agreement.
- 18.3 **Gender and number.** In this Agreement, words importing the singular include the plural and vice versa, words importing gender, include all genders.
- 18.4 **Currency.** Unless otherwise indicated, references in this Agreement to money amounts are to the lawful currency of Canada.
- 18.5 **Parties to act reasonably.** Each Party shall at all times act reasonably in the performance of its obligations and the exercise of its rights and discretion under this Agreement.
- 18.6 **Amendments.** Except as expressly provided in this Agreement, no modification of or amendment to this Agreement shall be effective unless agreed to in writing by the Municipality and the Company.
- 18.7 **Survival.** The terms and conditions contained in this Agreement that by their sense and context are intended to survive the performance thereof by the Parties hereto shall so survive the completion of performance, the expiration and termination of this Agreement, including, without limitation, provisions with respect to indemnification and the making of any and all payments due hereunder.
- 18.8 **Waiver.** Failure by either Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.
- 18.9 **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect.
- 18.10 **Enurement.** This Agreement is and shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and permitted assigns, and may not be changed or modified except in writing, duly signed by the Parties hereto.
- 18.11 **Counterparts:** This Agreement may be executed by the Parties and delivered by E-mail or PDF transmission and in one or more counterparts which when held together shall be considered one and the same Agreement.

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18.12 **Equitable Relief.** Either Party may, in addition to any other remedies it may have at law or equity, seek equitable relief, including without limitation, injunctive relief, and specific performance to enforce its rights or the other party's obligations under this Agreement.

18.13 **Governing law.** This Agreement shall be governed by the laws of the Province of Ontario and all federal laws of Canada applicable therein.

[ONE (1) ENDORSEMENT PAGE FOLLOWS]

Initials: _____

IN WITNESS WHEREOF the Parties have affixed their respective signatures hereto, being the effective endorsement of their duly authorized officers:

**UNITED COUNTIES OF STORMONT, DUNDAS
AND GLENGARRY**

Date: _____

Ms. Carma Williams, Warden

Date: _____

Ms. Kimberley Casselman, Clerk

We have the authority to bind the Corporation

XPLORNET COMMUNICATIONS INC.

Date: _____

Per: Chris Tsakopoulos
Title: Vice President, Network Build
I have the authority to bind the Corporation

Initials: _____

SCHEDULE “A”
RELOCATION COSTS

1. **Reimbursement by Municipality for the Company’s Relocation Costs.** The Municipality shall reimburse the Company for all or part of its reasonable and verifiable costs of completing any relocation requested by the Municipality (the “**Relocation Costs**”) based upon the following principles, methodologies and procedures:

- (a) For Equipment that is not located within the tolerable limits, as described in Section 4.10 of this agreement, from the location approved by the Municipal Consent or “standard location”, as the case may be, there shall be no cost to the Municipality to relocate the Equipment.
- (b) For Equipment for which a Municipal Consent was granted, the Municipality shall pay the percentages of the Company’s Relocation Costs (“in kind” or “like-for-like” Equipment) set out in the following table:

Year in which Municipal Consent was granted	Percentage or Relocation Costs paid by Municipality
Year 1 to Year 5 (inclusive)	100%
Year 6 to Year 10 (inclusive)	50%
Year 11 to 15 (inclusive)	25%
Year 16 +	0%

For the purpose of this Section, the age of the infrastructure is the current date minus the date of the issuance of the Municipal Consent.

- (c) Within thirty (30) days of receiving the request from the Municipality to relocate the Equipment, the Company shall provide the Municipality with a written estimate of the Relocation Costs for such relocation, including an estimate of the Municipality’s reimbursement under the subsection (b).
 - (d) Within sixty (60) days of completing the relocation, the Company may provide the Municipality with a written invoice for the actual Relocation Costs in a format that clearly identifies the Municipality’s reimbursement under subsection (b) and delineates materials, labour, and any other project costs.
2. **Equipment affected by the Municipality’s Capital Works Plan.** Prior to the approval of the MC, the Municipality may advise the Company in writing whether the Company’s proposed location for new Equipment will be affected within the next five (5) years by the Municipality’s ten-year (10 year) capital works plan (the “**Capital Works Plan**”). If the Municipality advises that the new Equipment will be so affected and the Company, despite being advised of such, requests the Municipality to issue the MC, then the Municipality may issue a conditional MC stating that, if the Municipality requires, pursuant to any project identified in the Capital Works Plan as of the date of approval, the Company to relocate the Equipment within five (5) years of the date of the MC, the Company will be required to relocate the Equipment at its own cost, notwithstanding Section 1 above.
3. **Municipality not responsible for Third Party Relocation Costs.** Unless otherwise agreed to between the Municipality and the Third Party, in no event shall the Municipality be responsible under this Agreement for:
- (a) the costs of the Company to relocate Equipment at the request of a Third Party; or
 - (b) the costs of relocating the facilities of a Third Party installed on or in the Equipment; or

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- (c) the costs of the Company to relocate Equipment where the Company is a Third Party to the owner of the Equipment.
- 4. **Emergency temporary relocation.** In cases of an Emergency that requires the Company to temporarily relocate the Equipment, the Parties shall work co-operatively and expeditiously to complete the relocation as soon as practicably possible; provided, however, that the Municipality may, with at least twenty-four (24) prior notice to the Company, take any measures it deems necessary for reasons of public health and safety.
- 5. **Relocation performed by Municipality.** If the Company fails to complete the relocation in accordance with Section 7.1 of this Agreement, the Municipality may, at its option, complete such relocation and the Company shall pay the Municipality's reasonable and verifiable costs of the relocation.
- 6. **Discontinuance of ROW.** Where the Municipality authorises the legal closing of a ROW under its jurisdiction as a public highway either by Court Order or By-law, the Municipality shall be responsible for registering an easement against the property in favour of the Company unless alternative arrangements have been made, all to the satisfaction of the Company.

SCHEDULE "B"

REQUIRED PERMITS AND PERMISSIONS

WORK ACTIVITY	Municipal Consent Required	Road Cut Permit Required	Notification Only	No Permissions needed
Any installation of Equipment that requires excavation in the ROW, including: <ul style="list-style-type: none"> - the installation of buried Equipment crossing a road; - the installation of new Above-ground Equipment¹; - the relocation of buried Equipment or Above-ground Equipment; - the replacement of existing Above-ground Equipment with equipment that is significantly larger; and - the installation of any buried Service Drops within the ROW. 	X			
The installation of aerial Equipment (excluding aerial Service Drops)	X			
Any work that requires traffic control or blocks any portion of the travelled portion of a highway			X	
Tree trimming on ROWs			X	
The replacement of existing Above-ground Equipment without adding more Equipment or significantly increasing its size (pole replacements excluded)				X
The installation of buried Service Drops that do not cross a road or break the hard surface of a ROW			X	
Pulling cable through existing underground duct				X
The installation of or repair to aerial Service Drops				X
The maintenance, testing and repair of Equipment where there is no physical disturbance or changes to the ROW				X
Any other Work activity agreed to by the Municipality				X

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