

## **LICENSE AGREEMENT**

### **WITNESSETH:**

This License Agreement ("Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the Village of Romeoville, an Illinois Municipal Corporation ("Village") and Mobilitie, LLC, a Nevada limited liability company ("Licensee").

WHEREAS, Licensee is currently the occupant, tenant or licensee of certain poles or other facilities owned and operated by a qualified third party, pursuant to an existing agreement ("Pole Attachment Agreement"); and

WHEREAS, Licensee has further received all necessary approvals and authorizations from said qualified third party to install certain of its facilities ("Licensee Facilities") upon a pole ("Pole") owned by said third party, having an approximate address of 21164-1/2 W. Airport Road, Romeoville, within the Village's right of way for Airport Road ("Right of Way"); and

WHEREAS, Licensee is in the business of providing wireless telecommunications services, and represents that it has obtained all governmental approvals from agencies having jurisdiction (other than the Village) to use the Pole and the Right of Way as the location of the Licensee Facilities for the purpose of providing such wireless telecommunications services; and

WHEREAS, the Licensee Facilities proposed to be installed on the Pole and the location of the Pole are described and depicted in Exhibit A, a copy of which is attached hereto and incorporated herein; and

WHEREAS, Licensee has requested permission from the Village to locate the Licensee Facilities on the Pole within the Right of Way as depicted in Exhibit A, and the Village is amenable to permitting the same, all in accordance with the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, Licensee and Village hereby agree as follows:

1. Recitals. The foregoing recitals are incorporated into this Agreement as if fully set forth in this Section 1.
2. Grant of License. Subject to the terms and provisions of this Agreement, the Village hereby grants a nonexclusive license to Licensee to permit the placement, construction, operation and maintenance of the Licensee Facilities upon the Pole within the Right of Way, but such license shall not extend to the use of the Right of Way for purposes not contemplated herein, or any other rights of way or property owned by the Village. Licensee acknowledges that the use of the Right of Way provided for hereunder shall be on an "as-is, where-is" basis, and that the Village makes no warranties or representations whatsoever concerning the adequacy, suitability or the condition of the same for Licensee's contemplated use thereof. Prior to entering upon the Right of Way for any of the purposes contemplated hereunder, Licensee shall provide the Village's Director of Public Works with not less than five (5) days prior written or telephonic notice of its entry upon and use of the Right of Way. Licensee shall within a reasonable time period and at its sole cost and expense restore or repair any damage caused by its use of the Right of Way hereunder, with such restoration or repair to be performed in accordance with the conditions therefor set forth in Section 6 of this Agreement.
3. Future Undergrounding of Lines; Licensee's Responsibilities; Village Responsibilities; Temporary Relocations. Licensee acknowledges that the Village has the right from time to time to cause the modification of poles, lines and facilities, and specifically to cause the same to be relocated to underground from aboveground locations, and that in the event that the Village shall cause such a modification of the Pole and associated lines relocating the same from the current aboveground to an underground location, the Village will provide prior written notice to the Licensee not less than ninety (90) days before any such modification or relocation shall commence. Licensee acknowledges that it shall be responsible for all of Licensee's costs and expenses associated with the removal and potential relocation of the Licensee Facilities resulting therefrom, and that it shall not seek reimbursement of the same from the Village or any person or entity not party to this Agreement. Such a relocation shall further serve to terminate the license granted under Section 2 of this Agreement. Licensee further acknowledges that in the event of such a modification of the Pole and associated lines, the Village cannot and does not herein guarantee the existence or availability of a suitable replacement location for the Licensee Facilities, but shall use its best efforts to mutually with Licensee and in good faith identify a suitable replacement location for the Licensee Facilities. In the event that Licensee shall secure a suitable replacement location for replacement facilities substantially equivalent to the Licensee Facilities, Village shall enter into a future license agreement with Licensee for the location of

such facilities upon terms and conditions substantially equivalent to the terms and conditions set forth in this Agreement.

Licensee also acknowledges that the Village retains the right to require Licensee to temporarily relocate the Licensee Facilities at Licensee's expense to the extent necessary for public health, safety, and welfare, or in connection with the Village's use of its Right of Way to benefit the public, including, but not limited to construction projects involving improvements to Airport Road or Village owned utilities located within the Right of Way for the benefit of the public. The Village will provide prior written notice to the Licensee not less than ninety (90) days before any such relocation shall commence. Upon the completion of the underlying Village construction project within the Right of Way, Licensee shall thereafter be entitled to return the Licensee Facilities to the location depicted in Exhibit A.

4. Applicable Construction and Use Standards. Licensee acknowledges that all of its uses as contemplated under this Agreement shall be subject to and comply with the provisions of Chapter 55 of the Village Code of Ordinances, and with the applicable regulations of all other governmental agencies having jurisdiction thereof. Without otherwise limiting the generality of the foregoing, Licensee shall comply with applicable IDOT and Village requirements concerning the use or closure of Airport Road in connection therewith.
5. Insurance. Licensee shall provide insurance coverage complying with Chapter 55 of the Village Code of Ordinances at all times during this Agreement, which coverage shall name the Village as an additional insured by written endorsement to the policy. A copy of Licensee's certificate of insurance evidencing its compliance with the foregoing requirement is attached hereto and incorporated herein as Exhibit B. All insurance coverage contemplated hereunder shall expressly provide by endorsement that it cannot be canceled except upon thirty (30) days' prior written notice to the Village Manager per the notice provision in Section 13 herein.
6. Licensee Restoration and Right of Way Damage Obligations. Upon any termination of the license created pursuant to this Agreement, Licensee shall within sixty (60) days of such termination remove the Licensee Facilities, and restore any disturbed areas within the Right of Way resulting therefrom to the condition in which they existed as of the date of this Agreement. All such removal and restoration work to be performed by Licensee shall at a minimum conform to all applicable Village ordinances and requirements, but the Village specifically retains the right hereunder to approve such work in its reasonable discretion. Likewise, Licensee shall be responsible to notify the

Village of any damage to the Right of Way or Village facilities located therein within seven (7) days of such damage, and to reimburse the Village within thirty (30) days after notice from Village for all losses, costs, damages or expenses incurred by the Village to the Right of Way or Village owned improvements or facilities located therein resulting from the activities of Licensee.

7. Ownership of Right of Way and Licensee Facilities. Village shall at all times retain title to, ownership of and control over the Right of Way and to any and all public improvements located therein as presently existing and as hereinafter improved, and to all other improvements of any nature or kind constructed or located by Village within the Right of Way and elsewhere, except that nothing herein shall be construed to deem or designate the Village as the owner of the Licensee Facilities. The parties agree and acknowledge that, notwithstanding anything in this Agreement to the contrary, Licensee Facilities in the Right of Way pursuant to this Agreement may be owned and/or operated by Licensee's third-party wireless carrier customers ("Carriers") and installed and maintained by Licensee pursuant to license agreements between the Licensee and such Carriers. Such facilities shall be treated as Licensee Facilities for all purposes under this Agreement provided that (i) Licensee remains responsible and liable for all performance obligations under the Agreement with respect to such facilities; (ii) the Village's sole point of contact regarding such facilities shall be Licensee; and (iii) Licensee shall have the right to remove and relocate the facilities.
8. Indemnification. Licensee hereby indemnifies, defends and holds harmless the Village and its officers, directors, employees and agents of and from any and all liabilities, claims, damages, costs, expenses or judgments and any judicial, governmental or regulatory proceedings or any other actions of any nature or kind whatsoever which may arise out of or relate to in any way or which are claimed to arise out of or relate to Village's entry into this Agreement and the use of the Right of Way or the ComEd Pole by Licensee as contemplated herein. In the event the Village is made a party to any such event or proceeding identified herein, Licensee shall indemnify, defend and hold harmless the Village from any such event or proceedings, and such indemnification obligation shall include, but not be limited to the obligations to pay all judgments, comply or bear the cost of the Village's compliance with all orders, injunctions, decrees or other like enforcement provisions directed against the Village and to pay the Village's reasonable costs and expenses of every nature and kind arising therefrom. The obligations of Licensee hereunder shall specifically include but not be limited to the payment of reasonable attorneys' fees for the representation of the Village in such proceedings together with all expert witness or consultant fees and expenses, and court costs and fees. It is expressly understood that the Village shall

have the right to employ all such attorneys to represent the Village. The Village shall have the right but not the duty to appeal to the courts of appellate jurisdiction any judgment, order, injunction or decree issued against the Village in this respect. The parties agree that this indemnification provision shall be liberally construed in favor of the Village and that this Section and that the indemnification and hold harmless agreements contained herein shall survive any determination by a court of competent jurisdiction of the invalidity of the Agreement or any part thereof, or any termination of this Agreement or any portion thereof.

9. Compliance, Permitting, and Approvals. Licensee acknowledges that it shall be solely responsible at its cost and expense to obtain all permits and approvals from governmental agencies and persons or entities not party to this Agreement necessary for Licensee's activities as contemplated hereunder. Village acknowledges that its approval and execution of this Agreement shall serve as its grant of permission for Licensee to undertake Licensee's activities as contemplated hereunder, subject to the terms and conditions of this Agreement.
10. Venue. The parties acknowledge that the sole and exclusive venue for any litigation involving this Agreement shall be in the 12<sup>th</sup> Judicial Circuit Court, Will County, Illinois.
11. Future Village Enactments/"Small Cell Facilities" Standards. The parties acknowledge that the Village is in the process of preparing and enacting amendments to its existing Code of Ordinances to provide for a regulatory framework within the Village for the use of Village rights of way for installation of facilities comparable or of similar character and purpose to the Licensee Facilities contemplated herein ("Small Cell Facilities"), and that any future use of Village rights of way for purposes including but not limited to the installation and operation of Small Cell Facilities shall be subject to such amendments to the Code of Ordinances ("Future Village Enactments") upon the adoption thereof, provided that Future Village Enactments shall comply with all applicable state and federal laws or regulations (including, but not limited to, those issued by the Federal Communications Commission or its successor agency) and any binding judicial interpretations thereof (collectively, "Laws"). Village and Licensee shall in the future promptly amend this Agreement as reasonably required to ensure this Agreement complies with Future Village Enactments and Laws.
12. Termination. Without otherwise limiting or modifying any other term or provision of this Agreement, either party may terminate this Agreement upon thirty (30) days' written notice at the addresses hereinafter provided in the event that the other party (a) fails to cure any material default under this

Agreement (including but not limited to any breach of the provisions of Chapter 55 of the Village Code of Ordinances) within thirty (30) days after the receipt of written notice of such default, or (b) fails to diligently and continuously pursue the cure of any such material default to completion, where such material default is curable but requires more than thirty (30) days for the completion of the cure thereof. Licensee may terminate this Agreement, for convenience, at any time by providing the Village thirty (30) days' prior written notice.

13. Limitation of Liability. Licensee and Village agree that neither will assert any claim against the other or any other person indemnified under this Agreement on any theory of liability for special, indirect, consequential, incidental, or punitive damages, provided, however, that the limitation in this Section 13 shall not limit the indemnification obligations of the parties pursuant to Section 8 of this Agreement.

14. Notices. Any notices required or desire to be sent under this Agreement shall be directed as follows:

If to Village: Village of Romeoville  
Attn.: Village Manager/Public Works Director  
1050 W. Romeo Road  
Romeoville, Illinois 60446  
815-886-7200 (Manager) or  
815-886-1870 (Public Works Director)

If to Licensee: Mobilitie, LLC  
Attn: Asset Management and Legal Department  
660 Newport Center Drive  
Suite 200  
Newport Beach, California 92660  
877-999-7070  
[assetmgmt@mobilitie.com](mailto:assetmgmt@mobilitie.com) (Asset Management) and  
[legal@mobilitie.com](mailto:legal@mobilitie.com) (Legal Department)

IN WITNESS WHEREOF, Licensee and Village have executed this Agreement all as of the date and year first above named.

"LICENSEE"

BY:   
Its: SUP, GENERAL COUNSEL

"VILLAGE"

Village of Romeoville, an Illinois Municipal Corporation

BY: \_\_\_\_\_  
John D. Noak, Village President

ATTEST: \_\_\_\_\_  
Dr. Bernice Holloway, Village Clerk

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public in and for said County and State, certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and whose name is subscribed to this instrument, appeared before me this day in person and severally acknowledged before me that as such \_\_\_\_\_, that he signed and delivered said instrument pursuant to his lawful authority, as his free and voluntary act and as the free and voluntary act of the said company for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

*See attached*



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange )

On July 7, 2017 before me, Melissa Ann Williams, Notary Public  
(insert name and title of the officer)

personally appeared Chris Glass,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~  
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in  
his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



STATE OF ILLINOIS )

) SS

COUNTY OF WILL )

I, \_\_\_\_\_, a notary public in and for said County and State, certify that John D. Noak, personally known to me to be the Village President of the Village of Romeoville, Illinois, and Dr. Bernice Holloway, personally known to me to be the Clerk of said Village, and whose names are subscribed to this instrument, appeared before me this day in person and severally acknowledged before me that as such President and Clerk of the said Village they signed and delivered the said instrument and caused the corporate seal of the Village to be affixed thereto, pursuant to authority given therefor by the Board of Trustees of said Village, as their free and voluntary act and as the free and voluntary act of said Village, for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Notary Public

**EXHIBIT A—Description/Depiction of Licensee Facilities and Location of Licensee Facilities**

**EXHIBIT B—Licensee's Certificate of Insurance**

