

UTILITY EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is dated this _____ day of _____, 2017, by and between the Town of Vail, Colorado, a Colorado home rule municipality (the "Town"), and _____ ("Grantee").

WHEREAS, Grantee desires to acquire an easement for the purpose of installing and operating certain utility facilities upon and beneath the surface of the property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property"); and

WHEREAS, the Town is willing to convey an easement to Grantee for the aforesaid purposes on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the sum of \$10 paid by Grantee to the Town, the covenants of Grantee herein contained, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

Section 1. Conveyance of Easement. The Town does hereby grant and convey unto Grantee, it successors, assigns, lessees, licensees, and agents, an easement upon and beneath the surface of the Easement Property for the installation and operation of utility facilities consisting of _____ and other appurtenant fixtures and equipment necessary for distributing COMMUNICATION SERVICES (the "Utility Facilities"). Grantee shall have the right of ingress and egress, consistent with this Agreement, upon the Easement Property for the construction, reconstruction, operation, maintenance and removal of the Utility Facilities.

Section 2. Use of Easement Property. Grantee shall be solely responsible for installing and maintaining the Utility Facilities and shall obtain Town permission prior to performing any work on the Easement Property and shall obtain all relevant right of way permits. In making any excavation on the Easement Property, Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the area to as near the same condition as it was prior to such excavation as is practical.

Section 3. Relocation. Within 60 days of receipt of written notice from the Town, Grantee shall relocate the Utility Facilities within the Easement Property at Grantee's sole cost and expense.

Section 4. Retained Rights. The Town shall have all rights to the Easement Property not expressly granted hereby, including the right to construct structure(s) over the Easement Property, so long as such structures do not interfere with Grantee's rights under this Agreement.

Section 5. Recordation. Grantee shall record this Agreement in a timely fashion in the official records of Eagle County, and may re-record it at any time as may be required to preserve its rights in this Agreement.

Section 6. Miscellaneous.

a. All provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

b. At all times during the term of this Agreement, the Grantee will carry general liability coverage to insure against damage to or loss of property and injury to or death of any person occurring on or about the Easement Property. At a minimum, the policy shall be a comprehensive policy of public liability insurance covering bodily injury, including death to persons, personal injury and property damage in an amount of not less than \$1 million per occurrence, \$2 million in the aggregate. This insurance shall be primary, non-contributory, and shall name the Town as additional insureds.

c. This Agreement constitutes all the agreements, understandings, and promises between the parties hereto with respect to the subject matter hereof.

d. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

e. The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

f. Grantee agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, insurance cooperatives, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement or the Easement Property if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Grantee, any subcontractor of Grantee, or any

