

**DARK FIBER
INDEFEASIBLE RIGHT OF USE (“IRU”) AGREEMENT**

Between

BRANDENBURG TELECOM

And

Commonwealth of Kentucky

Dated: October 27, 2017

EXHIBITS

- Exhibit A Route Descriptions
- Exhibit B Purposely left blank
- Exhibit C Fiber Handoff
- Exhibit D Fiber Splicing, Testing, and Acceptance Standards and Procedures
- Exhibit E Cable Installation Specification
- Exhibit F Project Records

DARK FIBER IRU AGREEMENT

THIS DARK FIBER IRU AGREEMENT (this "**Agreement**") is made as of the 27th day of October, 2017 (the "**Effective Date**") by and between Brandenburg Telecom ("BBT"), a Kentucky Limited Liability Company, having its principal office at 200 Telco Drive, P. O. Box 599, Brandenburg, KY 40108, and Commonwealth of Kentucky ("**Commonwealth**"), having its principal office at 702 Capital Avenue, Frankfort, Kentucky 40601. For purposes of this Agreement, BBT and Commonwealth are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

BACKGROUND:

WHEREAS:

A. Pursuant to RFP 758 1500000003-5 issued July 11, 2014 (as amended from time to time, the "**RFP**"), the Commonwealth selected Macquarie Infrastructure Developments LLC ("**Macquarie**") to design, build, finance, operate and maintain a statewide fiber optic network, known generally as the NG-KIH System, to provide broadband services to the citizens of the Commonwealth;

B. On December 22, 2014, the Commonwealth and Macquarie entered into a master agreement (as amended from time to time, the "**Master Agreement**") in respect of the Project;

C. In 2015, Macquarie assigned its rights and obligations under the Master Agreement to KentuckyWired Infrastructure Company, Inc. ("**Project Co.**"). Project Co. then entered into a Project Implementation Agreement with KentuckyWired Operations Company, LLC ("**Operations Co.**");

D. On September 3, 2015, the Commonwealth and Project Co. entered into a project agreement (as amended from time to time, the "**Project Agreement**") in respect of the Project and to facilitate the financing of the Project. As part of this Project Agreement, Operations Co. and its subcontractors have specifically designed and tailored the NG-KIH System to the geographic area of the Commonwealth in a series of "rings";

E. A component of the NG-KIH System is located in Meade County, Kentucky;

F. BBT can provide fiber facilities located in Meade County and Breckenridge County, Kentucky that fit the design of the NG-KIH System;

G. BBT, through ownership or other arrangements, has the rights to use the System;

H. Commonwealth desires to acquire from BBT, and BBT desires to provide to Commonwealth, an indefeasible right to use certain optical fibers in the System upon the terms and conditions set forth below; and

I. The parties intend that Commonwealth shall have substantially all benefits and risks associated with ownership of such optical fibers, subject to the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I **DEFINITIONS**

Capitalized terms and phrases used in this Agreement and not otherwise defined herein shall have the following meanings:

"**Acceptance Date**" shall have the definition set forth in **Exhibit D** (Fiber Splicing, Testing, and Acceptance Standards and Procedures) to this Agreement.

"**Acceptance Standards**" means the standards set forth in **Exhibit D** to this Agreement with respect to the testing and condition of the Commonwealth Fibers.

"**Affiliates**" means, with respect to any entity, an entity controlling, controlled by, or under common control with such entity by means of direct or indirect equity ownership.

"**Agreement**" shall have the definition set forth in the introductory paragraph.

"**Available**" means that the Commonwealth Fibers meet the standards set forth in **Sections 2, 3 and 4** of **Exhibit D** attached hereto.

"**Backbone Segment**" means approximately 44 miles of 288 count fiber optic cable which BBT will install in accordance with this IRU from the intersection of U.S. Highway 60 and Kentucky Highway 1882 in Meade County, Kentucky, with latitude and longitude coordinates of 37°53'35.07"N/86°37'37.63"W to the intersection of U.S. Highway 60 and Kentucky Highway 105 in Breckenridge County, Kentucky with latitude and longitude coordinates of 37°49'32.39"N/86°37'37.63W.

"**BBT**" shall have the definition as defined in the introductory paragraph of this Agreement.

"**Cable**" means the fiber optic cable included in the System and fibers contained therein that includes the Commonwealth Fibers and associated splicing connections, splice boxes and vaults, and conduit.

"**Change Order**" means an order setting forth an agreed-upon change to a fiber route or design specification.

"**Claim**" means any claim, action, dispute, or proceeding of any kind between Commonwealth (or any of its Affiliates, successors or assigns) and BBT (or any of its Affiliates, successors, or assigns) and any other claim, transaction, occurrence, loss, liability, expense or other matter arising out of, in connection with, or in any way related to, the Commonwealth IRU, the Cable, the System, this Agreement or any other instrument, arrangement or understanding related to the Commonwealth IRU.

"**Commonwealth**" shall have the definition set forth in the introductory paragraph of this Agreement.

"**Commonwealth Equipment**" means optronic (opto-electrical), electronic, or optical equipment or materials, facilities or other equipment owned, possessed or utilized (other than the System), by Commonwealth.

"**Commonwealth Fibers**" means those certain Fibers in which Commonwealth shall be granted an IRU hereunder as set forth in **Section 2.1**.

"**Commonwealth IRU**" shall mean the IRU granted to Commonwealth pursuant to the terms and conditions set forth in this Agreement.

"**Connecting Point**" means a point where the network or facilities of Commonwealth will connect to the System as specified in **Exhibit C** (Interconnection Procedures) of this Agreement.

"**Contract Price**" means \$50,000 per route mile for a not to exceed total cost of \$2,200,000.

"**Core Fiber**" means the fiber backbone which makes up part of the NG-KIH System.

"**Data Dictionary**" shall have the meaning set forth in Exhibit F.

"**Designated Parties**" means each and all of the following parties: KentuckyWired Operations Company, LLC; NG-KIH Design Build, LLC; LTS Kentucky Managed Technical Services, LLC; and OpenFiber Kentucky Company, LLC. One or more of the Designated Parties, as the context requires, may act as the Commonwealth's agent during the Term.

"**Effective Date**" shall have the definition set forth in the introductory paragraph of this Agreement.

"**Facility Owners**" means any entity (other than BBT) owning any portion of the System, or any property or security interest therein, or leasing to BBT, or providing an IRU to BBT in, any portion of the System.

"**Fiber Acceptance Testing**" means the fiber acceptance testing described in **Exhibit D** to this Agreement.

"**Fibers**" means any optical fibers contained in the System, including the Commonwealth Fibers, the Electric Company Fibers, the fibers of BBT and the fibers of any third party in the System, but excluding, however, any fibers granted (whether through ownership, IRU, lease, or otherwise) to Government Authorities in exchange for use of streets, rights of way, or other property under the jurisdiction of such entity.

"**Force Majeure Event**" shall have the definition set forth in **Section 18.1**.

"**Government Authority**" means any federal, state, regional, county, town, municipal, territorial, or tribal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government, including, without limitation, any multinational body obtaining authority from any of the foregoing.

"**Indefeasible Right of Use**" or "**IRU**" is an exclusive, indefeasible right to use the specified property, but does not convey title, ownership, or rights of possession in any real or personal property.

"**Indemnitee**" shall have the definition set forth in **Section 12.1**.

"**Indemnitor**" shall have the definition set forth in **Section 12.1**.

"**Initial Term**" shall have the definition set forth in **Section 7.1**.

"**Lenders**" means one or more financial institutions, vendors, suppliers or other financing sources utilized by BBT or Commonwealth, as the case may be.

"**NG-KIH**" means the Next Generation Kentucky Information Highway Project (AKA KentuckyWired).

"**Open Access**" means that all providers, including the Wholesaler, seeking to gain access to bandwidth on either the spare Commonwealth Fibers or local loops extending from County POPs or Commonwealth Fibers to user endpoints will pay the same transport cost to provide the same service over the same time period on the same terms and that no reasonable party seeking access to such bandwidth can be denied access.

"**Point of Presence**" or "**POP**" means a carrier neutral location identified by the Commonwealth in each county in BBT's operating territory.

"**Pole Owners**" means any entity that owns or manages poles to which BBT must attach the Commonwealth Fibers.

"**Released Party**" means each of the following:

- (a) Any Affiliates of the other party, Facility Owners, and any Lenders, except to the extent such Lender has assumed a party's position under this Agreement by reason of default by such party or foreclosure by the Lender;
- (b) Any employee, officer, director, stockholder, partner, member, or trustee of the other party or its Affiliates or Lenders; or
- (c) Assignees of the entities included in the above subparagraphs (a) or (b) and any employee, officer, director, stockholder, partner, member, or trustee of such assignees.

"**Remaining Cost**" means (a) all costs or expenses incurred by BBT in connection with any relocation *minus* (b) any compensation received by BBT from a third party that requires a relocation.

"**Representatives**" shall have the definition set forth in **Section 16.1**.

"**Required Rights**" means the rights BBT is required to obtain pursuant to **Sections 4.4(a) and 4.4(b)**.

"**Route**" means the route, including spurs, upon which the System is or will be constructed and installed consisting of the Major Segments.

"**Segment**" means a discrete portion of the System and may refer to a Span, a portion between two points of presence or a point of presence and a System end point, or a portion of the System affected by a relocation or other circumstance.

"**Span**" means a portion of the System between two Transmission Sites or between a Transmission Site and a point of presence or System end point.

"**System**" means BBT's rights to use a fiber optic communication system along the route depicted in **Exhibit A**.

"**Taking**" shall have the definition set forth in Section 18.2.

"**Term**" means the term as defined in **Section 7.1**.

"**Transmission Sites**" means the BBT designated optical amplifier, regenerator, or junction sites along the System Route as specified in **Exhibit A**.

"**Wholesaler**" means OpenFiber Kentucky Company LLC.

ARTICLE II **CONVEYANCE OF IRU**

2.1. Conveyance upon Acceptance. Effective as of the Acceptance Date for each Segment and upon Commonwealth's timely payment of the Contract Price as set forth in **Section 3.3**, BBT hereby grants to Commonwealth the Commonwealth IRU for the purposes described herein, in the Commonwealth Fibers.

2.2. Nothing in this Agreement, including the grant of the Commonwealth IRU, shall be construed to convey any legal title to any real or personal property, including the Fibers, the Cable, or the System, to the Commonwealth or any other party. The Commonwealth IRU does not include any equipment used to transmit capacity over or "light" the Fibers. Notwithstanding anything to the contrary contained herein, neither the Commonwealth Fibers leased nor Segments constructed by BBT pursuant to this Agreement shall be construed as permanently integrated into, or otherwise as forming a permanent part of, the NG-KIH System's Core Fiber.

2.3. Use of Commonwealth Fibers. Commonwealth will have full discretion on the use of the Commonwealth Fibers, including the ability to lease capacity to commercial users that have requested such access and negotiated an access agreement with Commonwealth or the Designated Parties

2.4. Substitution of Fibers. Commonwealth acknowledges and agrees that notwithstanding the above conveyance, upon not less than one hundred twenty (120) days' written notice from BBT to Commonwealth, BBT may substitute for the Commonwealth Fibers, or any Segment or Segments comprising a portion of the Commonwealth IRU, an equal number of alternative fibers along the same Route; provided that in any such event, such substitution (a) shall

be without unreasonable interruption of service and use by Commonwealth, (b) shall be effected at the sole cost of BBT, (c) shall be constructed and tested in accordance with the specifications set forth in this Agreement, and (d) shall not adversely affect the use, operation or performance of Commonwealth's network or business or change any Connecting Points or endpoints of Commonwealth.

ARTICLE III **CONSIDERATION**

3.1. Contract Price. Commonwealth shall pay BBT the Contract Price in accordance with Sections 3.2 and 3.3.

3.2. Method of Payment. Commonwealth shall pay the Contract Price and any other payments pursuant to this Agreement by wire transfer of United States currency to an account or accounts designated by BBT in writing.

3.3. Time of Payment. The Contract Price shall be due and payable by Commonwealth to BBT as follows:

- (a) 30% of the Contract Price within 30 days of execution of this Agreement;
- (b) 30% of the Contract Price within 30 days of satisfaction of the Acceptance Standards at 50% of the Sites;
- (c) 30% of the Contract Price upon satisfaction of the Acceptance Standards at 100% of the Sites; and
- (d) 10% of the Contract Price upon the successful operation of fiber connections servicing the Sites, including confirmed interoperability with the NG-KIH System, for 90 days following satisfaction of the Acceptance Standards to 100% of the Sites. The 90 days of interoperability with the NG-KIH system will commence when BBT has provided fiber characterization test results to Commonwealth which achieve the Acceptance Standards.

3.4. Changes to the Route. The Contract Price is a fixed price for a fixed construction scope for the Commonwealth Fibers and Electric Company Fibers of up to 44 miles. The mileage estimate is based on the fiber routes and design specifications as of the Effective Date. In the event a fiber route or design specification is changed at the request of Commonwealth, resulting either in a construction scope in excess of 44 miles Commonwealth shall pay BBT the incremental costs of such changes on the basis of \$50,000 per route mile.

3.5. BBT shall not be bound by any change to a fiber route or design specification unless and until each Party has signed a Change Order.

ARTICLE IV
CONSTRUCTION

4.1. Construction Obligations. BBT will construct 44 miles of 288 count Fiber in Backbone Segment. BBT will be responsible for all costs associated with construction of the Commonwealth Fibers, including, but not limited to, walkouts, staking, engineering, permitting, pole attachments, make ready, fiber and all required equipment and fiber installation. The Customer shall at its own cost provide the Fiber required for the Construction.

4.2. Construction Completion. BBT shall complete Construction on or before April 30, 2018.

4.3. Fiber Acceptance Testing. Exhibit D sets forth Fiber Acceptance Testing procedures and test deliverables that BBT shall provide to Commonwealth and procedures for determining the Acceptance Date of the Commonwealth Fibers. Notwithstanding the foregoing, all Commonwealth Fibers shall, subject to this Section 4.3, meet the Acceptance Standards as described in Exhibit D on or before the following dates: April 30, 2018.

4.4. Acceptance Date Obligations. As of the Acceptance Date of the Commonwealth Fibers in any Segment, BBT hereby represents and warrants on an ongoing basis throughout the Term that:

- (a) BBT shall have obtained all rights, licenses, authorizations, easements, leases, fee interests, or agreements necessary to provide for the occupancy by such Segments of real property or fixtures (such as conduit, bridges, river crossings, or transmission towers);
- (b) BBT is the legal owner of the Commonwealth Fibers or shall have obtained by IRU agreement, lease, or otherwise the right to use any portion of the System along the Segment it does not own; and
- (c) such Segment and the Commonwealth Fiber in such Segment shall be free of defects in materials and workmanship and is designed, engineered, installed, and constructed, at a minimum, in accordance with prevailing industry standards and the specifications set forth in Exhibits D and E to this Agreement.

Subject to the terms of Section 8.2, BBT shall renew or replace existing Required Rights through at least the Initial Term.

4.5. Provision of Revised As-Built Drawings. If there is a material change in the Commonwealth Fibers as a result of maintenance or relocation, BBT shall deliver updated as-built drawings to Commonwealth with respect to the relevant Segment within the later of (i) one-hundred eighty (180) calendar days following the completion of such change or (ii) thirty (30) calendar days after receipt of Commonwealth's request.

4.6. Design Requirements. BBT and Customer will meet within 10 business days to define specific design requirements in accordance with Exhibit C – Fiber Handoff, Exhibit D –

Fiber Splicing, Testing and Acceptance Standards and Procedures, and Exhibit E – Cable Installation Specifications.

ARTICLE V
CONNECTION AND ACCESS TO THE SYSTEM

5.1. Connections. BBT shall provide connections to the Systems as provided for in Exhibit C.

5.2. No Unauthorized Access to System. Commonwealth or its contractors shall have access to any part of the System for the purposes of maintenance. Commonwealth may request and BBT may grant with prior written consent access to the System for any other purpose.

ARTICLE VI
USE OF THE SYSTEM

6.1. Notice of Damage. Each Party shall notify the other Party in writing of any matters pertaining to any damage or impending damage to or loss of the Commonwealth Fibers that are known to it or that could reasonably be expected to adversely affect the Commonwealth Fibers as provided in the Maintenance Agreement.

6.2. Preventing Interference with Other Fibers. Neither Commonwealth nor BBT shall use equipment, technologies, or methods of operation that interfere in any way with, or adversely affect, the System or the use of the System by the other party or third parties or their respective fibers, equipment, or facilities associated therewith. Each party shall take all reasonable precautions to prevent damage to the System or to fibers used or owned by the other party or third parties. Notwithstanding the above, the provisions of this Section shall not prevent a party from using commercially reasonable equipment, technologies, or methods of operation if the interference or adverse effect on the other party or a third party results primarily from such other party or third party's use of equipment, technologies, or methods of operation that are not commercially reasonable or that are not standard in the telecommunications industry.

6.3. Liens. Commonwealth shall not cause or permit any part of the System to become subject to any mechanic's, materialmen's, or vendor's lien, or any similar lien. BBT shall not cause or permit any of Commonwealth's rights under this Agreement to become subject to any mechanic's, materialmen's, or vendor's lien, or any similar lien; *provided, however*, that nothing herein shall prohibit BBT from granting any lien, encumbrance, or security interest to a Lender in connection with any financing. If a party breaches its obligations under this Section, it shall immediately notify the other party in writing and shall promptly cause such lien to be discharged and released of record without cost to the other party.

ARTICLE VII
TERM

7.1. Term. Subject to Commonwealth's rights to terminate this Agreement for default or convenience in accordance with 200 KAR 5:312, the initial term shall end on the thirtieth (30th) anniversary of the Effective Date (the "**Term**"). Subject to the conditions set forth below, Commonwealth may, by written notice, request to extend the Term with respect to a Major Segment;

provided, however, that the granting of such extension is in BBT's sole discretion. In the event that Commonwealth desires to extend the Term, Commonwealth shall provide BBT with written notice at least one (1) year in advance of the date the Term would expire specifying that Commonwealth wishes to negotiate an extension to the Term.

7.2. Intentionally Left Blank

7.3. Effect of Termination. No termination of this Agreement shall affect the rights or obligations of any party hereto:

- (a) with respect to any payment hereunder for services rendered prior to the date of termination;
- (b) pursuant to **Articles IX (Audit Rights), XII (Indemnification), XIII (Limitation of Liability), XIV (Taxes and Governmental Fees), XIV (Confidentiality), XVII (Prohibition on Illegal Payments), XIX (Dispute Resolution), or XX (Rules of Construction) or Sections 10.2 (Exclusion of Warranties) or 10.3 (No Third-Party Warranties);** or
- (c) pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement.

7.4. Termination for Convenience. In the event of a termination for convenience by Commonwealth pursuant to 200 KAR 5:312, BBT shall submit to Commonwealth a claim for any amounts it may be due, including amounts due for an executed Change Order for which the Commonwealth has not made payment at the time of termination for convenience and for any other billable services provided under this Agreement for which it has not been paid as of the date of termination for convenience.

ARTICLE VIII
MAINTENANCE AND RELOCATION

8.1. Maintenance. Customer will provide maintenance of the Commonwealth Fibers during the Term, excluding all required cable relocations.

8.2. Relocations. BBT shall be responsible for all cable relocations at its own cost. Provided, however, Customer will provide the first five (5) miles of Fiber related to relocations after which BBT shall provide all other Fiber required for relocations.

8.3. Maintenance of Commonwealth Equipment Excluded. BBT shall have no obligation under this Agreement to maintain, repair, or replace Commonwealth Equipment.

ARTICLE IX
AUDIT RIGHTS

9.1. Subject to the Commonwealth's obligations under the Kentucky Open Records Act, each party shall keep such books and records (which shall be maintained on a consistent basis and substantially in accordance with generally accepted accounting principles) and shall readily disclose

the basis for any charges (except charges fixed in advance by this Agreement or by separate agreement of the parties) or credits, ordinary or extraordinary, billed or due to the other party under this Agreement and shall make them available for examination, audit, and reproduction by the other party and its duly authorized agents or representatives for a period of one (1) year after such charge or credit is billed or due; *provided, however*, that the auditing party shall (i) only have access to such books and records as it reasonably needs access to pursuant to this provision, (ii) provide no less than five (5) business days prior written notice to the party being audited that it wishes to have access to such books and records for purposes of auditing the party pursuant to this Section, (iii) only have access to books and records and conduct such audit during the ordinary course of business hours of the party being audited, and (iv) not unreasonably interfere with the business of the party being audited.

ARTICLE X **WARRANTIES**

10.1. Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in this Agreement, each party hereto represents and warrants to the other that:

- (a) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;
- (b) it has taken all requisite corporate action to approve the execution, delivery, and performance of this Agreement;
- (c) this Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms; and
- (d) its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state, or federal government agency, court, or body.

10.2. EXCLUSION OF WARRANTIES. EXCEPT FOR THE LIMITED EXPRESS WARRANTIES SET FORTH IN THIS SECTION 10.1, BBT MAKES NO WARRANTY TO COMMONWEALTH OR ANY OF ITS REPRESENTATIVES, AFFILIATES, OR LENDERS, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY FIBERS, THE SYSTEM, OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

10.3. No Third-Party Warranties. No Facility Owners or Lenders have made any representation or warranty of any kind, express or implied, to Commonwealth concerning BBT, the Commonwealth Fibers, the Electric Company Fibers, the Cable, or the System or as to any of the matters set forth in Section 10.1. No Commonwealth Lenders have made any representation or warranty of any kind, express or implied, to BBT concerning Commonwealth, the Commonwealth

Fibers, the Electric Company Fibers, the Cable, or the System or as to any of the matters set forth in **Section 10.1**.

ARTICLE XI
DEFAULT

11.1. Default and Cure. Commonwealth may terminate this Agreement for either default or convenience in accordance with 200 KAR 5:312. Except as set forth in **Section 11.2**, a Party shall not be in default under this Agreement until one of the following events occurs: (i) either Party fails to make a payment of any undisputed amount required under this Agreement, and such failure continues for more than thirty (30) days after such Party receives written notice of such failure from the other Party; *provided, however*, that any disputed amount must be submitted to the other Party pursuant to **Section 11.2**; (ii) either Party fails to perform or comply with any other material obligation, agreement, term, or provision of this Agreement applicable to it, and such failure continues for more than thirty (30) days after such Party receives written notice of such failure from the other Party; *provided, however*, that if such default cannot be reasonably cured within such thirty (30) day period, and if the defaulting Party is proceeding promptly and with due diligence in curing the same, the time for curing such default shall be extended for a period of time as may be reasonably necessary to complete such curing. Upon the failure of a defaulting Party to timely cure any such default pursuant to this **Section 11.1**, then the other Party may, subject to the terms of **Articles XIII (Limitation of Liability) and XIX (Dispute Resolution)**, pursue any legal remedies it may have under applicable law or principles of equity relating to such breach.

11.2. Disputed Amounts. Notwithstanding any provision to the contrary in **Sections 11.1 or 11.3**, either party shall have the right to dispute any amount due under this Agreement, provided that (i) the disputing party provides written notice of such dispute to the other party by the date that any such amount is due; (ii) such dispute is submitted in good faith by the disputing party; (iii) the disputing party presents a written statement of any billing discrepancies to the other party in reasonable detail together with supporting documentation and evidence within thirty (30) days after the date that any such amount is due; and (iv) the disputing party negotiates in good faith with the other party to resolve any such dispute within sixty (60) calendar days of the date any such amount is due. Commonwealth shall pay disputed amounts mutually agreed upon in favor of BBT within thirty (30) days of the resolution of such dispute. BBT shall credit disputed amounts mutually agreed upon in favor of Commonwealth on Commonwealth's next invoice. In the event the parties fail to mutually resolve or settle the dispute within sixty (60) days of the date any such disputed amount is due, the parties will pursue resolution of the dispute in accordance with **Article XIX** of this Agreement.

11.3. Failure to Pay. If Commonwealth fails to pay any undisputed amounts owed under this Agreement as required by KRS 45.453, and fails to pay all of such amount within thirty (30) days of BBT's notice that it will disconnect the Commonwealth Fibers and the Electric Company Fibers, BBT may, in addition to the remedies set forth in **Section 11.1**, disconnect the Commonwealth Fibers and the Electric Company Fibers from all Connecting Points and from all Commonwealth Equipment on BBT's premises. BBT shall restore such Connecting Points and Commonwealth Equipment connections and resume providing services only if Commonwealth (a) pays BBT's bona fide estimate of the Costs incurred or to be incurred pursuant to this **Section 11.3** and (b) pays all amounts due and owing to BBT with applicable interest pursuant to KRS 45.454.

In the event that Commonwealth does not take the actions described in clauses (a) and (b) above in this **Section 11.3** within thirty (30) days after BBT's disconnection of the Commonwealth Fibers or cessation of services as described in this Section, then, in addition to all other remedies described in this **Section 11.3**, this **Article XI** or otherwise in this Agreement, BBT shall have the right to terminate this Agreement and shall have no further obligation with respect to this Agreement.

11.4. Interest. If Commonwealth fails to make any payment under this Agreement when due, such amounts shall accrue interest, from the date such payment is due until paid, including accrued interest, at a rate (unless specifically described elsewhere in this Agreement) equal to one percent (1.0%) per month or, if lower, the highest percentage allowed by law.

ARTICLE XII **INDEMNIFICATION**

12.1. Indemnification. To the extent permitted by law, including but not limited to Section 177 of the Kentucky Constitution, the Commonwealth and BBT (each party known individually as the "**Indemnitor**") each hereby agrees to indemnify, defend, protect and hold harmless the other party and its Representatives, Facility Owners (with respect to BBT), Lenders and Affiliates (the "**Indemnitee**"), from and against, and assumes liability for: (i) claims made by a third party for any injury, loss or damage to any person, tangible property or facilities of any person to the extent arising out of, or resulting from, the grossly negligent acts or omissions or willful misconduct of the Indemnitor or its Representatives, Affiliates, licensees, invitees and vendors, or any entity for whom it is in law responsible, arising out of, or in connection with, the performance by Indemnitor of its obligations under this Agreement; (ii) any claims, liabilities or damages arising out of any violation by Indemnitor of any regulation, rule, statute or court order of any Governmental Authority in connection with the performance by Indemnitor of its obligations under this Agreement; and (iii) any liability to a third party arising directly or through one or more intermediaries from an action or claim brought by the Indemnitor against such third party, but only to the extent such third party has a right of indemnification, impleader, cross claim, contribution or other right of recovery against the Indemnitee for any indirect, special or consequential damages awarded against such third party in favor of the Indemnitor.

12.2. Material and Continuing Obligation. Each party's obligation to indemnify, defend, protect, and save the other party harmless is a material obligation to the continuing performance of the other party's obligations hereunder.

ARTICLE XIII **LIMITATION OF LIABILITY**

13.1. EXCLUSION OF INDIRECT DAMAGES. SUBJECT TO THE COMMONWEALTH'S AUTHORITY TO SEEK ALL APPLICABLE DAMAGES FOR BBT'S DEFAULT AS PROVIDED FOR IN 200 KAR 5:312, AND NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT OR ANY APPLICABLE LAW OR REGULATION OTHER THAN 200 KAR 5:312 TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ITS EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS, FACILITY OWNERS, LENDERS AND AFFILIATES FOR ANY SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION

WITH, SUCH PARTY'S PERFORMANCE OR FAILURE TO PERFORM ITS RESPECTIVE OBLIGATIONS HEREUNDER, INCLUDING, BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE (WHETHER ARISING OUT OF (I) TRANSMISSION INTERRUPTIONS OR PROBLEMS, ANY INTERRUPTION OR DEGRADATION OF SERVICE OR OTHERWISE; (II) CLAIMS OF COMMONWEALTH, WHETHER OCCASIONED BY ANY OBLIGATIONS PERFORMED BY, OR FAILED TO BE PERFORMED BY, THE OTHER PARTY; OR (III) ANY OTHER CAUSE WHATSOEVER, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR STRICT LIABILITY, ALL CLAIMS FOR WHICH INDIRECT DAMAGES ARE HEREBY SPECIFICALLY WAIVED. NOTHING CONTAINED IN THIS SECTION 13.1 SHALL BE DEEMED TO LIMIT AN INDEMNITOR'S OBLIGATIONS UNDER SECTION 12.1. FOR PURPOSES OF CLARITY, COMMONWEALTH SHALL ONLY BE ENTITLED TO SEEK DAMAGES THAT WOULD OTHERWISE BE EXCLUDED PURSUANT TO THIS SECTION 13.1 TO THE EXTENT THAT COMMONWEALTH IS PROHIBITED FROM WAIVING THE DAMAGES DESCRIBED IN THIS SECTION 13.1 PURSUANT TO 200 KAR 5:312.

13.2. No Recourse Against Released Parties. Neither Party shall have any recourse of any kind against any Released Party or any assets of a Released Party in respect of any Claim except in the case of such Released Party's gross negligence or willful misconduct, it being expressly agreed and understood that no liability whatsoever shall attach to, or be incurred by, any Released Party in respect of any other claims under, or by reason of, this Agreement or any other instrument, arrangement or understanding related to the Commonwealth IRU. Each Party waives all such recourse to the extent set forth in this Section on behalf of its successors, assigns, and any entity claiming by, through, or under such Party.

13.3. Pursuit of Actions Against Facility Owners. Notwithstanding the foregoing provisions of this Article, and only to the extent BBT is required under the terms and provisions of any Required Right to indemnify a Facility Owner from and against any and all claims arising out of service interruption, cessation, unreliability of or damage to the System, regardless of whether any such claim arises from the sole or partial negligence, willful misconduct or other action or inaction of such Facility Owner, Commonwealth hereby releases such Facility Owner, and hereby waives, all claims arising out of service interruption, cessation, unreliability of or damage to the Commonwealth Fibers and Electric Company Fibers regardless of whether such claims arise from the sole or partial negligence, willful misconduct or other action or inaction of such Facility Owner. Commonwealth shall notify BBT in writing before pursuing any such Claim against a Facility Owner, and such notification shall make specific reference to this provision of the Agreement. Nothing in this Section 13.3 shall be construed as a release or waiver by Commonwealth of any Claim against BBT.

13.4. Pursuit of Actions Against Third Parties. Except as provided in Sections 13.2 and 13.3, nothing contained in this Agreement shall operate as a limitation on the right of either BBT or Commonwealth to bring an action or claim for damages against any third party. Each of BBT and Commonwealth shall reasonably cooperate with the other Party to the extent necessary to enable the other Party (at such other Party's sole expense) to pursue any such action or claim related to the terms and conditions of this Agreement against such third party.

13.5. Commonwealth Contracts. To the extent Commonwealth is permitted to allow other parties to use the Commonwealth Fibers for any purpose, Commonwealth, in any contract or tariff offering of service, capacity, or rights of use that involves use of the System, shall include in such contract or tariff a written limitation of liability that is binding on Commonwealth's customers and is at least as restrictive in all material respects as the limitations set forth in **Sections 13.1, 13.2 and 13.3.**

ARTICLE XIV
TAXES AND GOVERNMENTAL FEES

14.1. Taxation of Commonwealth. BBT understands that, as of the Effective Date, Commonwealth is a tax-exempt entity. Accordingly, and notwithstanding the remainder of this Article, BBT shall not, directly or indirectly, request or receive reimbursement or contribution from Commonwealth for any tax from which Commonwealth is exempt. For any taxes or fees, including, but not limited to, universal service funding, that may be assessed against BBT for which Commonwealth is not exempt, or if the Commonwealth Fibers are assigned to a non-tax exempt entity, BBT will collect and remit such taxes and fees to the appropriate Government Authority.

14.2. BBT Obligations. Subject to **Section 14.1** above, BBT shall timely report and pay any and all sales, use, income, gross receipts, excise, transfer, ad valorem or other taxes, and any and all franchise fees or similar fees properly assessed against it due to its construction, ownership, physical location or use of the System.

ARTICLE XV
NOTICE

15.1. Notice Addresses. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other party as follows:

If to Commonwealth: Commonwealth of Kentucky
Attention: Secretary
Finance and Administration Cabinet
702 Capital Avenue
Room 383
Frankfort, KY 40601
Facsimile No. (502) 564-6785

With copy to KCNA: KCNA
General Government Cabinet
209 St. Clair Street
4th Floor
Frankfort, KY 40601
Facsimile No. (502) 564-0883

If to BBT: Brandenburg Telephone
Attention: President
200 Telco Drive

P. O. Box 599
Brandenburg, KY 40108
Facsimile No. (270) 422-7622

or at such other address as may be designated in writing to the other party in accordance with this **Article XV**.

15.2. Notice and Invoice Delivery. Unless otherwise provided herein, notices and invoices shall be hand delivered; sent by registered or certified U.S. Mail, postage prepaid; or by commercial overnight delivery service, and shall be deemed served or delivered to the addressee or its office when received at the address for notice specified above when hand delivered, on the day after being sent when sent by overnight delivery service, or three (3) United States Postal Service business days after deposit in the mail when sent by U.S. mail.

ARTICLE XVI **CONFIDENTIALITY**

16.1. Confidentiality Obligation. To the extent permitted by the Kentucky Open Records Act, if either party provides confidential information to the other or, if in the course of performing under this Agreement or negotiating this Agreement a party learns confidential information regarding the facilities or plans of the other, the receiving party shall (a) protect the confidential information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, but in any case with at least reasonable care and (b) refrain from using such confidential information except in negotiating or performing under this Agreement. Notwithstanding the above, a party may provide such confidential information to its directors, officers, members, managers, employees, agents, attorneys, contractors, and consultants (collectively, the "**Representatives**") and its Affiliates, financial institutions, underlying facility owners, potential assignees (who are bound by a written agreement restricting use and disclosure of confidential information), and Representatives of Affiliates, in each case whose access is reasonably necessary. Each such recipient of confidential information shall be informed by the party disclosing confidential information of its confidential nature in writing, shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each party shall be liable (with respect to the other party) for any breach of this provision by any entity to which that party discloses confidential information. In the event that Commonwealth receives a Kentucky Open Records Act request pursuant to which any information related to this Agreement will be disclosed, Commonwealth shall give BBT notice of such request before disclosing any information with respect to such request; *provided*, however, that Commonwealth shall use best efforts to ensure that any and all information that is exempt from disclosure pursuant to the Kentucky Open Records Act is redacted and not disclosed to any party requesting such information pursuant to the Kentucky Open Records Act. The terms of this Agreement (but not its execution or existence) shall be considered confidential information for purposes of this Article, except as set forth in **Section 16.3**. The obligations set forth in this Section shall survive expiration or termination of this Agreement for a period of two (2) years, except that, with respect to any confidential information designated by the disclosing party as a trade secret, and entitled to protection as such, the obligations set forth in this Section shall survive such expiration or termination indefinitely

16.2. Permitted Disclosures. Notwithstanding any other provision herein, neither BBT nor Commonwealth shall be required to hold confidential any information that:

- (a) becomes publicly available other than through the recipient;
- (b) is required to be disclosed by a governmental, regulatory authority, or judicial order, rule, or regulation or proceedings with respect to this Agreement or a party's obligations as a publicly held company, provided that a party subject to such requirement shall promptly notify the other party of such requirement;
- (c) is independently developed by the disclosing party;
- (d) becomes available to the disclosing party without restriction from a third party who is not otherwise restricted from disclosing such information;
- (e) is required by its lender and is given to such lender on a confidential basis;
or
- (f) to the extent disclosure by the receiving party is required by applicable law or regulation.

16.3. Goodwill and Publicity. Neither party shall use the name, trade name, service mark, or trademark of the other party in any promotional or advertising material without the prior written consent of the other party. The parties shall coordinate and cooperate with each other when making public announcements related to the terms of this Agreement, and each party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other party that refer to, or that describe any aspect of, this Agreement. Notwithstanding the above, either party may, without the other party's approval but after allowing the other party a reasonable opportunity to comment on a proposed press release, issue a press release announcing the execution of this Agreement.

ARTICLE XVII **PROHIBITION ON ILLEGAL PAYMENTS**

17.1. Neither party shall use any funds received under this Agreement for purposes that violate any applicable laws, regulations, decrees, or judgments of any Governmental Authority applicable to that party. Neither party shall pay any commission, fees or rebates to any employee of the other party. If either party has reasonable cause to believe that one of the provisions in this Article has been violated, it or its representative may audit the books and records of the other party for the sole purpose of establishing compliance with such provisions; *provided, however*, that the auditing party shall (i) only have access to such books and records as it reasonably needs access to pursuant to this provision, (ii) provide no less than five (5) business days prior written notice to the party being audited that it wishes to have access to such books and records for purposes of auditing the party pursuant to this Section, (iii) only have access to books and records and conduct such audit during the ordinary course of business hours of the party being audited, and (iv) not unreasonably interfere with the business of the party being audited.

ARTICLE XVIII
FORCE MAJEURE; EMINENT DOMAIN

18.1. Excused Performance. Neither BBT nor Commonwealth shall be in default under this Agreement with respect to any delay in its performance caused by any of the following conditions (each a "**Force Majeure Event**"): (a) act of God; (b) fire; (c) flood; (d) material shortage or unavailability, including, but not limited to, any shortage of fiber optic cable (each Party hereby acknowledges and agrees that ten (10) weeks is the customary period of time necessary for delivery of fiber optic cable), not resulting from the responsible Party's failure to timely place orders or take other necessary and commercially reasonable actions therefor; (e) codes, laws, rules, regulations, decrees, judgments, or restrictions of a Governmental Authority; (f) war, acts of terrorism or civil disorder; (g) power outages and cable cuts not due to BBT's gross negligence; or (h) any other cause beyond the reasonable control of such party. The party claiming relief under this Article shall promptly notify the other in writing of the existence of the Force Majeure Event relied on and the expected duration of the Force Majeure Event (if known) and upon the cessation or termination of the Force Majeure Event. The party claiming relief under this Article shall exercise commercially reasonable efforts to minimize the time for any such delay. Notwithstanding the foregoing, such Force Majeure Event shall not excuse BBT's timely performance pursuant to the Maintenance Agreement in any area not affected by the Force Majeure, except to the extent timely performance is beyond the reasonable control of BBT.

18.2. Eminent Domain. Should any portion of the Commonwealth Fibers or the Electric Company Fibers belonging to BBT or the underlying Facility Owner be acquired by eminent domain, nationalization, or expropriation (each of which, a "**Taking**") by any authority or entity possessing such power, then, in that event, each party shall be excused from performance of its obligations to the extent provided in **Section 18.1**. In the event Commonwealth wishes to restore the affected Route that was subject to a Taking during the Term, BBT shall relocate all or any portion of the Commonwealth Fibers.

ARTICLE XIX
DISPUTE RESOLUTION

19.1. It is the intent of BBT and Commonwealth that any disputes which may arise between them, or between the employees of each of them, be resolved as quickly as possible. Quick resolution may, in certain circumstances, involve immediate decisions made by the parties' representatives. When such resolution is not possible, the parties hereto agree to resolve such disputes in accordance with the provisions of this Article.

19.2. Any claims or disputes arising under the terms and provisions of this Agreement, or any claims or disputes which the parties are unable to resolve within the seventy-two (72) hour time period, shall be resolved pursuant to KRS 45A.230 - 245.

ARTICLE XX
RULES OF CONSTRUCTION

20.1. Interpretation. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement or as amplifying or limiting any of its content. Words in this Agreement that import the singular connotation shall be interpreted

as plural, and words that import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. References to "person" or "entity" each include natural persons and legal entities, including corporations, limited liability companies, partnerships, sole proprietorships, business divisions, unincorporated associations, governmental entities, and any entities entitled to bring an action in, or that are subject to suit in an action before, any state or federal court of the United States. The word "including" means "including, but not limited to." "Days" refers to calendar days and references to "business days" exclude Saturdays, Sundays and federal holidays and holidays in the Commonwealth of Kentucky. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

20.2. Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of BBT or Commonwealth shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

20.3. No Third-Party Rights. Nothing in this Agreement is intended to provide any legal rights to any other person or entity other than the Parties except under the indemnification provisions and except that (a) the Released Parties shall have the benefit of **Section 13.2**; and (b) the Facility Owners or Lenders shall be entitled to rely on, and have the benefit of, **Sections 10.3, 12.1, 13.2, and 13.3**.

20.4. Agreement Fully Negotiated. This Agreement has been fully negotiated between and jointly drafted by BBT and Commonwealth.

20.5. Industry Standards. Except as otherwise set forth herein, for the purpose of this Agreement, the generally accepted standards of performance within the telecommunications industry in the relevant market engaging in an undertaking of similar scope and size shall be the measure of whether a party's performance is reasonable and timely.

20.6. Cross References. Except as the context otherwise indicates, all references to Exhibits, Articles, Sections, Subsections, Clauses, and Paragraphs refer to provisions of this Agreement.

20.7. Limited Effect of Waiver. The failure of either BBT or Commonwealth to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

20.8. Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20.9. No Partnership Created. The relationship between BBT and Commonwealth shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. BBT and Commonwealth, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

ARTICLE XXI
ASSIGNMENT

21.1. Conditions to Effective Assignment. Subject to the other terms and conditions set forth in this **Article XXI**, an assignment or other transfer of this Agreement or a Party's rights or obligations hereunder, in whole or in part, to any other party shall not be effective without (a) the non-assigning Party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed; (b) the written agreement of the assignee to be bound by all terms and conditions of this Agreement; and (c) such assignee's agreement to promptly cure all prior defaults of the assigning Party under this Agreement. If assignment is permitted under this Article without the non-assigning Party's consent, then the assignor shall give prior written notice of the assignment to the non-assigning Party.

21.2. Consent Not to be Unreasonably Withheld. The non-assigning party shall not unreasonably withhold, delay, or condition its consent required hereunder to an assignment if neither the assigning party nor the proposed assignee is in material default under this Agreement or any other agreement with the non-assigning party. For purposes of this Section, BBT's consent to a requested assignment or transfer shall not be considered unreasonably withheld if such requested assignment or transfer is to a party which BBT determines does not have the technical ability or financial capability to perform Commonwealth's obligations under this Agreement. It is the express understanding of the Parties that Commonwealth may sublicense the use of the Commonwealth Fibers to third parties, including the Designated Parties, for commercial use or economic development reasons, which shall not be considered an assignment of this Agreement.

21.3. Assignments to Particular Classes of Entities. The provisions of **Section 21.1** notwithstanding:

- (a) BBT may grant a security interest in some or all of its rights and obligations under this Agreement or in the System to any Lender to BBT. If Commonwealth so requests, BBT shall use commercially reasonable efforts to obtain from any such Lender a written non-disturbance agreement, containing such terms and conditions as are customary, pursuant to which such Lender acknowledges Commonwealth's rights and interests under this Agreement and agrees not to disturb such rights and interests so long as Commonwealth is in compliance with the terms and provisions of this Agreement, including, without limitation, the payment in full when due of all amounts payable by Commonwealth hereunder.
- (b) Commonwealth may grant a security interest in some or all of its rights and obligations under this Agreement in all or any part of the Commonwealth Fibers to a Lender of Commonwealth. If BBT so requests, Commonwealth shall use commercially reasonable efforts to obtain from any such Lender a written agreement pursuant to which such Lender acknowledges that (i) such Lender is subject to all of the terms and conditions of this Agreement that are binding on Commonwealth, and (ii) to the extent such Lender exercises its rights as a secured party, (A) it does not acquire any greater rights or assume any lesser obligations than were available to, or imposed upon, Commonwealth prior to such exercise and (B) it would be subject to

any rights and remedies available to BBT under this Agreement at such time.

- (c) BBT may assign all of its rights and obligations to the underlying Facility Owners with respect to portions of the System with the prior written consent of Commonwealth, which consent shall not be unreasonably withheld, conditioned, or delayed if, at the time of BBT's request, (a) neither BBT nor the proposed assignee is in material default under this Agreement or any other agreement with the Commonwealth and (b) the assignee agrees in writing to be bound by all the terms and conditions of this Agreement and the exhibits hereto.
- (d) Either party may assign its interest in this Agreement without the prior consent of the other party (i) to any corporation or other entity which is a successor to such party either by merger, consolidation, or sale of stock or equity; (ii) to a purchaser of all or substantially all of such party's assets; (iii) to any entity that acquires all of the System containing the Major Segments; or (iv) to a corporation or other entity which is an Affiliate of such party, so long as, in the case of an assignment to an Affiliate, the assignor remains fully and jointly and severally liable for all its obligations hereunder.

21.4. Agreement Binds Successors. This Agreement and the rights and obligations under this Agreement (including the limitations on liability and recourse set forth in this Agreement benefiting the other party and the Released Parties) shall be binding upon, and shall inure to the benefit of, BBT and Commonwealth and their respective permitted successors and assigns.

21.5. Change in Control Not an Assignment. Notwithstanding any presumptions under applicable state law that a change in control of a party constitutes an assignment of an agreement, a change in control of a party shall not be deemed an assignment for purposes of this Agreement.

21.6. Right to Subcontract. BBT may subcontract with any third party for construction, testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder or may have the underlying Facility Owner or its contractor perform such obligations, but BBT in any event shall remain fully and directly responsible to Commonwealth for the performance of such services and obligations.

21.7. Designated Parties as Agents. The Parties acknowledge and agree that the Designated Parties may operate as agents of Commonwealth and shall have authority to make decisions for and bind Commonwealth. Commonwealth agrees and acknowledges that BBT may follow the instructions and take such actions or not take such actions as the Designated Parties may instruct BBT, and the actions and instructions of the Designated Parties shall be binding on Commonwealth. In no event will BBT be obligated to confirm that a Designated Party is duly-authorized by Commonwealth or otherwise has the authority to make such determination or otherwise bind Commonwealth with respect to this Agreement or the actions to be taken or actions not to be taken, and Commonwealth shall have no claim or defense against BBT that such Designated Party was not authorized to act as the agent of and bind Commonwealth pursuant to this Agreement and any action taken or action not taken pursuant to this Agreement.

ARTICLE XXII
ENTIRE AGREEMENT; AMENDMENT; EXECUTION

22.1. Integration; Exhibits. This Agreement constitutes the entire and final agreement and understanding between BBT and Commonwealth with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits referred to herein are integral parts hereof and are made a part of this Agreement by reference. Where the terms of the Agreement and an Exhibit conflict, the Exhibit will control.

22.2. No Amendment. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of BBT and Commonwealth.

22.3. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

22.4. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by execution and delivery of the signature page of a counterpart to the other Party by electronic mail in "portable document format" (".pdf") form, or by any other electronic means; *provided* that, if delivery is made by electronic mail in .pdf form, or by any other electronic means, the executing Party shall promptly deliver a complete counterpart that it has executed to the other Party.

[Remainder of Page Left Blank Intentionally – Signature Page Follows]

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, BBT and Commonwealth have executed this Agreement as of the dates set forth below.

BBT COMMONWEALTH OF KENTUCKY

By: _____
Print Name:
Title:

By: William M. Landrum III
Print Name: William M. Landrum III
Title: Secretary, Finance and
Administration Cabinet

Date: _____

Date: October 31, 2017

**APPROVED AS TO
FORM & LEGALITY**

Patrick M. Lee

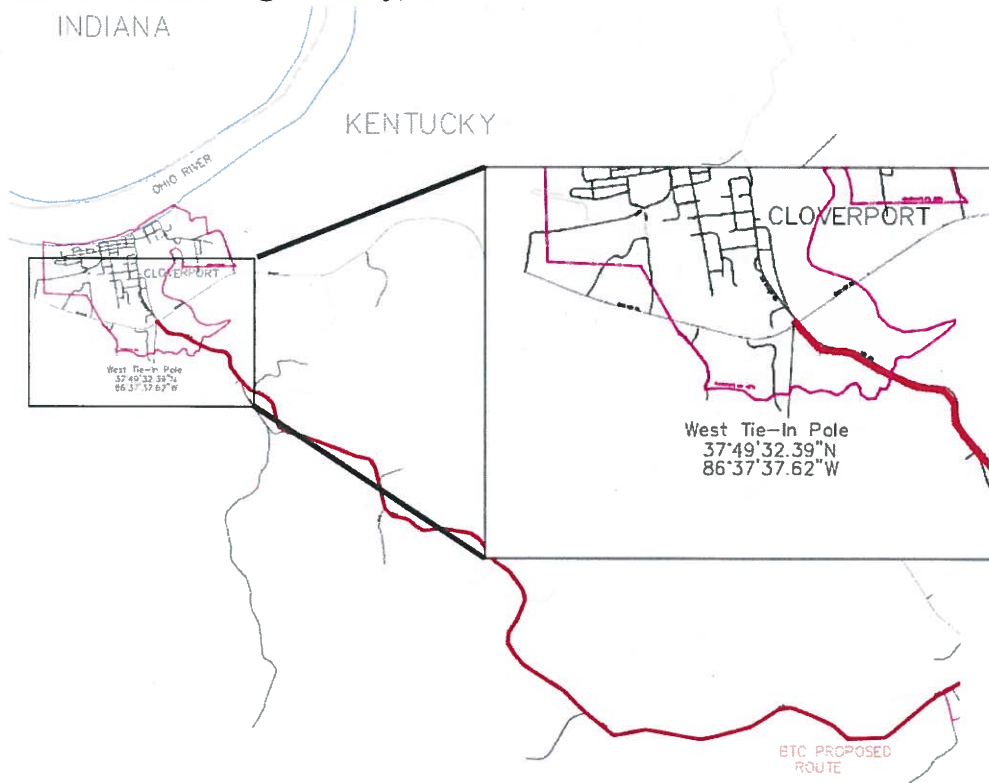
**APPROVED
FINANCE & ADMINISTRATION CABINET**

EXHIBIT A
Route Descriptions

Three maps are provided in Exhibit A. The first map is an overview of the entire route and highlights the “West Handoff” and “East Handoff” points. The second and third maps provide additional details of the West Handoff in Breckinridge County, KY and the East Handoff in Meade County, KY. The orange line between the West and East Handoff points is the fiber path which runs along US Hwy 60.



West Handoff in Breckinridge County, KY



East Handoff in Meade County, KY

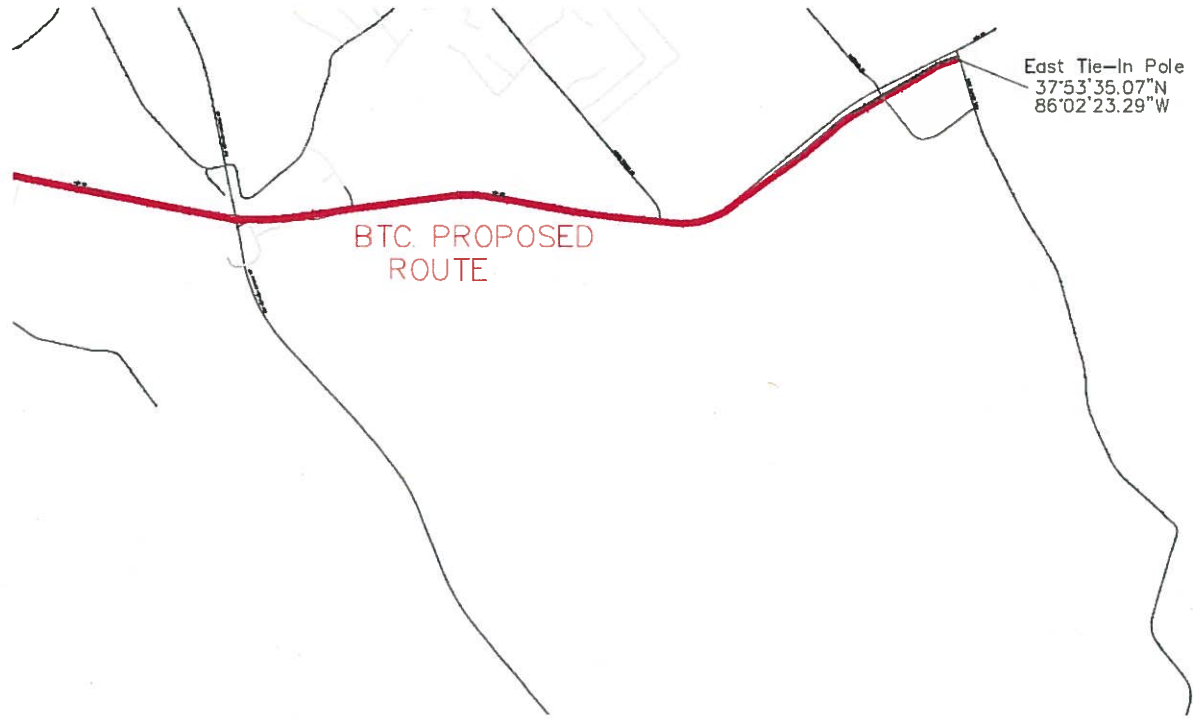


EXHIBIT C
Interconnection Procedures

1. Interconnection Points

A. Interconnection Points. BBT shall provide six (6) interconnection points at its own cost as part of the contract price at the following locations identified by longitude and latitude, or at other locations as the parties may agree.

Splice Along Backbone Lat.	Splice Along Backbone Long.
37.8763	-86.284061
37.882815	-86.09972
37.781015	-86.462347
37.781141	-86.451936
37.776034	-86.447216
37.764026	-86.440946

B. Permitted Connecting Points. Commonwealth may request that BBT establish Connecting Points with other telecommunications facilities ("**Interconnect Facilities**") at Commonwealth's sole expense, which shall be equal to BBT's cost, at (i) points where the Cable is spliced along the System, (ii) fiber distribution panels at the Cable end points, or (iii) fiber distribution panels at Transmission Sites ((i) (ii) and (iii) collectively, "**Connecting Points**"). Commonwealth shall have no right to establish any connection to the System other than at such locations. Commonwealth may request the right to establish connections to the System at other locations. Subject to any underlying agreements, BBT shall not unreasonably withhold permission for such additional connections. A determination by BBT of the existence of any of the conditions described in Subsection 2.B of this **Exhibit C** shall not be deemed an unreasonable denial of permission for additional connections.

2. Requests for Interconnections

A. Connection Requests. Commonwealth shall provide BBT at least sixty (60) days' prior written notice (the "**Interconnect Notice**") of the date it requests that a connection be completed or sixty (60) days' prior written notice if the connection requires installation of Commonwealth Equipment at a Transmission Site. The Interconnect Notice shall set forth a description of the work required to be performed including:

- (i) the connection location (which shall be at a permitted Connecting Point as set forth in **Subsection 1.A** of this Exhibit);
- (ii) a copy of Commonwealth's construction design drawings including a diagram of the desired location of the Interconnect Facilities and

Commonwealth Equipment;

- (iii) identification of all Interconnect Facilities and Commonwealth Equipment to be installed;
- (iv) Commonwealth's requested installation schedule;
- (v) any excess cable storage requirements;
- (vi) the space, power, environmental and other requirements for the Interconnect Facilities and Commonwealth Equipment;
- (vii) the estimated in-service and termination dates for the interconnection; and
- (viii) all other information reasonably required by BBT.

B. Response to Requests. Within twenty-one (21) days of receiving the Interconnect Notice, BBT shall respond with its acceptance or objections to the proposed interconnection. BBT shall use commercially reasonable efforts to accommodate the request. BBT may decline to make a requested connection if BBT determines, in its reasonable discretion, that there is a significant likelihood that (i) Commonwealth's use of a proposed connection would cause a material and adverse effect on the System or the use thereof; (ii) use of a particular location will cause a significant technical impediment; (iii) the making or existence of the connection presents a risk of creating an interruption of transmission; (iv) BBT has no rights to interconnect to the Cable at such point due to restrictions existing in the underlying rights or an inability to obtain other required permits, authorizations or approvals; or (v) there are unreasonable costs and/or logistics required to make such interconnection.

3. Demarcation and Ownership

A. Demarcation Points. BBT shall designate an installation demarcation point and a maintenance demarcation point (which may be a different point) for each interconnection in order to safeguard and maintain sole control over the System. BBT shall perform all installation work on facilities on its side of the installation demarcation point and shall perform all post-installation work on facilities on its side of the maintenance demarcation point. Commonwealth shall pay the costs of such installation and post-installation work as set forth in this Exhibit. Installation by BBT of the Interconnect Facility shall extend no further than the boundary of BBT's right of way or other property unless otherwise mutually agreed to by the parties.

B. Ownership. Commonwealth shall retain ownership of Interconnect Facilities during the Term. At the end of the Term, title to any portion of an Interconnect Facility located on Transmission Sites or other BBT premises or right of way not removed by Commonwealth within ninety (90) days shall pass to BBT.

4. Installation of Interconnect Facilities

A. Spur Cable. Commonwealth or its contractors shall, prior to the requested connection date, provide a spur cable adequate to reach the Connecting Point with an additional length (minimum 100 feet) sufficient for BBT to perform splicing.

B. Rights of Way and Equipment. Commonwealth shall provide, at its sole cost and expense, any and all necessary rights of way, permits, access rights and/or any required consents or authorizations, and BBT-approved materials and equipment (including cables and conduit) necessary for the construction, use, operation, maintenance and repair of each Interconnect Facility. At Commonwealth's request, to the extent permitted under BBT's lease or other agreements relating to a co-location facility, and if space is available, BBT shall at its sole discretion provide to Commonwealth access to building entrances, conduits and risers at the co-location facility or use of BBT's rights to install such building entrances, conduits or risers necessary in connection with constructing an Interconnect Facility. Such access or use of rights shall be at such additional charges to which BBT and Commonwealth may agree. Commonwealth shall be subject to all limitations and restrictions for conduits, risers and building entrances imposed by the applicable underlying owner. Commonwealth shall be solely responsible for placement, construction and installation of all Commonwealth facilities required to interconnect at the Connecting Point designated by BBT.

If necessary, and where applicable, BBT shall assist Commonwealth, at Commonwealth's sole expense, in obtaining from any third-party building owner or BBT lessor access to existing building entrance facilities, if available, to access and exit Transmission Sites. Otherwise, Commonwealth shall be solely responsible for obtaining all necessary rights for the Interconnect Facility, as described in the first sentence of this Subsection, and BBT does not make and hereby disclaims any warranties or representations that such rights are available at any particular location or regarding the cost or availability of such rights.

5. Maintenance of Interconnect Facilities

A. Maintenance and Changes. Commonwealth shall provide all maintenance and repair of the Interconnect Facility on Commonwealth's side of the maintenance demarcation point. Any improvement, modification, addition to, relocation, or removal of, the Interconnect Facility by Commonwealth at Transmission Sites or other BBT premises shall be subject to BBT's prior review and written approval. Commonwealth shall pay the cost of such improvement, modification, addition to, relocation, or removal of, the Interconnect Facility and of the cost of repairing any damage due to Commonwealth's actions. BBT's maintenance responsibility shall be limited to the Interconnect Facilities on its side of the maintenance demarcation point and the associated cross connect or other connection at that point.

B. Unusual Costs. BBT may submit a request to Commonwealth to pay additional costs incurred in maintaining any connection that requires BBT to obtain additional Required Rights, and Commonwealth shall pay such costs.

C. Standards. Commonwealth shall (except to the extent BBT has installation or maintenance responsibility) ensure that any Interconnect Facilities are installed, operated, and

maintained to meet or exceed any reasonable requirements of BBT, any requirements of BBT's building management or insurance underwriters, and any applicable local, state and federal codes and public health and safety laws and regulations (including fire regulations and the National Electric Code).

6. Additional Provisions Applicable to Transmission Sites

A. Limitations on Transmission Site Interconnections. Transmission Sites are established and designed to support network transmission equipment and, therefore, no interconnections may be made at such sites for other purposes, such as directly or indirectly connecting to local exchange carrier facilities or other local access facilities or for purposes of providing local exchange carrier or local access services.

B. Prohibition on Dark Fiber Cross-Connects with Other Co-location. Unless otherwise agreed, Commonwealth shall not establish dark fiber cross-connects between Commonwealth's co-located facilities or the Commonwealth Equipment and the co-located facilities of other parties who are using a Transmission Site. Unless otherwise agreed, Commonwealth shall not use any Interconnect Facility to allow third parties co-located in any Transmission Site to interconnect with each other at that Transmission Site.

C. Additional Co-location Requirements. If any Interconnect Facility requires installation or storage of Commonwealth Equipment (other than the spur cable) at BBT premises, Commonwealth must arrange for co-location of such Commonwealth Equipment through a separate written agreement.

7. Additional Requirements for Connections at Splice Points

A. At any time there is cable activity (including initial installation of the splice, repair of cable cuts or other cable damage, and relocation of the cable) on the Span where the splice is located (the "**Spliced Span**"), Commonwealth or its Contractors shall (a) at BBT's request (written, oral or electronic), promptly provide a trained and qualified technician with an optical time-domain reflectometer ("**OTDR**") at its fiber distribution panel ("**FDP**") to aid in the cable activity, or (b) if Commonwealth cannot provide the technician and an OTDR, then Commonwealth shall provide BBT access to Commonwealth's FDP for the duration of the cable activity.

B. BBT's Network Control Center ("**NCC**") shall remain the central point of contact and shall control all Cable activity. BBT's NCC will maintain an open line to Commonwealth's Network Control Center during Cable activity.

C. Intentionally left blank.

D. During a cable emergency situation, BBT shall proceed with "blind" fiber splicing of the Commonwealth Fibers along the Spliced Span (i.e. splicing without the ability to test the Spliced Span) in order to make initial temporary repairs. BBT may defer blind splicing until all other fibers in the damaged cable are spliced. Commonwealth shall make reasonable efforts to

coordinate with an BBT technician in the performance of permanent repairs to the Commonwealth Fibers along the Spliced Span.

E. The operation and maintenance specifications set forth in the Maintenance Agreement do not provide for fiber rolls to dark fiber to restore Commonwealth's service. However, if BBT does elect to provide fiber rolls, it may elect not to allow fiber rolls on the Spliced Span.

F. If Commonwealth reports a damaged fiber on the Spliced Span and BBT is not aware of any continuity problems on its System, Commonwealth shall have the burden of demonstrating that the problem is a result of damage to a Commonwealth Fiber. Commonwealth must use an OTDR to demonstrate that the problem is not a result of conditions off the System and beyond the Splice.

G. The provisions of **Paragraphs 7(D), 7(E) and 7(F)** of this **Exhibit C** shall apply (a) only to the Commonwealth Fibers having a mid-span interconnection splice and (b) only to the extent such Commonwealth Fibers are on a Spliced Span.

H. Commonwealth may only have BBT perform a mid-span interconnection splice at existing BBT splice points and then only with BBT's prior written consent.

I. BBT is not obligated to perform any maintenance, repair, or restoration on the Commonwealth interconnection beyond the splice point.

EXHIBIT D
Fiber Splicing, Testing, and Acceptance Standards and Procedures

1. Installation Testing

A. During installation, BBT shall use an OTDR to test splices and a 1-km launch cable to test pigtail connectors. Such installation tests shall be uni-directional and performed at 1550 nm.

B. If the combined front-end connectors and pigtail splice loss value exceeds 0.8 dB, BBT shall break the splice and re-splice until the loss value is 0.8 dB or less. If BBT is unable to achieve a loss value of 0.8 dB or less after five total splicing attempts, the splice shall be marked as Out-of-Spec (“OOS”). The .8 dB spec does not apply to fibers that are being spliced that have different mode-fields. Splice loss may be higher due to the mode-field mismatch.

C. If the loss value for a splice, when measured in one direction with an OTDR, exceeds 0.3 dB, BBT shall break the splice and re-splice until the loss value is 0.3 dB or less; provided that, if BBT is not able to achieve a loss value of 0.3 dB after three total splicing attempts, then BBT shall mark the splice as OOS. The .3 dB loss spec does not apply to fibers that are being spliced that have different mode-fields. Splice loss may be higher due to the mode-field mismatch.

2. End-to-End Testing

A. After BBT has established end-to-end connectivity on the fibers during installation, it shall:

- perform bi-directional OTDR end-to-end tests to record splice loss measurements,
- test continuity to confirm that no fibers have been "frogged" or crossed at any splice points, and
- record loss measurements using a light source and a power meter.

B. At Fiber termination points, the pigtail splice loss shall be no greater than .80 dB, and the reflection level at such termination points shall be equal to or greater than -50dB.

C. When a Fiber has been spliced, the splice loss shall not be greater than .3 dB in any one direction.

D. BBT shall perform the bi-directional OTDR end-to-end testing at both 1310 nm and 1550 nm, provided that 1310 nm OTDR tests are not required (i) for Spans longer than 64 kilometers or (ii) where the fiber being tested is not manufactured to support 1310 nm optical signals. The results of such tests for any given Span shall not be deemed within specification unless showing loss measurements between fiber distribution panels at each end of such Span in accordance with the loss specifications set forth by the cable manufacturer’s specifications for dB per kilometer loss as shown in **Exhibit D**. BBT shall measure and verify losses for each splice point in both directions and average the loss values. BBT shall mark any splice points as OOS that have a loss value, based on uni-directional OTDR testing, in excess of 0.3 dB. BBT shall

mark any Span as OOS that has an average splice loss on that Span in excess of .15dB. Any such splice points or Span shall be subject to Section 4, below.

3. Post-Installation Testing

After performing permanent splicing (in conjunction with repair of a cable cut, replacement of a segment of cable, or other work after initial installation and splicing of the cable), the test procedures set forth in **Section 2** (End-to-End Testing) of this Exhibit shall apply to the relevant fibers and cable segments. The provisions in **Sections 5** (OTDR Equipment and Settings) and **6** (Acceptance Test Deliverables) of this Exhibit, that are relevant to such testing shall also apply. BBT may adopt any alternative methods of testing that are generally accepted in the industry and that provide sufficient data to fulfill the objectives of the tests set forth in this Exhibit.

4. Out-of-Spec Splices

Out-of-Spec splices or Spans shall be noted, but shall not preclude Acceptance of a fiber if the Out-of-Spec condition does not affect transmission capability (based on use of then-prevailing telecommunications industry standards applicable to equipment generally used with the relevant type of fiber) or create a significant possibility of an outage. In the event the Commonwealth is later able to reasonably establish that the OOS splice or Span affects service, BBT shall take necessary action to bring the splice or Span into compliance with the applicable specifications under **Section 1** of this Exhibit.

5. OTDR Equipment and Settings

BBT shall use OTDR equipment and settings that are, in its reasonable opinion, suitable for performing accurate measurements of the fiber installed. Such equipment and settings shall include, without limitation, equipment models compatible for testing and able to support the following settings:

A. Index of refraction settings:

	1310 nm	1550 nm	1625nm
Corning SMF-28	1.4675	1.4681	1.4681

B. Tests of a pigtail connector and its associated splice:

- 4 km Range
- 50ns Pulse

- 1. m Resolution

6. Acceptance Test Deliverables

BBT shall provide a file containing the following information for the relevant fibers and cable segments:

- A. Verification of end-to-end fiber continuity with power level readings for each fiber taken with a stable light source and power meter.
- B. Verification that the loss at each splice point is either (i) in accordance with 2.C. above or (ii) in accordance with the requirements of **Section 4** of this Exhibit.
- C. The final bi-directional OTDR test data, with distances.
- D. Cable manufacturer, cable type (buffer/ribbon), fiber type, number of fibers, number of fibers per tube, and distance of each section of cable between splice points.

BBT will provide required documentation for new fiber that meets G.652D specification E. In the event Commonwealth notifies BBT of its purchase or bona fide intent to install electronics operating at 1625 nm on a Segment, BBT shall provide documentation from Chromatic Dispersion and PMD measurements for such Segment within 90 days and if necessary provide Fibers that meets the specification.

7. General Testing Procedures and Acceptance

A. As soon as BBT determines that the Commonwealth Fibers in a given Span meet the Acceptance Standards such that there is Fiber connectivity between all fiber distribution panels along such Span or connectivity to Commonwealth requested spliced off-net location, it shall provide the deliverables set forth in **Section 6** of this Exhibit. Commonwealth shall have fourteen (14) calendar days after receipt of test deliverables for any Span to provide BBT written notice of any bona fide determination that the Commonwealth Fibers on such Span do not meet the Acceptance Standards. Such notice shall identify the specific data that indicate a failure to meet the Acceptance Standards.

B. Upon receiving written notice pursuant to **Subsection 7.A** of this Exhibit, BBT shall either:

- (i) expeditiously take such action as shall be reasonably necessary to cause such portion of the Commonwealth Fibers to meet the Acceptance Standards and then re-test the Commonwealth Fibers in accordance with the provisions of this Exhibit; or
- (ii) provide Commonwealth written notice that BBT disputes Commonwealth's determination that the Commonwealth Fibers do not meet the Acceptance Standards.

After taking corrective actions and re-testing the Commonwealth Fibers, BBT shall provide Commonwealth with a copy of the new test deliverables and Commonwealth shall again have all rights provided in this **Subsection 7.B** of this Exhibit with respect to such new test deliverables. The cycle described above of testing, taking corrective action and re-testing shall take place until the Commonwealth Fibers meet the Acceptance Standards.

C. If BBT provides notice to Commonwealth pursuant to **Subsection 7.B.ii** of this Exhibit, Commonwealth shall, within five (5) calendar days of such notice, designate by written notice to BBT the names and addresses of three reputable and independent fiber optic testing companies. BBT shall designate one of such companies to conduct an independent re-test of the Commonwealth Fibers for the relevant Span. If, after such re-testing, the testing company determines that the Commonwealth Fibers

- (i) meet the Acceptance Standards, then Commonwealth shall pay the testing company's charges for performing the testing and the acceptance date for the relevant Span shall be fourteen (14) days after BBT provided its test deliverables.
- (ii) do not meet the Acceptance Standards, then BBT shall pay the testing company's charges for performing the testing and shall perform the corrective action and re-testing set forth in **Subsection 7.B.i** of this Exhibit.

D. Unless Commonwealth provides a written objection pursuant to Subsection 7.A of this Exhibit, the acceptance date of a Span shall occur on the fourteenth (14th) day after BBT provides the test deliverables for that Span, or, if earlier, the date Commonwealth provides written acceptance of such Span. Commonwealth's acceptance (pursuant to this subsection or of **Subsection 7.C** of this Exhibit) of the last Span within a Major Segment shall constitute "**Acceptance**" of the Commonwealth Fibers for such Major Segment. The date of Acceptance for each Major Segment shall constitute the "**Acceptance Date**" of such Major Segment.

E. Acceptance testing shall progress Span by Span along the System as Cable splicing progresses so that test deliverables may be reviewed in a timely manner. The Commonwealth shall have the right, but not the obligation, to have an individual present to observe such testing and BBT shall provide the Commonwealth at least seven (7) days' prior notice of its testing schedule. Within thirty (30) calendar days after BBT conclusion of the Fiber Acceptance Testing in any given Span, BBT shall provide the Commonwealth with a copy of the test deliverables.

EXHIBIT E
Cable Installation Specifications

1. Material

- Existing fiber, conduit and poles will be used to the maximum extent possible, as is/where is, and may not comply with portions of these cable installation specifications. Only new construction shall follow these specifications.
- Steel or PVC conduit shall be minimum schedule 40 wall thickness.
- Any exposed steel conduit, brackets or hardware (e.g., bridge attachments) shall be hot-dipped galvanized after fabrication.
- All new split steel shall be flanged.
- Handholes shall have a minimum H-15 loading rating.
- Manholes shall have a minimum H-20 loading rating.
- Warning signs shall display universal do not dig symbol, "Warning-Buried Fiber-Optic Cable," company name and logo, local and emergency One Call toll-free numbers.

2. Minimum Depths

Minimum cover required in the placement of the conduit/cable shall be forty-two inches (42"), except in the following instances:

- Existing construction will be used as is/where is and may not comply with portions of these cable installation specifications as existing fiber is typically buried at a depth of 30 to 36 inches.
- The minimum cover across streams, river washes, and other waterways shall be sixty inches (60") below the clean out line or existing grade, whichever is greater.
- At locations where the cable crosses other subsurface utilities or other structures, the cable/conduit shall be installed to provide a minimum of twelve inches (12") of vertical clearance from the utility/obstacle. The cable/conduit can be placed above the utility/obstacle, provided the minimum clearance and applicable minimum depth can be maintained; otherwise the cable/conduit shall be installed under the existing utility or other structure.
- In rock, the cable/conduit shall be placed to provide a minimum of eighteen inches (18") below the surface of the solid rock, or provide a minimum of forty-two inches (42") of total cover, whichever requires the least rock excavation.
- Where existing pipe is used, current depth is sufficient.

3. Buried Cable Warning Tape

All cable/conduit shall be installed with buried cable warning tape. The warning tape shall be:

- laid a minimum of twelve inches (12") above the cable/conduit
- generally placed at a depth of twenty-four inches (24") below grade and directly above

the cable/conduit

- a minimum of three inches (3") wide and display "Warning-Buried Fiber-Optic Cable," a company name, logo and emergency one-call toll-free number repeated every twenty-four inches (24").

4. Conduit Construction

- Conduits may be placed by means of trenching, plowing, jack and bore, multi-directional bore or directional bore.
- Conduits shall generally be placed on a level grade parallel to the surface, with only gradual changes in grade elevation.
- Steel conduit shall be joined with threaded collars, Zap-Lok or welding. (Welding is the preferred method.)
- All jack and bores shall use HDPE or steel conduit.
- All directional or mini-directional bores shall use HDPE or steel conduit.
- Any cable placed in swamp or wetland areas shall be placed in HDPE, PVC, or steel conduit.

Where required by the permitting agency:

- all crossings of paved city, county, state, federal, and interstate highways, or railroad crossings shall be encased in steel conduit,
- all longitudinal cable runs under paved streets shall be placed in steel or concrete encased PVC conduit,
- all cable placed in metropolitan areas shall be placed in steel or concrete covered PVC conduit, and
- at all foreign utility/underground obstacle crossings, steel conduit shall be placed and shall extend at least five feet (5') beyond the outer limits of the obstacle in both directions,

5. Innerduct Installation

- No cable shall be placed directly in any split/solid steel conduit without innerduct. This might not be the case in existing fiber.
- Innerduct(s) shall extend beyond the end of all conduits a minimum of eighteen inches (18"). No cable shall be placed directly in any split/solid steel conduit without innerduct. This might not be the case with existing fiber.

6. Cable Installation in Conduit

- The cable shall be installed using either a sealed pneumatic cable blowing system or a powered pulling winch and hydraulic powered assist pulling wheels.
- The maximum pulling force to be applied to the cable shall be six hundred pounds (600 lbs.).

- Sufficient pulling assists shall be available and used to insure the maximum pulling force is not exceeded at any point along the pull.
- The cable shall be lubricated at the reel and all pulling assist locations.
- A pulling swivel breakaway rated at six hundred pounds (600 lbs.) shall be used at all times.
- Splices shall be allowed only at planned junctions and reel ends.
- All splices shall be contained in a handhole or manhole.
- A minimum of twenty meters (20m) of slack cable shall be left in all intermediate handholes and manholes.
- A minimum of thirty meters (30m) of slack cable shall be left in all splice locations.
- A minimum of fifty meters (50m) of slack cable shall be left in Transmission Sites and points of presence.
- PVC conduit/innerduct may be split, with the cable installed inside the split duct and plowed in.

7. Manholes and Handholes

- Manholes shall be placed in traveled surface streets and shall have locking lids. This might not be the case with existing fiber.
- Handholes shall be placed in all other areas, and be installed with a minimum of eighteen inches (18") of soil covering lid. This might not be the case with existing fiber.

8. EMS Markers

EMS Markers shall be placed directly above the lid of all buried handholes or shall be fabricated into the lids of the handholes.

9. Cable Markers (Warning Signs)

- Cable markers shall be installed at all changes in buried cable running line direction, splices, pull boxes, assist-pulling locations, and at both sides of street, highway or railroad crossings.
- Markers shall be spaced at intervals of no more than five hundred feet (500') apart in metropolitan areas (areas where there is either extensive development and improvement or rapid growth (new building construction)) and within line of sight (not to exceed one thousand feet (1,000')) in non-metropolitan areas.
- Markers shall be positioned so that they can be seen from the location of the cable and generally set facing perpendicular to the cable running line.
- Splices and pull boxes shall be marked on the cable marker post.

10. Updating of Specifications

BBT may revise these Cable Installation Specifications to include new procedures, materials, or processes so long as the changes achieve the objectives of the specifications set forth above and are in accordance with, or superior to, then-current telecommunications industry standards.

EXHIBIT F
Project Records

1. As-Built Drawings and Specifications

- A. As-Built Drawings and Specifications shall include:
- cable and conduit information
 - splice locations
 - assist point locations with permanent structures
 - Transmission Site locations
 - optical distances to the nearest Transmission Sites from each splice location.
- B. As-Built Alignment Sheets shall be updated with actual construction field data.
- C. The scale of As-Built Alignment Sheets shall not exceed 1" = 200' in metropolitan areas (areas where there is either extensive development and improvement or rapid growth (new building construction)) or 1" = 500' in non-metropolitan areas.
- D. BBT shall provide updated route (OSP) drawings and specifications in an approved ESRI ArcGIS compatible format.
- (1) The drawings shall include all geospatial details, including but not limited to, length of cable, fiber count, slack coils, vaults, splice closures, butt splices, riser transitions, poles or other details identified in the Data Dictionary.
 - (2) The drawings shall be in a known coordinate system, including but not limited to a Kentucky State Plane system, WG884, Web Mercator or UTM (which includes Kentucky).
- E. BBT shall provide updated site (ISP) drawings and specifications in AutoCAD or with Customer's approval a different approved electronic format. These drawings shall include, but not be limited to, Fiber routes inside buildings, the location of Fiber Distribution Panels, slack coils, and fiber jumpers.
- F. BBT shall submit all information required by this Exhibit through the KentuckyWired Document Management System (Aconex).

2. Format

Drawings shall be "blue lines" as such term is understood in the industry. BBT may, after the Acceptance Date, adopt any replacement method of creating or providing drawings that is generally accepted in the industry and that provides equivalent information.

3. Reports and Test Results

BBT shall provide and maintain in Aconex official reports and certified test results of all

inspections and tests which were undertaken as a part of Construction or are otherwise required by this IRU.

4. Data Dictionary

Fiber

Field Name	Description
CLLI	Standard Kentucky Telco CLLI code Ex. DAVLKY0185
CABLE_NAME	To and From CLLI plus the fiber count Ex. LXTOKY0253-DAVLKY0185-288
PLACEMENTTYPE	Aerial or underground
FROM_STRUCTURE	Start location of structure for Backbone Ex. Paintsville
TO_STRUCTURE	Finish location of structure for Backbone E. Prestonburg
CABLETYPE	Cable Type- Loose Tube or Ribbon
BUFFERCOUNT	Count of Buffer Tubes
FIBERSPERBUFFER	Number of fibers per buffer
FIBERCOUNT	Count of fiber Ex. 288
INSTALLATIONDATE	Date the fiber is installed. If exact date is not known estimate by decade
MANUFACTURER	Name of the manufacture for the fiber
PARTNUMBER	The Fiber part number
BUILD_PRIORITY	DBLLC Design Priority Ex. 1A, 1B, 2, 3, 4,5
SITE_ID	Segment ID corresponds to the building site ID
Site_Categ	Is the fiber serving a school, government bldg or other
SLA	Service Level Agreement
ISP_OSP	Inside Plant or Outside Plant
EASEMENT	Location of easement to property such as front, rear, undeveloped land
ThirdParty	Entity other than DBLLC responsible for design feature

Slackloop

Field Name	Description
LENGTH	Length of slackloop Ex. 25ft, 75ft, 150ft
CLLI	Standard Kentucky Telco CLLI code Ex. DAVLKY0185
ISP_OSP	Inside plant or outside plant
OWNER	Who owns the slackloop
BUILD_PRIORITY	BV Design Priority Ex. 1A, 1B, 2, 3, 4,5
SITE_ID	Segment ID cooresponds to the building site ID
ThirdParty	Entity other than DBLLC responsible for design feature

Structure

Field Name	Description
STRUCTURE_NAME	To and From CLLI plus the fiber count Ex. LXTOKY0253-DAVLKY0185-288
SUBTYPECODE	Type of structure Ex. handhole, cable marker, small vault, medium-light vault
STRUCTURE_SIZE	Size of the structure Ex. Large, small, extra large, medium light, medium heavy, large light, large heavy
BUILD_PRIORITY	BV Design Priority Ex. 1A, 1B, 2, 3, 4,5
SITE_ID	Segment ID cooresponds to the building site ID
ISP_OSP	Inside plant or outside plant
ThirdParty	Entity other than DBLLC responsible for design feature

follow the instructions and take such actions or not take such actions as the Designated Parties may instruct BBT, and the actions and instructions of the Designated Parties shall be binding on Commonwealth. In no event will BBT be obligated to confirm that a Designated Party is duly-authorized by Commonwealth or otherwise has the authority to make such determination or otherwise bind Commonwealth with respect to this Agreement or the actions to be taken or actions not to be taken, and Commonwealth shall have no claim or defense against BBT that such Designated Party was not authorized to act as the agent of and bind Commonwealth pursuant to this Agreement and any action taken or action not taken pursuant to this Agreement.

ARTICLE XXII
ENTIRE AGREEMENT; AMENDMENT; EXECUTION

22.1. Integration; Exhibits. This Agreement constitutes the entire and final agreement and understanding between BBT and Commonwealth with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits referred to herein are integral parts hereof and are made a part of this Agreement by reference. Where the terms of the Agreement and an Exhibit conflict, the Exhibit will control.

22.2. No Amendment. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of BBT and Commonwealth.

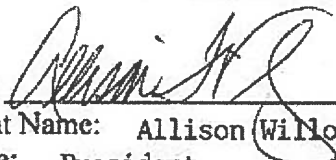
22.3. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

22.4. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by execution and delivery of the signature page of a counterpart to the other Party by electronic mail in "portable document format" (".pdf") form, or by any other electronic means; *provided that*, if delivery is made by electronic mail in .pdf form, or by any other electronic means, the executing Party shall promptly deliver a complete counterpart that it has executed to the other Party.

[Remainder of Page Left Blank Intentionally – Signature Page Follows]

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, BBT and Commonwealth have executed this Agreement as of the dates set forth below.

BBT COMMONWEALTH OF KENTUCKY

By: 
Print Name: Allison W. Noughby
Title: President

By: _____
Print Name: William M. Landrum III
Title: Secretary, Finance and
Administration Cabinet

Date: October 27, 2017

Date: _____

