

## **DARK FIBER LICENSE AGREEMENT**

This Dark Fiber License Agreement (“Agreement”) is made and entered into as of this 13<sup>th</sup> day of January, 2021 by and between Harford County, Maryland (the “County” or the “Licensor”), a body corporate and politic of the State of Maryland and the Think Big Networks (“Think Big” or “Licensee”). The County and Think Big may be referred to herein individually as the “Party” or collectively as the “Parties” to this Agreement.

### **RECITALS**

**WHEREAS**, The County has constructed a fiber optic metropolitan area network known as the Harford County Metropolitan Area Network (HMAN), which it intends to extend to connect the HMAN and Think Big networks; and

**WHEREAS**, The County has dark fibers available on HMAN; and

**WHEREAS**, The County desires to license a portion of the dark fibers to Think Big for use to expand their network; and

**WHEREAS**, The County and Think Big find that such a partnership will be beneficial to both Parties.

**Now, Therefore**, in consideration of 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:

#### **Section 1. Intent**

The intent of this Agreement is for the County to provide Think Big the limited and exclusive use of warranty free point-to-point dark fiber consisting of the single mode fiber optic strands licensed to Think Big by the County (the “Dark Fiber”). The County shall perform only such maintenance of the Dark Fiber for the term of this Agreement as is expressly set forth in this Agreement.

#### **Section 2. Grant of License**

Subject to the terms and conditions in this Agreement, the County hereby grants to Think Big a license for the exclusive use of the County’s Dark Fiber identified in Exhibit A.

### **Section 3. Definitions**

As used in this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

**Cable** — means a bundle of unlit single mode fiber optic filaments or strands, installed and owned by the County.

**Dark Fiber** — means unlit fiber optic strand(s) licensed hereunder to the Licensee.

**Demarcation Point** — means the physical point at which the County provides end point (or as it is colloquially known the “termination point”) of the Dark Fiber segments, as further identified in Section 3 of this Agreement, and at which responsibilities for ownership and maintenance of facilities and equipment are allocated as between the County and the Licensee.

**Facilities or County Facilities**— means all County equipment, including: dark fiber, fiber cables, utility poles, conduit, bridge attachments, duct systems, pull boxes, splice closures, support hardware and any and all other ancillary material required for the Project. Any electronic equipment required to transport signals on the Dark Fiber licensed to the Licensee, and any additional equipment or items of any kind, including data owned by the Licensee, are not included as Facilities, and are not the responsibility of the County.

**Force Majeure** — means any event or cause beyond the reasonable control of the County or the Licensee that cannot be prevented or eliminated by the exercise of prudent utility practices, including, but not limited to, acts of God, strike, lockout or other labor dispute, sabotage, fire, storm, lightning, flood, war, riot or insurrection, explosion, accident, vehicular collision, embargo, blockage, acts of civil disobedience, inability to secure supplies, governmental authorization or permit, or any other cause whether of the kind specifically enumerated, which prevents the County and/or the Licensee from performing all or any part of any material obligation under the terms of this Agreement.

**HMAN** – The Harford County Metropolitan Area Network.

**Maintenance** — means only the work which must be performed upon or to the County Facilities to reasonably provide the physical dark fiber required for the continuity of signal being transmitted through the fibers, or to ensure the safety of the County Facilities, all as determined by the County in its sole discretion

**Micro POP** – Micro POPS are Think Big communication hubs located in Harford County capable of supporting up to 256 homes.

**Network** — means the Facilities and the dark fiber optic cable and support facilities, including any existing, newly installed, or future installed utility poles, conduit, duct system or fiber optic cable, owned by the County. Notwithstanding the foregoing, the County's responsibilities to the Licensee hereunder are solely related to that portion of the Network being licensed pursuant to this Agreement.

**Outage** — means the interruption of Dark Fiber continuity or a material degradation in performance of the Dark Fiber when such interruption is the result of physical damage, severance, or other failure of the Dark Fiber.

**Premises Entry** — means a location within a building owned or controlled by the Licensee, at which the Dark Fiber is requested to transit or, in the case of a Demarcation Point, to connect to the Licensee-owned and -controlled equipment and facilities.

**Project** — means the work processes required for the County and the Licensee to complete all requirements of this Agreement.

**Project Completion** — occurs at such time as the County (a) has received all documentation they have required from the Licensee, including all required franchises, insurance, proof of bonding, permits, as built and stamped drawings of any construction impacting the Network from the Licensee, including the results of any Licensee testing on the Network, (b) provides

notice to the Licensee that all of the connections have been completed in the County's equipment and, (c) has issued to the Licensee a notice to proceed.

#### **Section 4. Scope of Agreement**

##### 4.1 Installation

(a) Installation. The County has installed, or will cause to be installed, Facilities between the Demarcation Points described and set forth in Exhibit A sufficient to provide the Licensee access to and use of the Dark Fiber specifically set forth in Exhibit A during the Term of this Agreement. The County disclaims any obligations regarding equipment or facilities owned by any third party.

##### 4.2 Ownership.

4.2.1 The County shall own the entire Project and the Facilities including outer and inner jackets, all fiber tubes, and all of the fiber filaments contained therein on the County side of the Demarcation Point. The Licensee shall retain ownership of its data and shall bear all responsibility for any signal transmitted through the Dark Fiber. All equipment required on the Licensee's side of the Demarcation Point to enable the Licensee to utilize the Dark Fiber shall be furnished, installed, owned and maintained by the Licensee at its sole expense and responsibility, as reasonably determined between the parties, consistent with the County's Network requirements which shall be determined in the County's sole discretion. No right is being granted to the Licensee to use the Network or related Facilities except as specifically provided herein. No right is being granted to use any other property of the County. The Licensee shall not sub-license, rent or permit the direct use of the Dark Fiber by any entity, other than the Licensee, including, but not limited to affiliates of the Licensee, without the express written approval of the County.

4.2.2 Rights in the Network. The Licensee shall not acquire any interest in the Network or the County Facilities by virtue of this Agreement except the limited, exclusive right to use the

specified licensed Dark Fiber pursuant to this Agreement. The Licensee shall not use this Agreement to challenge, contest or otherwise impair the County's ownership of the Network and/or the Facilities and any underlying property rights.

#### 4.3 Maintenance.

4.3.1 Routine Maintenance. The County shall perform required maintenance, locates and repairs on the Network with respect to protection and functioning of the Dark Fiber as determined in its sole discretion, and subject to the availability and appropriation of funding. All maintenance on the Network shall be performed by the County. When conducting maintenance on the Network, the County shall exercise reasonable care to prevent an Outage. Except as otherwise provided in Section 4.3.2 below, the County shall not, however, be liable to the Licensee for an Outage caused by any third party or the Licensee. County agrees to provide the Licensee not less than 48 hours' prior notice of any scheduled maintenance or repairs that may result in an Outage. Notification shall be made as set forth in Section 12 herein.

4.3.2 Emergency Maintenance and Outages. The Licensee shall promptly notify the County of the occurrence of any trouble condition with respect to the Dark Fiber. The Licensee shall make diligent and immediate efforts to establish if the trouble condition resides in the Dark Fiber and not with the Licensee's Network electronics and shall document such efforts as requested by the County. In the event the condition is determined to be an Outage, the County or its designated representative shall perform such emergency maintenance as is reasonable and practicable after the County learns or is notified by the Licensee that an Outage exists. The County has a Maintenance Agreement with KCI who is responsible for all maintenance related to HMAN. Once KCI is notified by the County, KCI has a (2) hour response time and (4) hours to be onsite in the Maintenance Agreement with the County.

4.3.3 Maintenance of Licensee Equipment. Maintenance on equipment owned by the Licensee, including but not limited to electronic equipment required to activate the Dark Fiber, shall be performed by the Licensee at the Licensee's sole and exclusive expense.

#### 4.4 Premises Entries.

4.4.1 In the course of its deployment of fiber optic cables serving the Licensee, the County reserves the right to install additional fibers and associated infrastructure beyond that required for use by the Licensee. In addition, the County reserves the right to relocate the Dark Fiber, provided such relocation shall not result in a loss of the Licensee's ability to the use thereof.

#### 4.5 Use of and Access to Dark Fiber

4.5.1 In the event a Demarcation Point or any portion of Dark Fiber is located within a building or on private property, the Licensee will be responsible for securing or granting access rights, distribution agreements, easements, letters of authorization, collocation rights, or such similar document(s) as may be required by the property owner and/or tenant/occupant authorizing the presence of the Dark Fiber or any facilities owned by the Licensee.

4.5.2 The Licensee may interconnect its fiber optic cable network to the Dark Fiber at existing splice cases, or other locations as may be mutually agreed to between the Parties in writing. Any work including all splicing required for said interconnections shall be performed by the County or designated representative. The Licensee shall provide at least thirty (30) days' advanced notice to the County to allow scheduling of interconnection work tasks.

4.5.3 The Licensee shall at no time enter, and or modify, any Facilities on the Licensor side of the Demarcation Point. This includes accessing the Licensor side of the connection panels, hand holes, conduits, or cables. Any damage or service disruption, damages, expenses, claims, or suits that are found to be caused by the Licensee as a result of the afore-described actions will be corrected immediately without contest by the Licensee at the Licensee's sole expense. Additional costs may be incurred by the Licensee for an Emergency Repair which shall be repaid to the County within thirty (30) days of receipt of invoice to cover such repair costs.

4.5.4 It is understood and agreed that the Licensee's ability to use the Network and is contingent upon the Licensee's obtaining all of the applicable certificates, permits, and other approvals that

may be required by any federal, State, or local authorities. In the event that any such applications should be finally rejected, or any applicable certificate, permit, license, or approval issued to the Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by the County, the Licensee shall have the right to terminate this Agreement. Notice of the Licensee's exercise of its right to terminate under this subparagraph shall be given to the County in writing by certified mail, return receipt requested, and shall be effective thirty (30) days from the receipt of such notice by the County as evidenced by the return receipt. Upon such termination, the Licensee's rights hereunder shall become null and void and all the parties shall have no further obligations beyond those specified in this Agreement which survive termination.

#### 4.6 No Warranty.

The Licensee shall be responsible, at its sole cost and expense, for determining if the Dark Fiber meets its needs. The County expressly disclaims any warranty that the Dark Fiber will meet any industry standard, except as otherwise expressly stated herein.

### **Section 5. Term and Termination**

5.1 *Term.* This Agreement shall be in full force and effective as of the date that all of the Parties have executed it, and unless sooner terminated in accordance with its terms, shall remain in effect for thirty (30) years following the Acceptance Date.

#### 5.2 Termination.

5.2.1 Each Party shall have the right to terminate this Agreement upon thirty (30) days' prior written notice if the other Party defaults in its material obligations and fails to cure such default identified in said notice within the thirty (30) day period, or, if the default is not capable of being cured within the thirty (30) day period, such additional period, not to exceed one hundred twenty (120) days from the date of the initial notice of default, provided the defaulting Party has commenced the cure within the thirty (30) day period and is diligently pursuing completion.

5.2.2 Either Party shall have the right to terminate this Agreement immediately, without cause, upon written notice to the other Party at least thirty (30) days in advance, or upon such shorter

period as may be mutually agreed upon by the Parties. In such event, the County shall have and retain all rights and remedies existing at law or in equity against the Licensee.

5.2.3 Notwithstanding anything to the contrary contained herein, the Licensee may terminate this Agreement without cause any time prior to the Acceptance Date, and shall have no further duties or obligations hereunder.

5.3 Rights upon termination. All rights to use of the Dark Fiber by the Licensee shall immediately revert to the County in the event this Agreement is terminated for any reason. Licensee shall retain all ownership and responsibility for any data. All materials and equipment on the County's side of the Demarcation Point shall remain the property of the County at all times. The Licensee, upon termination of this Agreement and only if requested by the County, shall, within ninety (90) days, disconnect, remove its Facilities and other personal property and restore the Network to its approximate original condition to the reasonable satisfaction of the County, reasonable wear and tear excepted. Otherwise, the County shall have the right to disconnect, remove and dispose all Licensee property, facilities and equipment on County property or in Network within ninety (90) days of termination of the Agreement with no further obligation to Licensee. If such time for removal causes the Licensee to remain connected to the Network after termination of this Agreement with the consent of the County. Any of the Licensee's property remaining connected to the Network without the consent of the County may be removed by the County at the Licensee's sole cost and expense. Notwithstanding the affixation of the Facilities, title to the Facilities shall remain with the County. Likewise, laterals, equipment and facilities owned by the Licensee shall continue to be titled to the Licensee. The County may assign, mortgage, and otherwise grant security interests in the Facilities to any party holding a mortgage or security interest in the same.

#### **Section 6. Force Majeure**

If, because of a Force Majeure event, either Party is unable in whole or in part to carry out any of its material obligations under this Agreement (the "Restricted Party") and promptly gives notice to the other Party of such Force Majeure, then the material obligations of the Restricted Party shall be suspended to the extent and for the period made reasonably necessary by such Force



Majeure; provided, however, that the Restricted Party proceeds with all reasonable dispatch and employs such diligence as is reasonably necessary to remedy the event causing such Force Majeure. Should the condition of Force Majeure continue for a period of thirty (30) days following notice by the Restricted Party of the event, then the other Party, upon thirty (30) days' written notice to the Restricted Party, may terminate this Agreement without liability to Restricted Party.

**Section 7. Liability, Insurance, Indemnification, Limitation of Remedies.**

7.1 Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, the County shall not have any liability, whether based on contract, warranty, tort, strict liability, contribution, indemnity or otherwise, for indirect, incidental, consequential, special, exemplary, or punitive damages of any other kind or nature whatsoever, resulting from the performance, nonperformance or breach of this Agreement. The County shall not be liable for damage to the Licensee's facilities, equipment, property or data caused as a result of the normal or foreseeable operations of the County. The County makes no warranty, express or implied, regarding the quality of the signal transmitted by the Licensee over the Dark Fiber. The County provides the Dark Fiber on an AS-IS, WHERE-IS basis with no warranty of merchantability, warranty of fitness for a particular purpose, or implied warranties of any kind but for any specific express warranties set forth in this Agreement. Neither Party waives immunities or defenses available at law or in equity. The County's liability under this Agreement is limited to the extent allowable under the Local Government Tort Claims Act.

7.2. Indemnification and Licensee's Liability. To the extent permitted by law, the Licensee shall indemnify and hold the County and its officials, employees and agents harmless against any claim or liability for loss from personal injury or property damage resulting from or arising out of the use of the fiber optic infrastructure by the Licensee, its servants or agents, excepting, however, such claims for damages that may be caused by the acts or omissions of the County or its employees or agents. The Licensee shall not interfere with any other licensee or the County's Network and shall pay for any costs, damages, claims or expenses caused to a third party by the Licensee's actions. The County shall not, however, be liable to the Licensee for any interruption to its services or interference with the operation of the system.

The Licensee shall be liable for and agrees to pay any and all reasonable costs and expenses, including but not limited to reasonable attorneys' and professional fees which may be incurred by the County, as well as any judgments or decrees in favor of the County:

- a. In enforcing obligations of the Licensee under the terms and provisions of this Agreement;
- b. In obtaining possession of the Facilities as the result of any default by the Licensee or otherwise;
- c. In defending any suit or proceeding brought against the County for violation by the Licensee of any law, ordinance, rule or regulation, related in any way to this Agreement; and
- d. In defending any action or suit against the County for damages because of any failure, neglect or default on the part of the Licensee.

7.3. Insurance. The Licensee agrees to assume full responsibility for any and all damage to the property of the County, both real and personal, which results from the performance of, or which arises in connection with, the Licensee's use of the Network and the County Facilities in accordance with the performance of this Agreement. The Licensee shall maintain a comprehensive general liability insurance policy, which names the County as an additional insured, in the amount of at least Five Million Dollars (\$5,000,000.00) combined single limit for personal injury and property damage liability per occurrence in the aggregate or the Licensee shall be self-insured. The County may require evidence of additional insurance including builder's risk and/or errors and omissions coverage for any construction or engineering work performed by the Licensee on County property, Facilities or the Network, naming the County as an additional insured and certificate holder. The County may also require proof of payment and performance bonds in an amount equaling 100% of any construction cost undertaken by the Licensee or its contractors pursuant to this Agreement on County property or connecting to the Network and/or Facilities, particularly at Demarcation Points.

## **Section 8. Miscellaneous Provisions**

8.1 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns. For these purposes, the term

“successor” shall include, without limitation, any entity or other person to whom the County transfers its fiber communication operations.

8.2 Assignment. This Agreement shall be binding upon the parties hereto and their successors and assigns. The County reserves the right upon thirty (30) days’ written notification to the Licensee to transfer this Agreement, or management thereof to a third-party vendor selected by the County to serve as the County’s agent in the management of dark fiber strands available on the Network to be licensed. The Licensee may assign or transfer its rights and obligations arising under this Agreement to any entity legally authorized to operate a communications system provided the Licensee is not in default, and only upon the written consent of the County with the execution of an assignment agreement approved by the County, provided: (a) the use of the Network is not altered or modified, (b) the assignee shall ratify and affirm the terms of this Agreement in writing, and (c) the Licensee shall remain liable for the performance of its obligations hereunder. Any other assignment, conveyance, or transfer of all of the rights granted hereunder shall be null and void unless expressly consented to by the County. This Agreement shall be incorporated by reference into any assignment. Any assignee shall comply with all of the provisions of this Agreement.

8.3 Entire Agreement. This Agreement contains a complete statement of all of the arrangements and understandings between the Parties with respect to the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. Any modifications to this Agreement shall be in writing and executed in the same manner as this Agreement.

8.4 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of the Agreement.

8.5 Waiver. The waiver by either Party of any default by the other Party hereunder, or the failure of either Party to, at any time, require strict compliance with any of the terms and conditions of

this Agreement, shall not be deemed a waiver by such party of any default of the other or a waiver by any such Party of its right to strict compliance by the other Party.

8.6 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the Parties agree to replace such unlawful or unenforceable provision with a valid and enforceable provision that will achieve, to the extent possible, the economic, business, and other purposes of the unlawful or unenforceable provision.

8.7 *Venue*. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland. Should suit be filed for any reason arising out of this Agreement, the Parties agree that venue for such action shall lie in the State courts of competent jurisdiction sitting in Harford County, Maryland, or, only in the event of a claim involving a question of the interpretation or enforcement of rights or obligations, if any, arising under a federal statute or regulation, the US District Court for the District of Maryland. This subsection shall survive the termination of this Agreement for any reason.

8.8 Attorneys' Fees. The parties expressly agree that, except as provided in Section 7.2, each Party will bear its own attorneys' fees and court costs incurred in connection with this Agreement.

8.9 Remove/Relocate Network. The County shall have the power at any time to remove or relocate any portion of the Network, including any pole, conduit, wire, cable or structure, without incurring any liability for such removal or relocation. In the event such removal or relocation becomes necessary, the County shall take all commercially reasonable efforts to minimize the impact on the Licensee.

8.10 Emergency or Disaster. If at any time, in case of emergency or disaster, it shall become necessary in the reasonable judgment of the County to cut or move any of the Network, the County shall have the right to do so without incurring any liability, provided, however, that the County shall restore any portion of the Network that has been cut or removed as soon as

commercially practicable and provided that the Licensee shall be relieved of any duty to pay any fees otherwise required under this Agreement for any period during which the licensed Facilities are unusable. Additionally, the Licensee shall have the rights specified in Section 3.3.2 in the event such emergency or disaster results in an Outage.

8.11 Network Abandonment. If the County desires at any time to abandon any affected portion of the Network in the Project, and such abandonment shall make the licensed Facilities unusable, it shall give the Licensee notice in writing to that effect promptly after it has made a determination to abandon any such Facilities, but in no event less than one hundred and eighty (180) days prior to the date on which it intends to abandon such Facility. If agreed to by both Parties, and the Licensee has need for such Facilities to remain in place, the County may, at its sole discretion, transfer of ownership of the Facilities to the Licensee for a mutually agreed cost, and the Licensee shall save harmless the County from obligation, liability, damages, costs, expenses or charges incurred thereafter. It is not the intent of this provision to place an obligation upon the County to transfer/sell abandoned Facilities to the Licensee.

8.12 No Common Carrier. The Parties agree that the County is not a common carrier for the purposes of this Agreement.

8.13 Compliance with Laws. The Licensee hereby represents and warrants that:

- a. It is not in arrears with respect to the payment of any monies due and owing the County, the State of Maryland, or any department or unit thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Agreement;
- b. It shall comply with all federal, State and local laws applicable to its activities and obligations under the Agreement; and
- c. It shall obtain, at its expense, all applicable licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under the Agreement.

8.14 Representations. Each Party to this Agreement represents and warrants to the other that it has full rights, power, and authority to enter into this Agreement, and that the person executing this Agreement on behalf of such Party has the authority to do so.

8.15 Rules of Construction. Words in this Agreement which import the singular connotation shall be interpreted as plural, and words which import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require.

8.16 Relationship of the Parties. The relationship between the County and the Licensee shall not be that of partners or joint ventures, and nothing contained in this Agreement shall be deemed to constitute a partnership between them for any purposes. The County and the Licensee in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk subject, however, to the terms and conditions hereof.

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

8.18 Recitals. The recitals are incorporated herein as substantive provisions of this Agreement.

### **Section 9. Further Limitations**

9.1 Sole Use. The specified licensed Dark Fiber shall be for the sole use of the Licensee and may neither be resold, sub-licensed, nor otherwise conveyed by the Licensee to any unaffiliated third party or entity.

9.2 Governmental Functions Not Affected. Neither the County's entering into this Agreement, nor any provision hereof, shall be deemed to conflict with, limit or preclude the County's enforcement of its laws, regulations, and policies, or the County's exercise of its government functions.

## **Section 10. Special Conditions**

10.1 Permitting. The Licensee shall be responsible for securing and maintaining, at the Licensee's expense, all applicable permits and consents, including easements or other permissions from property owners, relating to its use of the Dark Fiber. The Licensee shall comply with all applicable laws, rules and regulations at all times during the term of this Agreement. Upon request, the Licensee shall provide the County evidence of its compliance with applicable legal requirements and its possession of any necessary consents or permissions.

10.2 Federal Interest in County's Fiber Assets. The Licensee acknowledges that portions of the Network were constructed as part of the BTOP grant award, which contains various stipulations and federal requirements. NTIA holds a federal security in certain assets including but not limited to fiber, conduit and electronics. The Licensee acknowledges that the federal government retains an undivided equitable reversionary Federal Interest in physical and intangible assets that are directly or indirectly acquired or improved with BTOP funds (the "Federal Interest"). This may include the Network. As a result, any rights granted by this Agreement are subject to such Federal Interest. Further information regarding the federal security interest can be provided upon request.

## **Section 11. Limited Use Right of Way**

In the event any of the Licensee's equipment or facilities needs to be located within a County right of way, the Licensee shall make application to the County for the purpose of installing, maintaining and operating such equipment or facilities therein and use incidental thereto. The County makes no assurances that rights-of-way belonging to other agencies or individuals will be available for this purpose.

All equipment or facilities to be installed in the County rights-of-way shall be installed in accordance with plans and specifications which have previously been submitted to and approved by the County Department of Public Works – Highways Division. All work under this Agreement shall be subject to the County's prior written approval prior to commencing installation, alteration or construction activities. The Licensee shall give the County reasonable

prior written notice before beginning installation, alteration or construction activities. The County agrees to use good faith efforts to review and approve or otherwise respond to any plan submission within thirty (30) days from the date such plans are received by the County. The County agrees not to unreasonably delay or deny its approval of any plans, and shall only impose those conditions on the method or course of performance proposed by the Licensee as are reasonably necessary to protect the County's responsibility for the safe, smooth, continuous operation of County-owned roads.

At the end of the Term, or earlier termination of this Agreement, the Licensee shall remove its equipment or facilities from the County right of way, and shall restore the area to its original condition.

**Section 12. Notice**

Any notices required to be given by the terms of this Agreement shall be deemed sufficiently given when in writing and (a) delivered by hand, (b) mailed, postage prepaid certified delivery, or (c) e-mailed, to the addresses indicated below. E-mail notification will only be considered sufficient if the e-mail delivery is confirmed with a response from the receiver. Either Party may change the name of the person receiving notices and the address at which notices are received by so advising the other Party in writing.

**A. If to the County:**

For Contractual Notice:

Harford County Office of Information and Communication Technology  
2220 Ady Road  
Forest Hill, Maryland 21050

With a copy to:

Harford County Office of Law  
220 South Main Street  
Bel Air, Maryland 21014  
Attn: County Attorney



For County Designated and Emergency/After Hours contacts, see Exhibit B.

**B. If to the Licensee:**

For Contractual Notice:

Mark Wagner

CEO, ThinkBig Networks, LLC

519 Morgnec Road

Chestertown, MD 21620

[mwagner@thinkbignets.com](mailto:mwagner@thinkbignets.com)

For Think Big Designated and Emergency/After Hours contacts, see Exhibit B.

**Section 13. Liability for Loss of Data**

In the event of loss of any data or records necessary for the performance of the Agreement, the Licensee shall be responsible, irrespective of cost to the Licensee, for recreating such lost data or records. In no event shall the County be liable for the Licensee's loss of data.

**Section 14. Non-Availability of Funding**

If the County fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Agreement succeeding the first fiscal period, the Agreement shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the Party's rights under any termination clause in the Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Licensee and the County from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The County or the Licensee shall notify the other Party as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first.

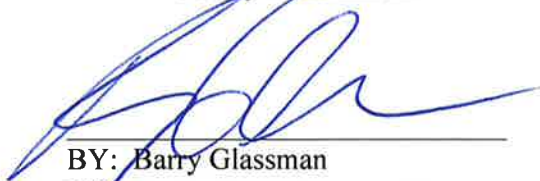
**Section 13. Counterparts.**

This MOU may be signed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument; and in pleading or proving any provision of this Agreement, it shall not be necessary to produce more than one complete set of such counterparts.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their proper and duly authorized officers, on the dates identified below.

1/13/2021  
Date

Harford County Government


  
BY: Barry Glassman  
ITS: Harford County Executive

1/13/21  
Date

ThinkBig Networks, LLC

Mark R. Wagner  
BY: Mark Wagner  
ITS: Chief Executive Officer

Approved as to form and legal sufficiency this 13 day of January, 2021.

  
Mary Kate Herbig  
Senior Assistant County Attorney

## EXHIBIT A – Dark Fiber

### Exhibit A Map - Shows the Entire HMAN Network in Harford County



#### **Fiber Optic cables designated to ThinkBig on the HMAN Network are as follows:**

On the path noted in the color turquoise, ThinkBig designated fibers will be the fiber optic cables numbered 205-216 for the fiber optic cables contained within the HMAN 216 count fiber optic cables.

On the path noted in the color turquoise, ThinkBig designated fibers will be the fiber optic cables numbered 85-96 for the fiber optic cables contained within the HMAN 96 count fiber optic cables.

On the path noted in red, ThinkBig designated fibers will be the fiber optic cables numbered 49-96.

On the path noted in grey, ThinkBig designated fibers will be the fiber optic cables numbered 49-96

## EXHIBIT B - CONTACT LIST

### Harford County:

#### Designated Contacts:

Primary: Peter Brown  
Email: [pmbrown@harfordcountymd.gov](mailto:pmbrown@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 1290  
Cell Phone: (410) 688-0429

Secondary: Josh Schueler  
Email: [jschueler@harfordcountymd.gov](mailto:jschueler@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 3380  
Cell Phone: (410) 808-1527

Tertiary: Nicholas Kuba, Director Information and Communication Technology  
Email: [nlkuba@harfordcountymd.gov](mailto:nlkuba@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 1277  
Cell Phone: (443) 617-8537

#### Emergency/After Hours Contacts:

Primary: Harford County Service Desk  
Email: [pchelpdesk@harfordcountymd.gov](mailto:pchelpdesk@harfordcountymd.gov)  
Phone: (410) 638-3237

Secondary: Peter Brown, Title  
Email: [pmbrown@harfordcountymd.gov](mailto:pmbrown@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 1290  
Cell Phone: (410) 688-0429

Tertiary: Josh Schueler  
Email: [jschueler@harfordcountymd.gov](mailto:jschueler@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 3380  
Cell Phone: (410) 808-1527

Quaternary: Nicholas Kuba, Director Information and Communication Technology  
Email: [nlkuba@harfordcountymd.gov](mailto:nlkuba@harfordcountymd.gov)  
Office Phone: (410) 638-3213 ext. 1277  
Cell Phone: (443) 617-8537

**Think Big:**

**Designated Contacts:**

Primary: David Insley  
Email: [dinsley@thinkbignets.com](mailto:dinsley@thinkbignets.com)  
Office Phone:  
Cell Phone: (443) 962-0378

Secondary: David Barr  
Email: [dbarr@thinkbignets.com](mailto:dbarr@thinkbignets.com)  
Office Phone:  
Cell Phone: (410) 699-013

Tertiary: Dave Hartman  
Email: [dhartman@thinkbignets.com](mailto:dhartman@thinkbignets.com)  
Office Phone:  
Cell Phone: (443) 850-0764

Quaternary: Mark Wagner  
Email: [mwagner@thinkbignets.com](mailto:mwagner@thinkbignets.com)

Office Phone:  
Cell Phone: (443) 677-6728

Quinary: Dee Anna Sobczak  
Email: [dsobczak@thinkbignets.com](mailto:dsobczak@thinkbignets.com)  
Office Phone:  
Cell Phone: (410) 215-0396

**Emergency/After Hours Contacts:**

Primary: David Insley  
Email: [dinsley@thinkbignets.com](mailto:dinsley@thinkbignets.com)  
Office Phone:  
Cell Phone: (443) 962-0378

Secondary: David Barr  
Email: [dbarr@thinkbignets.com](mailto:dbarr@thinkbignets.com)  
Office Phone:  
Cell Phone: (410) 699-013

Tertiary: Dave Hartman  
Email: [dhartman@thinkbignets.com](mailto:dhartman@thinkbignets.com)  
Office Phone:  
Cell Phone: (443) 850-0764

Quaternary: Mark Wagner  
Email: [mwagner@thinkbignets.com](mailto:mwagner@thinkbignets.com)  
Office Phone:  
Cell Phone: (443) 677-6728

Quinary: Dee Anna Sobczak  
Email: [dsobczak@thinkbignets.com](mailto:dsobczak@thinkbignets.com)  
Office Phone:  
Cell Phone: (410) 215-0396