

## TELECOMMUNICATIONS LICENSE AGREEMENT

THIS AGREEMENT made effective as of the 1st, day of June, 2024

**BETWEEN:**

**THE CORPORATION OF THE CITY OF KAWARTHA LAKES**

(the "Licensor")

- and -

**XPLORE INC.**

(the "Licensee")

Site Name: **Kirkfield**

Site Code: **ON4714**

### 1. Leased Premises.

- a) The Licensor hereby agrees to license to the Licensee approximately 72 square metres of space depicted in Schedule A attached hereto (the "Licensed Premises") within the property located at 50 Tower Road, Kirkfield, and legally described as Part of Lot 43, Concession 3, Parts 1 and 4 to 7 on 57R-8184, in the Geographic Township of Eldon, City of Kawartha Lakes, further described in Schedule B attached hereto (the "Property"). The Licensor also hereby grants to Licensee the right to survey the Licensed Premises at the Licensee's cost. The Licensed Premises and any access and utility rights described herein will be used to construct, support and operate a telecommunications facility, including a telecommunications tower, antennas, cables, and related structures and improvements (collectively the "Structures"), in accordance with the terms of this License, for the uses as permitted in this License, and for any other purpose with the Licensor's prior written consent which shall not be unreasonably withheld, conditioned or delayed.

### 2. Term.

The initial term of this License will be five (5) years commencing on November 1, 2025, and ending on October 31, 2030. This License shall automatically extend for up to three (3) additional terms of five (5) years each, unless either the Licensee notifies the Licensor of its intention not to renew.

### 3. Fees.

- a) The Licensee shall pay an annual license fee ("License Fee") to the City in consideration for its use and occupation of the Lands. The License Fee shall be in accordance with By-Law 2018-234, as amended, and shall be due upon the renewal date of this License and annually thereafter on or before the 1st day of January.
- b) The License Fee is in addition to and separate from any other fees or payments being made to the City by the Licensee in relation to the Licensee's use or license of any other portion of the City Property not covered by this License.
- c) The Licensee will pay for all utilities furnished to the Licensed Premises and used by the Licensee throughout the initial term or extension term hereof, and all other costs and expenses of every kind whatsoever in connection with the use, operation, and maintenance of the Licensed Premises and all activities conducted thereon.

#### **4. Assignment.**

Neither party may assign any of its rights or obligations under this License without the prior written consent of the other party. Notwithstanding the foregoing, the Licensee may, without the consent of the Licensor:

- a) assign its rights or obligations under this Agreement to an affiliate or an entity acquiring all or substantially all of the assets of the Licensee;
- b) license all or any portion of the Equipment to an affiliate; and
- c) license all or any portion of the Equipment to a third party for use as a telecommunications site.

Whenever the Licensor's consent is required by virtue of this section, such consent is deemed granted if the Licensor does not respond within fifteen (15) days to the written request of the Licensee for such consent.

#### **5. Access.**

- a) The Licensor grants to the Licensee, its agents, employees, contractors, or to an Assignee, all rights of direct access 24 hours a day, to the Property, and such other rights as are reasonably necessary to enable the Licensee, its agents, employees, contractors or any Assignee to install, reconfigure, attach, operate, maintain and replace the Equipment, including but not limited to connecting its Equipment to the public telephone and utility networks including the local hydro provider and installation of fibre to the site, pursuant to the public telephone and utility's requirements or recommendations and any required rights-of-way, provided that such access is made upon notice to the Licensor of not less than five (5) business days and undertaken at the Licensee's sole risk. Access keys shall be provided by the Licensor to the Licensee if and when keys are requested by the Licensee.
- b) Where available, the Licensee, its agents, employees, contractors and any Assignee, shall have the non-exclusive use of and access to any existing access driveway and parking space located on the Property, during the times set out above. If required, the Licensor shall provide the Licensee with parking access cards and provide notice to any security personnel and contracted towing/tagging services. Unless previously approved in writing by the Licensor, the Licensee shall not hinder the use of or access to any existing access driveway or parking space by any other party at any time.

#### **6. Notices.**

Any notice required by this License shall be made in writing and shall be considered given or made on the day of delivery if delivered before 4:30 p.m. by facsimile, email or by personal delivery upon any officer of the party for whom it is intended, or three (3) business days after the day of delivery if sent by prepaid registered mail. The addresses for notice are as follows:

To the Licensor:      The Corporation of the City of Kawartha Lakes  
Attention: Clerk  
26 Francis Street  
P.O. Box 9000  
Lindsay, Ontario, K9V 5R8  
Fax: 705-324-8110  
Email: clerks@kawarthalakes.ca

**Contract Administrator:**  
James Smith  
Director – Community Services  
Phone: 705-324-9411 ext. 2327

E-mail: jdsmith@kawarthalakes.ca

To the Licensee:

Xplore Inc.  
Attention: Site Acquisition and Management  
300 Lockhart Mill Road  
Woodstock, New Brunswick, E7M 5C3  
Fax: 506-324-6676  
E-mail: vre@xplore.ca

## **7. Improvements and Use.**

- a) The Licensee is granted the right, at its sole expense, to undertake improvements on the Licensed Premises as deemed necessary for the installation and operation of its telecommunications equipment, including but not limited to, the construction of equipment shelters. All improvements made by the Licensee, such as prefabricated structures, generators, and fencing, will remain the property of the Licensee and may be used for transmitting, receiving, and relaying communication signals. Upon the expiration or termination of this License, the Licensee is obligated to restore the Licensed Premises to its original state, reasonable wear and tear excepted, except for permanent structures like underground conduits, foundations, and footings, which are not required to be removed.

## **8. Insurance.**

The Licensee shall, during the Term hereof, keep in full force and effect, with respect to each of the Licensed Premises and the Property:

- a) A policy of insurance, in which the limit of Commercial General Liability insurance shall not be less than Five Million Dollars (\$5,000,000.00) per occurrence and shall include the Licensor as an Additional insured with respect to the Licensee's operations, acts and omissions relating to its obligations under this License, such policy to include, but not be limited to, bodily injury, including death; non-owned automobile liability; personal injury; broad form property damage; blanket contractual liability; owners and contractors protective liability; products and completed operations ; contingent employers' liability; and, shall include a cross liability and severability of interest clause. This policy shall not be invalidated with respect to the interests of the Licensor by reason of any breach or violation on any warranties, representations, declarations or conditions;
- b) Licensee's Tenant's Legal Liability insurance equal to the actual cash value of each of the Licensed Premises, including any loss of use thereof;
- c) Property Insurance on All Risk basis for property of every description owned by the Licensee, or for which the Licensee is legally liable or any of the Equipment installed by or on behalf of the Licensee and which is located within or on the Premises, for the full replacement cost thereof, as well as Business Interruption insurance in such amount as will reimburse the Licensee for direct or indirect loss of revenue attributable to an insured peril. Coverage shall also extend to any machinery, equipment and tools that used by the Licensee for the installation of maintenance of the Equipment. This insurance shall contain a waiver of any subrogation rights, which the Licensee's insurers may have against the Licensor or those for whom the Licensor is in law responsible;
- d) Any other form of insurance as the Licensor, acting reasonably, may require from time to time in form, in amounts and for insurance risks against which a prudent Licensee would insure;
- e) Automobile Liability insurance (Standard OAP 1 Automobile Policy) with a limit not less than Two Million Dollars (\$2,000,000) per occurrence for all licensed motor vehicles owned or leased by the Lessee;
- f) The Licensee shall provide annually and prior to the inception of this License,

Certificates of Insurance, or copies of the insurance policies if required by the Licensor, with provision for thirty (30) days' prior notice by registered mail to the Licensor in the event of cancellation or material change, which reduces or restricts the insurance as required under (a), (b), (c), (d) or (e) within this License, under Section 12, Insurance;

- g) The Licensee agrees that if it fails to take out or keep in force any such insurance referred to in this Paragraph, or should any such insurance not be approved by the Licensor, and should the Licensee not commence and proceed to diligently rectify the situation within forty-eight (48) hours after written notice by the Licensor, the Licensor has the right without assuming any obligation in connection therewith, to effect such insurance at the sole cost of the Licensee. The Licensor shall be reimbursed as set out under the terms of this License.

#### **9. Liability and Indemnity of the Licensor.**

- a) The Licensor and the Licensee covenant and agree that the Licensor shall not be liable or responsible in any way for personal or consequential injury of any kind whatsoever that may be suffered or sustained by the Licensee, or any employee, agent or invitee of the Licensee, or any other person(s) who may be upon the Licensed Premises or for any loss, theft, damage or injury to any property upon the Licensed Premises however caused.
- b) The Licensee waives, releases, discharges and indemnifies the Licensor from and against all rights, claims, demands or actions of whatsoever kind or nature, direct or indirect, of any person whether in respect of damage to person or property arising out of or occasioned by the construction, maintenance, use or occupancy of the Property from any cause whatsoever. The Licensee agrees to look solely to its insurers in the event of loss whether the insurance coverage is sufficient to fully reimburse the Licensee for the loss or not.
- c) With the exception of claims arising as a result of the Licensor's negligence or arising as a result of the Licensor's failure to fulfill its obligations set out in this License, the Licensee covenants to indemnify the Licensor against all claims including construction lien claims by any person arising from any want of maintenance thereof or anything done or admitted on or in the vicinity of the Licensed Premises or any other thing whatsoever, whether arising from any breach or default or from any negligence by the Licensee, its agents, contractors, employees, invitees or licensees, or from any accident, injury or damage or any other cause whatsoever, and such indemnity shall extend to all costs, counsel fees, expenses and liabilities which the Licensor may incur with respect to any such claim.
- d) The Licensee further covenants to indemnify and save harmless the Licensor with respect to any encumbrance on or damage to the Property or the Corporation of the City of Kawartha Lakes occasioned by or arising from the act, omission, default, or negligence of the Licensee, its officers, agents, servants, employees, contractors, customers, invitees or Licensees.
- e) The foregoing indemnities shall be in addition to and not in lieu of any insurance to be provided by the Licensee and shall survive the termination of this License notwithstanding any provisions of this License to the contrary.

#### **10. Taxes.**

- a) The Licensee will pay any taxes assessed on, or any portion of the taxes attributable to, the Structures. The Licensor will pay when due all real property taxes and all other fees and assessments attributable to the structure(s) installed within the 15m x 15m leased space.

#### **11. Termination Rights.**

- a) The Licensee may terminate this License at any time upon providing at least thirty (30) days' written notice, without incurring further liability, if the Licensee is unable to secure all necessary rights, postponements, and approvals required from senior management, any governmental authority, and/or any third party to operate the telecommunications equipment under conditions satisfactory to the Licensee. This includes situations where any such right or approval fails to be obtained, expires, is cancelled, or terminated, or if for any other reason the Licensee decides, at its discretion, that it will no longer utilize the Licensed Premises for its intended purpose.
- b) The Licenser may terminate this License, at its option, in the event of a material breach by the Licensee, including but not limited to, failure to comply with the terms of the License or failure to make any payments when due. Such termination is subject to a cure period of sixty (60) days following the Licensee's receipt of written notice of such breach or failure, or such longer period as may reasonably be necessary to remedy the breach, provided that the Licensee is actively working towards a resolution.

## **12. Environmental.**

- a) The Licenser makes no representation, warranties or guarantees as to the suitability of the Property for the purposes of the Licensee. The Licensed Premises are provided on an "as is" basis. All works necessary to make the Licensed Premises suitable for the Licensees purposes shall be the responsibility of the Licensee and it shall bear the cost of doing so.

## **13. General.**

- a) **Confidentiality.** Both parties agree to keep the terms of this License and any related information strictly confidential, disclosing them only when required by law.
- b) **Governing Law.** This License shall be governed by the laws of the Province of Ontario. Should any provisions of this License and/or its conditions be illegal or not enforceable under the laws of such Province it or they shall be considered severable and the License and its conditions shall remain in full force and effect and be binding upon the parties as though the said provision or provisions had never been included.
- c) **Entire Agreement.** This License constitutes the entire agreement between the parties. No modification, waiver, or amendment will be valid unless in writing and signed by both parties.
- d) **Severability.** If any provision of this License is found to be invalid, this does not affect the validity of the remaining provisions.
- e) **Force Majeure.** Neither party will be held liable for delays or failures in performance resulting from acts beyond their control, including but not limited to strikes, lockouts, natural disasters, or emergencies.
- f) **Holdover.** If the Licensee remains in possession of the property beyond the term, they will do so as a month-to-month licensee under the terms then applicable.

## **14. ELECTRONIC SIGNATURES**

This License may be executed and delivered by facsimile or other electronic means, which electronic copies shall be deemed to be original.

**IN WITNESS WHEREOF** the said parties hereto have duly executed this License on the dates noted below.

DATED at Lindsay, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**THE CORPORATION OF THE CITY OF  
KAWARTHA LAKES**

PER: \_\_\_\_\_  
Name: Doug Elmslie  
Title: Mayor

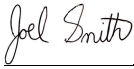
PER: \_\_\_\_\_  
Name: Cathie Richie  
Title: City Clerk

We have authority to bind the Corporation

We hereby accept the above License on the terms and conditions contained therein

DATED at Markham, this 24<sup>th</sup> day of \_\_\_\_\_, 20\_\_\_\_\_.

**XPLORE INC.**

PER:  \_\_\_\_\_  
Name: Joel Smith  
Title: National Director Real Estate &

Municipal and Utility Relations

I have authority to bind the Corporation

### Schedule "A"

Current Sketch/Survey of the Licensed Premises within the Property

The Licensed Premises shall consist of approximately 72 square metres ground space along with rights of way for access to the Licensed Premises by vehicle or foot from the nearest public way and for the installation of utility wires, poles, cables, conduits and pipes on the Property in the approximate locations as depicted below:



**Schedule "B"**

LEGAL DESCRIPTION

Municipal Address: 50 Tower Road, Kirkfield

Legal Description: Part of Lot 43, Concession 3, Parts 1 and 4 to 7 on 57R-8184, in the Geographic Township of Eldon, City of Kawartha Lakes

LRO: Victoria (57)

PIN: 63166-0087 (LT)



### Schedule "C"

**Fees:**

As per the KL Fee Schedule:

Service Description	Unit	Additional Fees	Rate Effective January 1, 2023	Rate Effective January 1, 2024	Reference
Co-location	Annual	\$0	\$6,000.00	\$6,220.00	By-Law 2018-017
Tower	Annual	\$0	\$13,000.00	\$13,470.00	By-Law 2018-017

All Hydro used by Licensee shall be paid by the licensee including installation if required.

Taxes for space used shall be paid by Licensee on a monthly basis.

Every year proceeding shall follow By-Law 2018-017 Rates and be due on January 1<sup>st</sup>.










# ON4714 Kirkfield\_Ground Site Agreement\_Kirkfield ON4714\_06052024-1

Final Audit Report

2024-06-06

Created:	2024-06-05
By:	Vicky Bach (vicky.bach@xplore.ca)
Status:	Signed
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-  Email viewed by Joel Smith (joel.smith@xplore.ca)  
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Document e-signed by Joel Smith (joel.smith@xplore.ca)

E-signature obtained using URL retrieved through the Adobe Acrobat Sign API

Signature Date: 2024-06-06 - 6:29:31 PM GMT - Time Source: server



Agreement completed.

2024-06-06 - 6:29:31 PM GMT



**Adobe Acrobat Sign**