

INDEFEASIBLE RIGHT OF USE AGREEMENT

CITY OF DECATUR, AN ILLINOIS MUNICIPALITY

AND

PONTUS LLC, A SERIES LLC FOR THE INDIVIDUALLY PROTECTED SUNNA FIBER LLC,
DBA SUNNA FIBER LLC

TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
1	Definitions	3
2	Fiber System	5
3	Rights in the Fiber System	5
4	Payment	6
5	Configuration of the Fiber System	6
6	Acceptance and Testing of Dark Fibers	7
7	Documentation	8
8	Term of IRU	8
9	Interconnection with the Fiber System	8
10	Maintenance and Repair of the Fiber System	9
11	Permits; Underlying Rights; Relocation	10
12	Operation and Use of the Fiber System	10
13	Indemnity	11
14	Limitation of Liability	12
15	Insurance	12
16	Taxes, Fees and Other Impositions	13
17	Notices	14
18	Confidentiality	15
19	Default	16
20	Termination	17
21	Assignment and Transfer Restrictions	17
22	Representations, Warranties and Acknowledgments	17
23	General	18
	IRU Signature Page	19

EXHIBITS	TITLE	PAGE
A	Route Description	20
B	Fiber Specifications / Acceptance Testing	21
C	Technical Contacts	23
D	Maintenance Specifications and Procedures	24
E	Dark Fiber Acceptance Notice and Signature Page	28

AGREEMENT FOR INDEFEASIBLE RIGHT OF USE (IRU) OF FIBER

THIS IRU AGREEMENT ("Agreement") is made and entered into as of _____, 2021 ("Effective Date"), by and between the City of Decatur, an Illinois Municipal Corporation ("CITY"), and Pontus LLC, a series LLC for the individually protected Sunna Fiber LLC, DBA Sunna Fiber LLC ("Customer").

RECITALS

WHEREFORE, CITY, owns, manages, and maintains a fiber network, which is a high-speed telecommunications network that provides reliable communication links to and among Decatur schools, institutions of higher education, libraries, museums, research institutions, State agencies, units of local government, and other local entities who provide service to residents of the CITY; and,

WHEREFORE, CITY is building a fiber optic communication network throughout Decatur for use by the CITY and other interested third parties by extending its current system to other parts of the community to provide services to interested parties, to serve as a community development tool and to eventually provide redundancy in the current system. ("Fiber System"); and,

WHEREFORE, Customer desires to obtain from CITY rights to optical fiber strands as described in Exhibit A (attached hereto and incorporated by reference) in the Fiber System on the terms and conditions set forth below.

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

ARTICLE 1

DEFINITIONS

Definitions. The following definitions shall apply to this Agreement.

"Access Fees" means all fees charged or assessed by any governmental authority with respect to those portions of the Fiber System located on or crossing or passing through lands owned or administered by such governmental authority including, without limitation, such as are calculated or otherwise based on the number of crossings, the aggregate distance of crossings, land value or the revenue, projected revenue, receipts, income, profits or other amounts calculated in a similar manner, of any Fiber System interest holder or its Affiliates.

"Affiliate" For the purpose of this Agreement, the term Affiliate when used herein shall mean and include all of the officers, directors, employees and agents of the CITY.

"Anticipated Completion Date" means, subject to Events of Force Majeure and any other extensions of time provided for in this Agreement, the dates set forth in Exhibit A (attached

hereto and incorporated by reference).

“Associated Property” means, the tangible and intangible property necessary for the use of the Dark Fiber (fiber without light) for the purposes described in this Agreement, including but not limited to the associated conduit. “Associated Property” does not include electronic, optronic, optical or other necessary equipment.

“Cable” means the fiber optic cable and the fibers contained therein, including the Dark Fiber, and associated splicing connections, splice boxes, and vaults to be installed by the CITY contractor as part of the Fiber System.

“Costs” means actual, direct costs paid or payable in accordance with U.S. generally accepted accounting principles consistently applied and which the CITY (or Customer, for purposes of Section 10.4) utilizes in billing third parties for reimbursable projects, including without limitation the following: (i) internal labor costs, including wages, salaries and benefits, and (ii) other direct costs and out-of-pocket expenses on a pass-through basis (e.g., equipment, materials, supplies, contract services, etc.).

“Customer POP” means a point of presence or terminal facility to which Customer has rights in and to, along the Dark Fiber route.

“Dark Fiber” means fiber without electronics at the end points to produce and receive light in the fiber.

“Dollars” or “\$” means U.S. dollars.

“Events of Force Majeure” means neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party’s performance of one or more of its obligations hereunder is caused by any Events of Force Majeure and such Party’s performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: Act of God; fire; flood; fiber, Cable, or other material failures, shortages or unavailability or other delay in delivery not resulting from the responsible Party’s failure to timely place orders therefore; lack of or delay in transportation; government codes, ordinances, laws, rules, regulations or restrictions; war or civil disorder; strikes or other labor disputes; or inability to gain access to the Fiber System; or any other cause beyond the reasonable control of such Party.

“Impositions” means all taxes, fees, assessment levies, imposts, duties, charges or withholdings of any nature (including, without limitation, ad valorem, real property, gross receipts, franchise, license and permit fees), together with any penalties, fines or interest thereon arising out of the transactions contemplated by this Agreement and/or imposed upon the Fiber System, or any part thereof, by any federal, state or local government or other public taxing authority, including Access Fees.

“Interconnection” or “Interconnections” or “Interconnection Points” means a location along the fiber path where fiber is or can be spliced.

“Interest Rate” means the lower of (i) the highest rate permitted by law, or (ii) one and one-half percent (1.5%) per month, compounded monthly (equal to approximately 19.56% per year).

“Maintenance Window” or “MW” means a prearranged period of time reserved for performing certain work on the Fiber System that may potentially impact traffic. Generally, this will be restricted to weekends, avoiding the first and last weekend of each month and high-traffic weekends.

“Party” or “Parties” shall mean City and Customer.

“Person” means any individual, corporation, partnership, Limited Liability Company, joint venture, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Proportionate Share” means, with respect to Customer, CITY, or any other Person that is an interest holder, and for each segment, the Costs shall be shared as follows: (a) if the affected segment includes any conduit housing the Dark Fiber, the Pro Rata Share of Costs shall be allocated equally among all of the affected conduits and (b) the Costs related to the conduit carrying the Dark Fiber plus Costs specifically related to fibers optic strands within such conduit, shall be allocated between Customer and the CITY and other Persons that are interest holders based on the ratio to which the number of Dark Fiber bears to the total number of fiber optic strands in such conduit. If this fraction varies over portions of a particular segment, then the Pro Rata Share shall be equal to the weighted average (weighted by length as set forth in the CITY's As-Built Drawings) of such relevant portions. For example, if the fraction for 100 feet of the affected segment is 0.1 and the fraction for the remaining 50 feet of the affected segment is 0.07, the weighted average for the entire segment would be 0.09.

ARTICLE 2

FIBER SYSTEM

The CITY Fiber System will generally connect the “A” and “Z” endpoints identified in Exhibit A (attached hereto and incorporated by reference). The route between each set of end points is hereafter referred to as a segment. CITY shall use commercially reasonable efforts to complete and test the dark fiber and provide a Completion Notice to Customer on or before the Completion Date set forth in Exhibit A.

ARTICLE 3

RIGHTS IN THE FIBER SYSTEM

3.1 As of the Effective Date, CITY shall grant to Customer and Customer shall receive from CITY (a) an exclusive indefeasible right of use of dark fibers set forth in Exhibit A that will be specifically identified by CITY in the Cable (“Dark Fiber”), and (b) the associated and non-exclusive indefeasible right to use the Associated Property, all such rights upon and subject to the terms and conditions set forth in this Agreement (collectively, the “IRU”).

3.2 The IRU does not include the right of Customer to own, control, maintain, modify, or revise the Dark Fiber or any Associated Property in CITY facilities, the right of physical access

to the Fiber System, the right to encumber the Fiber System in any manner, or the right to use any other portion of the Fiber System, except as expressly set forth herein.

3.3 CITY shall retain legal title in the fiber assets throughout the duration of the IRU, and nothing in this agreement shall convey any legal title to real or personal property, nor shall it create any security interest in said property. CITY represents, warrants, and agrees that, for all purposes, including, without limitation, for purposes of Section 541(d) of the Bankruptcy Code, with the granting of the Dark Fiber IRU hereby, CITY transfers its equitable interest in the Dark Fiber to Customer for the Term and retains any legal title.

ARTICLE 4

PAYMENT

4.1 In consideration of this agreement for the CITY to grant this IRU to Customer, Customer agrees to pay to CITY a non-recurring fee for each Segment as set forth in Exhibit A ("IRU Fee"). The IRU Fee is due and payable on the execution date of this agreement.

4.2 Also in consideration of this agreement, for the CITY to grant this IRU to Customer, Customer agrees to pay to CITY a recurring annual maintenance fee for each fiber mile as set forth in Exhibit A.

4.3 Total prepayment amount for this IRU agreement is set forth in Exhibit A. This advance payment is due upon the execution of this agreement and signed by both parties.

4.4 In addition to the amounts payable under Sections 4.3, Customer shall pay directly or reimburse CITY for all other sums, costs, fees, and expenses incurred to complete any additional work requested in writing by Customer related to this Agreement including, but not limited to, hand hole placement, conduit work, or splicing. For any such additional work, CITY will propose the scope of work and cost to the Customer and mutually work with the Customer on the final design and cost of such work.

4.5 If Customer fails to make any payment under this Agreement when due, then, in addition to such sum and to any other rights and remedies that CITY may have, Customer shall pay Interest on such unpaid amount at the Interest Rate defined and set forth in Exhibit A. Customer's obligation to pay any amounts under this Agreement shall not be subject to any rights of set-off, counterclaim, deduction, defense or other right that Customer may have against CITY or any other Person.

ARTICLE 5

CONFIGURATION OF THE FIBER SYSTEM

5.1 CITY shall have full and complete control and responsibility for determining any routing configurations of the Fiber System. CITY may route the Dark Fiber through any CITY facility in its reasonable discretion. Each Party shall have full and complete control and responsibility for determining network and service configurations or designs, re-grooming,

rearrangement or consolidation of channels or circuits and all related functions with regard to the use of that Party's fiber.

5.2 Customer specifically acknowledges that Customer is responsible for all engineering, design, and construction work on the Customer side of each Connecting Point, in addition to securing its own rights and related costs to access, occupy, and conduct typical broadband operations up to the Connecting Point (which may include, but not be limited to, construction permits and right away rights). Collectively, these Customer responsibilities are defined as "Customer Requirements". CITY acknowledges the Customer Requirements, and Customer will work diligently to finalize such considerations in order for CITY to complete its work by the Anticipated Completion Date. Customer acknowledges that any delay in Customer completing/providing Customer Requirements may delay CITY from completing work at any Connecting Point. In the event that Customer has not completed/provided the Customer Requirements by an agreed-upon date in order to allow CITY to complete work at any Connecting Point (including Fiber Acceptance Testing (see Article 6)) on or before the Anticipated Completion Date, then CITY may continue with the acceptance procedures to the extent possible and invoice for the services under this Agreement as if all locations were completed by the Anticipated Completion Date, provided that the CITY Fiber System at the Connecting Point meets Fiber Acceptance Testing procedures upon Customer's completion of the Customer Requirements. Upon receipt of said invoice, Customer shall remit payment for the services performed herein and in accordance with the terms of this Agreement.

5.3 Customer acknowledges and agrees that CITY is not supplying nor is CITY obligated to supply to Customer any optronics or electronics or optical or electrical equipment or other facilities, all of which are solely the responsibility of Customer, nor is CITY responsible for performing any work other than as specified in this Agreement.

ARTICLE 6

ACCEPTANCE AND TESTING OF DARK FIBERS

6.1 Dark fiber specifications set forth in Exhibit B (attached hereto and incorporated as reference) define acceptable Dark Fiber specifications within the CITY Fiber network.

6.2 Customer will be notified on or before the Anticipated Completion Date in Exhibit A by email when the fiber contracted for in this agreement is tested and ready to use, "Fiber Ready" date. Within 90 days of the Fiber Ready date of this agreement, Customer shall provide CITY with a written and or electronic notice accepting the Dark Fiber by signing the notice referenced in Exhibit E (attached hereto and incorporated by reference) or rejecting the Dark Fiber by specifying in writing the defect or failure in the Fiber Acceptance Testing. If Customer fails to notify CITY of Dark Fiber acceptance or rejection within 90 days following the Fiber Ready date of this Agreement, Customer shall be deemed to have accepted such Dark Fiber. The date of such notice of acceptance or deemed acceptance of the Dark Fiber shall be the "Acceptance Date." In the event of any good faith rejection by Customer, CITY shall take action as necessary, and as expeditiously as practicable, to correct or cure such defect or failure in accordance with Fiber Acceptance Testing. The foregoing procedure shall apply again and successively thereafter until CITY has remedied all defects or failures. The foregoing notwithstanding, if Customer uses the Dark Fiber other than for testing prior to acceptance, such use shall constitute acceptance of the Dark Fiber and the first date of such use shall be the Acceptance Date.

6.3 If Customer rejects the Dark Fiber even though CITY reasonably believes the test results conform to the specifications set forth in Exhibit B, the Parties shall work together to do cooperative testing, sharing the cost equally, to determine whether the test results conform to specifications. In the event the cooperative testing continues to demonstrate that the Dark Fiber conforms to the specifications in Exhibit B, and Customer continues to reject the Dark Fibers for forty-five (45) days after CITY made viable Dark Fibers available to Customer, this Agreement shall automatically terminate, and Customer shall pay 50% of the IRU Fee as a penalty for early termination.

ARTICLE 7

DOCUMENTATION

Within ninety (90) days of the date of a Completion Notice, CITY shall provide a route map to Customer in electronic format. At a minimum, the maps will show demarcation points, route, and existing splice point locations. CITY shall provide updated maps to Customer upon request, not to exceed two times in any 12-month period.

ARTICLE 8

TERM OF IRU

8.1 The IRU shall be granted and become effective when the Acceptance Date has occurred ("IRU Effective Date") and, subject to Section 8.2 and Articles 11, 19, 20, the IRU shall extend for a period of twenty (20) years thereafter ("Term").

8.2 Upon the expiration of the Term all rights to use of the Dark Fiber and any related rights granted hereunder, shall revert to CITY without reimbursement of any of the IRU Fee or other amounts previously paid, or required to be paid, by Customer hereunder, and Customer shall have no further right hereunder to use the Dark Fiber or any related Associated Property or CITY facilities. Upon written request from the Customer and at least 30 days prior to the expiration of the Term, the CITY will extend this IRU in 5-year increments for no additional IRU Fee as long as the fiber maintenance defined in Sections 4.2 is paid and current.

ARTICLE 9

INTERCONNECTION WITH THE FIBER SYSTEM

9.1 The Customer shall pay for Interconnection of its communications system with the Dark Fiber at the connecting points identified in Exhibit A. All Interconnections of the Dark Fiber and all other work with respect to the Fiber System shall be performed by an approved CITY fiber contractor. It is the responsibility of the Customer to obtain all governmental and other approvals and consents necessary with respect to work being completed at the Connecting Points.

9.2 Interconnection Points by Customer other than those required to fulfill this IRU request are prohibited without CITY'S written approval. The CITY may grant or withhold such approval in its sole and absolute discretion. Customer and CITY shall mutually configure the scope of work. Customer shall be responsible for the costs of any such additional Interconnections.

9.3 Customer understands that work requested under this Article 9 may cause the CITY to incur additional obligations with third parties ("Third Party Obligations"). Customer hereby agrees to pay or reimburse CITY for any fees associated with such Third-Party Obligations, provided that CITY will inform Customer of these additional obligations in writing prior to incurring them, and Customer may then choose whether to request performance of the work.

ARTICLE 10

MAINTENANCE AND REPAIR OF THE FIBER SYSTEM

10.1 From and after the IRU Effective Date, the maintenance of the Fiber System shall be provided in accordance with the CITY standard maintenance specifications and procedures set forth in Exhibit D (attached hereto and incorporated by reference). Customer agrees to pay CITY for Fiber Maintenance in accordance with the provisions set forth in Exhibit A. CITY reserves the right to increase the Fiber Maintenance Fee specified in Exhibit A following the 1st year from and every year thereafter the IRU Effective Date by an amount equal to the increase in the Consumer Price Index published by the United States Department of Labor & Bureau of Labor Statistics.

10.2 From and after the IRU Effective Date, in the event that all or any part of the Fiber System within such Segment is damaged or destroyed such that a Service Affecting Condition exists on the Dark Fiber, CITY shall resolve such Service Affecting Condition utilizing its standard procedures set forth in Exhibit D. Notwithstanding anything contained herein to the contrary, CITY shall not incur any liability to Customer by reason of a Service Affecting Condition, except its obligation to resolve such Service Affecting Condition as set forth in this Section, and Customer shall not be entitled to any credits for IRU Fees, or any other payment paid or to be paid by the Customer pursuant to this Agreement by reason of such Service Affecting Condition. For purposes of this Section, "Service Affecting Condition" shall mean any condition that causes loss of traffic to Customer, except where the condition is caused by a deficiency in Customer's electronics or other equipment.

10.3 The maintenance services to be provided by CITY include non-routine maintenance and repair of the Fiber System in response to an actual or potential failure, interruption, or impairment in the operation of the Fiber System like; any request by a third party to relocate a portion of the fiber, or any act of God like sink holes involving the segment of the Fiber System where the Customer is part owner. ("Unscheduled Maintenance"). Any Unscheduled Maintenance Costs found to be the responsibility of the fiber owners will be allocated among the various owners and other interest holders for the affected portion of the Fiber System, including Customer. Customer will be responsible for its Proportionate Share of any such Unscheduled Maintenance Costs, which will be invoiced by CITY to Customer. In this agreement the Proportionate Share to the Customer is equal to six (6) of one hundred forty-four (144) fibers or 4.2% of the total Unscheduled Maintenance Costs for this segment.

10.4 Customer shall have no right to physically access the Fiber System or maintain, adjust, align, or attempt to repair the Dark Fiber. Notwithstanding the foregoing, this provision shall not limit CITY'S ability or right to pursue a claim for damages to equipment or facilities caused by Customer and in no event shall this provision authorize Customer to access a Fiber System manhole, hand hole or other element of the Fiber System.

10.5 Unless otherwise agreed to in writing by the Parties, nothing in this Agreement shall obligate CITY to maintain Customer's optronic, electrical, optical, or other equipment, all of which are the obligation and responsibility of Customer.

10.6 Neither Party shall adjust, remove, relocate, align, or attempt to repair the other Party's equipment except as expressly authorized in advance in writing by the other Party. Each Party will be liable for any loss or damage to the other Party's equipment arising from that party's negligence, intentional act, unauthorized maintenance.

ARTICLE 11

PERMITS; RELOCATION

11.1 Subject to the terms and provisions of this Agreement, CITY shall use commercially reasonable efforts to obtain and maintain during the Term, certain rights of way and other agreements which are necessary for the use of the Fiber System by the CITY in accordance with this Agreement.

11.2 If, after the Acceptance Date with respect to any Segment, CITY is required (i) by a third party with legal authority to so require or (ii) by an act of nature (including, without limitation, erosion, earthquakes, flood, sinkhole, etc.), (iii) or if Customer agrees, to relocate any portion of the Fiber System, with respect to such Segment, including any of the facilities used or required in providing the IRU, CITY shall proceed with such relocation, including without limitation, the right, in good faith, to reasonably determine the extent of, the timing of, and methods to be used for such relocation; provided that any such relocation shall incorporate fibers meeting or exceeding the specifications of the Dark Fiber. In the event of any such relocation, CITY shall use commercially reasonable efforts to minimize any service interruptions.

11.3 CITY shall notify Customer in writing of Customer's Proportionate Share of the Costs of relocation. If Customer consents to the relocation, then Customer shall be responsible for its Proportionate Share of the Costs of relocation, which will be invoiced to Customer by CITY. If Customer does not consent, then it shall terminate this Agreement with respect to the Dark Fiber that requires relocation, and Customer shall have no further payment obligations with respect to it effective 30 days after Customer provides CITY notice.

ARTICLE 12

OPERATION AND USE OF THE FIBER SYSTEM

12.1 Customer represents, warrants, and covenants that it will use the Dark Fiber in compliance with and subject to all applicable government codes, ordinances, laws, rules, and regulations. Notwithstanding anything to the contrary contained herein, Customer shall secure, prior to the IRU Effective Date with respect to each Segment and maintain in full force and effect during the Term, any and all necessary approvals, consents, rights of way, permits, franchises, licenses or similar approvals from all governmental and other authorities which are necessary or required to be obtained by Customer for the CITY to grant the IRU to Customer and for the use and operation of the Dark Fiber by Customer.

12.2 Subject to the limitations set forth in this Agreement, Customer may use the Dark Fiber for lawful broadband purposes including, but not limited to voice, data, and video transmission services. Customer agrees and acknowledges that it has no right to use any of the fibers that are part of the Fiber System, other than the Dark Fiber secured by this IRU. Customer shall keep any and all of the Fiber System free from any liens, rights or claims of any third party attributable to Customer.

12.3 Customer and CITY shall promptly notify each other of any matters pertaining to, or the occurrence (or impending occurrence) of, any event which would be reasonably likely to give rise to any damage or impending damage to or loss of the Fiber System, or traffic thereon, that are known to such Party. Customer and CITY each agree to cooperate with and support the other in complying with any requirements applicable to their respective rights and obligations hereunder.

12.4 Customer shall not use its broadband systems in a way that interferes in any way with or adversely affects the use of the fibers or cable of any other person using the Fiber System. Customer acknowledges that the Fiber System includes or will include other participants, including the CITY and other owners and users of broadband systems.

12.5 If Customer elects to abandon use of the Dark Fiber after the first 20-year term of this agreement, it shall notify CITY in writing of the effective date of the abandonment. Customer will not be entitled to a refund of any portion of the prepaid IRU Fee. After the date of abandonment, Customer's liability for Maintenance Fees with respect to the abandoned route miles will end ninety (90) days from the date that Customer delivers written notice of abandonment to CITY. Customer will remain liable for all fees associated with returning Dark Fiber to its initial state, as it was prior to Customer Interconnections and prior to customer purchase of Dark Fiber.

ARTICLE 13

INDEMNITY

Customer shall indemnify and hold harmless the CITY, its Affiliates, and all officers, directors, employees, stockholders, partners and agents of the CITY and its Affiliates ("Indemnified Parties") from and against any and all claims, demands, costs, damages, losses, liabilities, joint and/or several, expenses of any nature including reasonable attorneys', accountants', and experts' fees and disbursements, and judgments, fines, settlements and other amounts ("Damages") arising from any and all civil, criminal, administrative or investigative claims, demands, actions, suits or proceedings ("Claims") relating to or arising out of:

- (a) Any failure of Customer to observe or perform the terms and provisions of this Agreement;
- (b) Any failure of any representation or warranty made by Customer herein to be true in any material respect as of the date made or deemed made;
- (c) Any Claim of any third party resulting from the negligence or willful misconduct of Customer; and
- (d) Any Claim of any customer of Customer.

The Indemnified Parties shall promptly notify Customer of the nature and amount of such Claim and the method and means proposed by the Indemnified Parties for defending or satisfying such claim. The Indemnified Parties shall consult with the Customer respecting the defense and satisfaction of such claim, including the selection of and direction to legal counsel, and the Indemnified Parties shall not pay or settle any such claim without the prior written consent of the Customer, which consent shall not be unreasonably withheld. Nothing herein contained shall be construed as prohibiting the Indemnified Parties from retaining their own legal counsel and defending any actions or suits brought against them and, in such event, the Indemnified Parties shall be liable for all costs and fees incurred solely in the defense of any such claim, demand or suit. The Indemnified Parties will coordinate any defense with Customer.

ARTICLE 14

LIMITATION OF LIABILITY

CITY'S LIABILITY HEREUNDER SHALL NOT EXCEED THE UNUSED PORTION OF THE IRU FEE, IF ANY, BASED ON THE TIME PERIOD REMAINING IN THE TERM OR ANY RENEWAL TERM WHEN THE EVENT GIVING RISE TO LIABILITY OCCURS. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, NO PARTY HERETO SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES RESULTING FROM A PARTY'S PERFORMANCE OR FAILURE TO PERFORM ANY TERM OR PROVISION OF THIS AGREEMENT, REGARDLESS OF WHETHER SUCH CLAIM IS MADE UNDER THEORIES OF CONTRACT OR THEORIES OF TORT (INCLUDING STRICT LIABILITY).

ARTICLE 15

INSURANCE

15.1 Following the Acceptance Date, Customer is required to provide a minimum limit of \$1,000,000 for General Liability insurance coverage. This will provide coverage for any property damage or bodily injury as a result of work related to the fiber provided to customer in this Agreement.

15.2 Customer is also required to name the City of Decatur as additional insured on the policy. The policy will need to remain in effect as long as the Customer utilizes the fiber optic strands outlined by this contract.

ARTICLE 16

TAXES, FEES AND OTHER IMPOSITIONS

16.1 The parties acknowledge and agree that it is their mutual objective and intent to (a) minimize the aggregate Impositions payable with respect to the Fiber System, and (b) share such Impositions according to their respective interests in the Fiber System. They agree to cooperate with each other and coordinate their efforts to achieve such objectives in accordance with the provisions of this Article.

16.2 CITY shall be responsible for and shall timely pay any and all Impositions imposed or assessed prior to the Acceptance Date.

16.3 Following the first Acceptance Date, Customer shall be responsible for and shall pay (a) all Impositions imposed on, based on, or otherwise measured by the gross receipts, gross income, net receipts or net income received by or accrued to Customer with respect to the use of the Dark Fiber; or (b) all Impositions which have been separately assessed, allocated to, or imposed on the Dark Fiber including, but not limited to ad valorem property taxes and the Third Party Obligations. If the Dark Fiber is the only fiber located in a Cable from the point where the Cable leaves the Fiber System right-of-way to a Customer POP, Customer shall be solely responsible for any and all Impositions imposed on or with respect to such portion of the Fiber System. To the extent such Impositions are not separately assessed, allocated to or imposed on the Dark Fiber, CITY will pay, or request concurrent payment by CITY and Customer of, all such Impositions. CITY shall notify Customer of such Imposition, and Customer shall promptly reimburse CITY for (or pay concurrently) Customer's share of all such Impositions, which shall be determined as follows:

- (a) To the extent that such Impositions are calculated based on the revenue, projected revenue, receipts, income or profits of Customer or its Affiliates, Customer will be responsible for the portion of the amount of such Impositions as is calculated based on the revenue, projected revenue, receipts, income or profits of Customer or its Affiliates;
- (b) To the extent that such Impositions are calculated based on the revenue, projected revenue, receipts, income or profits of CITY or its Affiliates, CITY will be responsible for the portion of the amount of such Impositions as is calculated based on the revenue, projected revenue, receipts, income or profits of CITY or its Affiliates;
- (c) Otherwise, Customer will be responsible for its Proportionate Share of the Impositions and CITY will be responsible for its Proportionate Share of the Impositions.

16.4 CITY shall have the right to contest any Imposition (including by nonpayment of such Imposition). The out-of-pocket costs and expenses incurred by CITY in any such contest shall be shared by CITY and Customer in the same proportion as to which the parties would have shared in such Impositions as they were assessed. Any refunds or credits resulting from a contest brought pursuant to this Section 16.4 shall be divided between CITY and Customer in the same

proportion as separately determined or as originally assessed. In any such event, CITY shall provide timely notice of such challenge to Customer.

16.5 CITY and Customer agree to cooperate fully in the preparation of any returns or reports relating to the Impositions. CITY and Customer further acknowledge and agree that the provisions of this Article are intended to allocate the Impositions on procedures and methods of computation that are in effect on the date of this Agreement. Material changes in such procedures and methods could significantly alter the fundamental economic assumptions of the parties underlying this Agreement. Accordingly, the parties agree that, if such procedures or methods of computation change materially, the parties will negotiate in good faith an amendment to this Article 16 to preserve, to the extent reasonably practicable, the economic intent and effect of this Article.

ARTICLE 17

NOTICES

Unless otherwise stated herein, all notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered, or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

If to Customer:

For Administrative/Payment Notices:

**Sunna Fiber LLC
Alan Duesterhaus
861 W. William St
Decatur, Illinois 62521**

For Legal Notices:

**Sunna Fiber LLC
Alan Duesterhaus
861 W. William St
Decatur, Illinois 62521**

If to CITY:

For Dark Fiber Acceptance or Rejection notice:

**City of Decatur
Information Technology Director
#1 Gary K. Anderson Plaza
Decatur, Illinois 62523**

For Payments:

**City of Decatur
Accounts Receivable
#1 Gary K. Anderson Plaza
Decatur, IL 62523**

For Legal Notices:

**City of Decatur
Attn: Legal Department
#1 Gary K. Anderson Plaza
Decatur, IL 62523**

With a copy to:

**City of Decatur
ATTN: Information Technology Director
#1 Gary K. Anderson Plaza
Decatur, IL 62523**

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may by, similar notice given, change the address to which future notices or other communications shall be sent.

ARTICLE 18

CONFIDENTIALITY

18.1 Each party, including its agents and subcontractors, to this Agreement may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this Agreement. Each party recognizes and acknowledges that the Parties are each subject to the laws of the State of Illinois and the Freedom of Information Act and, as such, will comply with the provisions of the Act as required by law. Customer information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. Any request for documents related to this Agreement shall be provided to the other Party in sufficient time for an objection to disclosure of the requested documents to be made. No confidential data collected, maintained, or used in the course of performance of the Agreement shall be disseminated except as authorized by law, either during the period of the contract or thereafter. The Parties must return any and all confidential data collected, maintained, created or used in the course of the performance of the Agreement, in whatever form it is maintained, promptly at the end of the Agreement, or earlier at the request of either Party, or notify the Party of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party, received in good faith from a third-party not subject to any confidentiality obligation to the disclosing Party, now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party, or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

ARTICLE 19

DEFAULT

19.1 The following events shall constitute (Events of Default), the occurrence of which shall constitute a material breach of this Agreement and entitle the non-defaulting party to seek

the rights and remedies available to it under the terms of this Section 19, Default:

- (a) Failure by Customer to pay any amount when due and such failure is not cured within thirty (30) calendar days following receipt of written notice of such failure, or
- (b) Failure by either party to observe or perform any other material obligation under this Agreement when such failure shall continue for a period of thirty (30) calendar days (or such longer period as may be agreed upon by the parties in writing; provided that the defaulting party commences to cure such failure within such thirty (30) calendar day period and thereafter diligently pursues such cure) after written notice.

19.2 Rights and Remedies of Customer. Upon the occurrence of an Event of Default by or with respect to the CITY, Customer shall be entitled to terminate this Agreement.

19.3 Rights and Remedies of the CITY. Upon the occurrence of an Event of Default by or with respect to Customer, the CITY shall have the right to: (i) terminate the Agreement; (ii) recover actual amounts owed by Customer to the CITY that accrued on or prior to the date of termination; and/or (iii) recover Damages. In addition to the foregoing, Customer shall be deemed to have abandoned the Dark Fiber, and to have conveyed to CITY all right, title and interest in and to the Dark Fiber. Customer shall provide to the CITY a bill of sale, or such other documents as may be reasonably necessary to evidence such abandonment and/or conveyance.

19.4 Notwithstanding anything to the contrary contained in this Agreement, Customer's sole and exclusive remedy for any failure by the CITY to deliver the Dark Fiber by the Anticipated Completion Date shall be limited to those contained in this Section 19.4. In the event the CITY shall have failed to deliver the Dark Fiber within ninety (90) days after the Anticipated Completion Date (as such date may be extended by Events of Force Majeure or under the terms of this Agreement), then Customer may terminate this Agreement with respect to such Segment and receive a refund of the Initial Payment allocable to such Segment. If Customer elects to so terminate, neither Party shall have any further duties or obligations to the other Party (except for the CITY'S obligation to so refund the allocable Initial Payment) under this Agreement with respect to such cancelled Segment. In the event the CITY shall have failed to deliver the Dark Fiber in any Segment within twelve (12) months after the Effective Date, then this Agreement shall automatically terminate with respect to such Segment and CITY shall refund to Customer the Initial Payment with respect to such Segment, and the CITY shall have no further duties or obligations hereunder with respect to such Segment.

ARTICLE 20

TERMINATION

Upon termination of this Agreement, the IRU shall immediately terminate and all rights of Customer hereunder to use the Fiber System shall cease, all rights hereunder to the use of the Fiber System shall revert to the CITY, and the CITY shall owe Customer no further duties, obligations, or consideration. Customer shall, within thirty (30) days of such termination, remove from any CITY facilities, all Customer property, equipment, and materials used in connection with the Dark Fiber. Customer shall accomplish such removal at Customer's sole expense, under

CITY'S supervision and in a manner that does not damage the Fiber System. Customer shall be responsible for any damage caused by such removal. If Customer fails to remove its property within such period, the property shall be deemed abandoned and the CITY shall dispose of the same in any manner it deems reasonably appropriate, at Customer's expense. Termination of this Agreement shall not affect the rights or obligations of either Party that have arisen before the date of termination or expiration.

ARTICLE 21

ASSIGNMENT AND TRANSFER RESTRICTIONS

21.1 Subject to Section 21.2 below, Customer may not transfer or assign all or any part of its interest under this Agreement, or delegate any duties, burdens, or obligations arising hereunder, without the CITY'S consent, which consent may be given or withheld in CITY'S sole and absolute discretion. A transfer or assignment in violation of this Article 21 shall constitute a material breach of this Agreement.

21.2 Notwithstanding the arrangements permitted under this Article 21, Customer acknowledges and agrees that Customer shall not sell, lease, IRU or otherwise transfer any interest in the Dark Fibers to a third party. The Parties understand and agree that the CITY would not have entered this Agreement but for the provisions in this section 21.2.

ARTICLE 22

REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS

22.1 By execution of this Agreement, each Party represents and warrants to the other:

(a) That the representing Party has full right and authority to enter into and perform this Agreement in accordance with the terms hereof and thereof, and that by entering into or performing this Agreement, the representing Party is not in violation of its charter or bylaws, or any law, regulation or agreement by which it is bound or to which it is subject;

(b) That the execution, delivery, and performance of this Agreement by such Party has been duly authorized by all requisite corporate action, that the signatories for such Party hereto are authorized to sign this Agreement, and that the joinder or consent of any other party, including a court or trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement by such Party.

22.2 CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS SET FORTH IN THIS AGREEMENT THE CITY MAKES NO WARRANTY, REPRESENTATION OR INDEMNITY, EXPRESS OR IMPLIED, WITH RESPECT TO THE DARK FIBER, THE FIBER SYSTEM, THE ASSOCIATED PROPERTY, ANY CITY FACILITIES OR ANY WORK PERFORMED UNDER THIS AGREEMENT, INCLUDING ANY AND ALL WARRANTIES OF DESIGN, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE, AND CUSTOMER HEREBY EXPRESSLY WAIVES AND DISCLAIMS ALL SUCH WARRANTIES, REPRESENTATIONS AND INDEMNITIES. THE WARRANTIES SET FORTH IN THIS AGREEMENT CONSTITUTE THE

ONLY WARRANTIES MADE BY THE CITY TO CUSTOMER WITH RESPECT TO THIS AGREEMENT AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS, OR IMPLIED. For the avoidance of doubt, nothing contained in this Section 22.2 shall be in conflict with CITY'S responsibility to maintain the Fiber System as further described in Article 10 such that the Dark Fibers are operating in conformity with the applicable specifications as further described in Exhibit B.

ARTICLE 23

GENERAL

23.1 Binding Effect. This Agreement, and each of the Parties' respective rights and obligations under this Agreement, shall be binding on and shall inure to the benefit of the Parties hereto and each of their respective permitted successors and assigns.

23.2 Waiver. The failure of either Party hereto 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.

23.3 Choice of Law/Forum. This contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois.

23.4 Rules of Construction. 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 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.

(a) Unless expressly defined herein, words having well known technical or trade meanings shall be so construed. All listing of items shall not be taken to be exclusive, but shall include other items, whether similar or dissimilar to those listed, as the context reasonably requires.

(b) Except as set forth to the contrary herein, any right or remedy of Customer or the CITY shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

(c) This Agreement has been fully negotiated between and jointly drafted by the Parties.

(d) All actions, activities, consents, approvals, and other undertakings of the Parties shall be performed in a reasonable and timely manner, it being expressly acknowledged and understood that time is of the essence in the performance of obligations required to be performed by a date expressly specified herein. Except as specifically set forth herein, for the purpose of this Agreement the standards and practices of performance within the telecommunications industry in the relevant market shall be the measure of a Party's performance.

23.5 Entire Agreement. This Agreement constitutes the entire and final agreement and understanding between the Parties 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 and Attachment referred to herein are integral parts hereof and are hereby made a part of this Agreement. To the extent that any of the provisions of the attached Exhibits hereto are inconsistent with the other express terms of this Agreement, the terms of Exhibits shall prevail. This Agreement may only be modified or supplemented by an instrument in writing executed by an authorized representative of each Party and delivered to the Party relying on the writing.

23.6 Relationship of the Parties. The relationship between Customer and the CITY shall not be that of partners, agents, or joint ventures 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, but not limited, to federal income tax purposes. Customer and the CITY, parties and shall discharge their contractual obligations at their own risk subject, however, to the terms and conditions hereof.

23.7 Severability. If any term, covenant, or condition contained herein is, to any extent, held 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.

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

23.9 Technical Contacts. Exhibit C (attached hereto and incorporated by reference) documents technical contacts including levels of problem escalation for the CITY and for the Customer.

In confirmation of their consent and agreement to the terms and conditions contained in this Agreement and intending to be legally bound hereby, the Parties have executed this Agreement as of the date first above written.

City of Decatur
An Illinois Municipality

Pontus LLC, a series LLC for the
individually protected Sunna Fiber LLC,
DBA Sunna Fiber

by _____

by _____

Date:

Customer FEIN #:

Name:

Date:

Title:

Name: Megan Mastin

Title: President

EXHIBIT A

Route Description

Route Description: Customer IRU fiber leaves Richland Community College Illinois Century Network Point of Presence ("A" Endpoint), runs east on Hubbard Avenue and turns south on 27th street to Pershing Avenue then goes west across Pershing and turns south on Jasper Avenue to Garfield Avenue and then turns south on Martin Luther King Jr., turns west on Division Street and then south on Main Street ally to Fire House 1 located at 1415 North Water Street. Route further runs out of Firehouse 1 to the north on Main Street ally and then east across Division Street to Martin Luther King Jr. where it turns south. Route continues south to North Street where it turns west and enters the Decatur Civic Center at #1 Gary K. Anderson Drive. The fiber then leaves the Decatur Civic Center and goes east across North Street and then turns south on Martin Luther King Jr Drive to Wood Street where it turns west and travels to a ground box on the northwest corner of Wood Street and Monroe Street. From here the fiber travels north on Monroe Street where it turns west on West William Street to a ground box in the right of way south of 861 West William Street. ("Z" Endpoint).

Anticipated Completion Date: To be Announced.

Route Miles: 8.24 miles

Total IRU Strands Allocated to Customer: 2

Fiber Strand Miles: 16.48

IRU Fee: \$16,480 (US dollars)

IRU Fiber Maintenance Fee: \$36 per year per fiber strand mile (16.48 miles). The Fiber Maintenance period will start on the fiber acceptance date recorded in Exhibit E (attached hereto and incorporated by reference) and payable at the start of the maintenance period totaling \$593.28 annually. The IRU Fiber Maintenance Fee shall be adjusted annually in accordance with Article 10.1 of this Agreement.

Total Due to CITY on day of IRU contract execution: \$16,480

Equipment: CITY will not provide any equipment, optronics, patch cables or the like to connect the IRU fiber to the ICN at the Richland POP or the Customer end of this circuit.

EXHIBIT B

Fiber Specifications / Acceptance Testing

1. Fiber Specifications.

- a. The maximum bi-directional average splice loss shall not exceed 0.15 dB.
- b. All splices shall be sealed in waterproof splice enclosures.
- c. Attenuation at 1310 nm = 0.35 dB/km max
- d. Attenuation at 1550 nm = 0.25 dB/km max
- e. Connector loss shall not exceed 0.5dB per connector.
- f. Fiber will meet or exceed Corning Single Mode Fiber SMF-28 Specifications
- g. Event Reflectivity (Minimum ORL) should not exceed 27 dB.

2. Fiber Acceptance Testing. CITY Contractor will conduct the following tests as part of its Acceptance Test Plan:

- Non-destructive Attenuation Tests (End to End)
- Optical Time Domain Reflectometer Tests (OTDR)

Fiber acceptance testing will be performed to ensure that the fibers will operate within the parameters of the Specifications set forth in this Exhibit B.

a. More specifically, fiber acceptance testing will include the following:

- Continuity Uniformity Tests:
All fibers shall be tested bi-directionally at 1310 nm or 1550 nm, as applicable, with an OTDR; the subsequent traces shall be inspected for end-to end continuity and for uniform attenuation. These traces will be attached to an email or contained on a removable storage drive.
- Optical Length:
The OTDR will be used to determine the end-to end optical length of the cable.
- Splice Loss:
Splice loss will be measured bi-directionally with an OTDR using the Splice Loss average method.
- End-to-End Loss:
Using a light source and a power meter, the bi-directional, connector-to-connector attenuation will be measured for each fiber at 1310 nm and 1550 nm, as applicable. The acceptance average attenuation per kilometer on a per span basis shall be the attenuation set forth by this agreement.
 - a. The end-to-end value as measured with an industry-accepted laser source and power meter should have an attenuation rating of less than or equal to the following:

- (1) At 1310 nm: $(0.35\text{dB/km} \times \text{km of cable}) +$

(number of connectors x 0.50) +
(number of splices x 0.10)

(2) At 1550 nm: (0.25 dB/km x km of cable) +
(number of connectors x 0.50) +
(number of splices x 0.10)

b. The CITY'S loss / attenuation objective for each fiber optic splice is 0.10 dB (with a 0.15 upper limit) when measured in one direction with an OTDR test set (excluding connector loss, which is typically 0.50 dB per connector)

3. Out-of-Spec Testing. Test results outside the specifications listed above 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.

EXHIBIT C

Technical Contacts

CITY OF DECATUR

CITY escalation list:

First Level:

IT Support Help Desk
Desk: 217-424-2703

Second Level:

I T Network Systems Administrator
Desk: 217-450-2243
Mobile: 217-TBD

Third Level:

Information Technology Department Director
Desk: 217-450-2236
Mobile: 217-855-8715

CUSTOMER

Customer escalation list:

First Level:

Name: Keegan Duesterhaus
Desk: 217.615.3453 x123
Mobile: 864.316.7352

Second Level:

Name: Alan Duesterhaus
Desk: 217.619.0561
Mobile: 312.248.4833

Third Level:

Name: Megan Mastin
Desk: 217.615.3453 x100
Mobile: 864.316.8747

EXHIBIT D

Maintenance Specifications and Procedures

The Party receiving maintenance services from CITY hereunder shall be referred to herein as the "Customer". All other capitalized terms not otherwise defined herein shall have their respective meanings as set forth in the Agreement of which this Exhibit forms a part.

1. MAINTENANCE.

(a) Scheduled Maintenance. Routine maintenance and repair of the Fiber System described in this Section 1 shall be performed by or under the direction of CITY, at CITY'S reasonable discretion. Scheduled Maintenance shall include the following activities:

- (i) Patrol of CITY System route on a reasonable routine basis;
- (ii) Maintenance of a "Call-Before-You-Dig" program and all required and related cable locates;
- (iii) Maintenance of signposts along the CITY Fiber System right-of-way;
- (iv) Assignment of fiber maintenance employees or subcontractors to locations along the Fiber System at intervals dependent upon terrain, accessibility, locate ticket volume, etc. CITY shall decide the staffing of fiber maintenance employees for the Fiber System; and
- (v) CITY shall have qualified representatives on site any time CITY has reasonable advance knowledge that another person or entity is engaging in construction activities or otherwise excavating within five (5) feet of the Fiber System.

(b) Unscheduled Maintenance. Non-routine maintenance and repair of the Fiber System, which is not included as Scheduled Maintenance, shall be performed by or under the direction of CITY. Unscheduled Maintenance shall commence upon the Acceptance Date of the Agreement. Unscheduled Maintenance shall consist of:

- (i) "Emergency Unscheduled Maintenance" in response to a fiber system alarm triggered by the CITY IT Help Desk' or notification by any third party of any failure, interruption or impairment in the operation of the Fiber System, or any event imminently likely to cause the failure, interruption or impairment in the operation of the Fiber System.
- (ii) "Non-Emergency Unscheduled Maintenance" in response to any potential service-affecting situation to prevent any failure, interruption, or impairment in the operation of the Fiber System.

Customer shall immediately report the need for Unscheduled Maintenance to the CITY in accordance with procedures promulgated by the CITY from time to time. CITY IT Help Desk will log the time of Customer's report, verify the problem and dispatch personnel immediately to take corrective action.

2. CITY IT HELP DESK. CITY shall operate and maintain an Information Technology Help Desk capable of receiving Fiber System alarms twenty-four (24) hours a day, seven (7) days a week. CITY'S maintenance employees or subcontractors shall be available for dispatch twenty-four (24) hours a day, seven (7) days a week. CITY shall have its first maintenance employee at the site requiring Emergency Unscheduled Maintenance activity within two (2) hours after the time CITY becomes aware of an event requiring Emergency Unscheduled Maintenance, unless delayed by circumstances beyond the reasonable control of the CITY. CITY personnel shall dispatch maintenance and repair personnel to handle and repair problems detected in the CITY Alert System.

3. COOPERATION AND COORDINATION.

(a) Customer shall utilize an Escalation List, as updated from time to time, to report and seek immediate action on exceptions noted in the performance of the CITY IT resources in meeting maintenance service objectives.

(b) Customer will, as necessary, arrange for escorted access for CITY to all sites of the Fiber System, subject to applicable contractual, underlying real property and other third-party limitations and restrictions.

(c) In performing its services hereunder, the CITY shall take workmanlike care to prevent impairment to the signal continuity and performance of the Fiber System. The precautions to be taken by the CITY shall include notifications to Customer. In addition, the CITY shall reasonably cooperate with Customer in sharing information and analyzing the disturbances regarding the cable and/or fibers. In the event that any Scheduled or Unscheduled Maintenance hereunder requires a traffic roll or reconfiguration involving cable, fiber, electronic equipment, or regeneration or other facilities of the Customer, then Customer shall, at CITY'S reasonable request, make such personnel of Customer available as may be necessary in order to accomplish such maintenance, which personnel shall coordinate and cooperate with CITY employees in performing such maintenance as required of the CITY hereunder.

(d) The CITY shall notify Customer(s) at least seven (7) days prior to the date in connection with any Maintenance Window of any Scheduled Maintenance and as soon as possible after becoming aware of the need for Unscheduled Maintenance. Customer shall have the right to be present during the performance of any Scheduled Maintenance or Unscheduled Maintenance so long as this requirement does not interfere with the CITY'S ability to perform its obligations under this Agreement. In the event that Scheduled Maintenance is canceled or delayed for whatever reason as previously notified, the CITY shall notify Customer at the CITY'S earliest opportunity and will comply with the provisions of this Section.

4. FACILITIES.

(a) CITY shall maintain the Fiber System in a manner, which will permit Customer's use. All common systems within facilities along the CITY Fiber System shall be maintained in accordance with manufacturer's specifications, to include battery plants, generators, and HVAC units.

(b) Except to the extent otherwise expressly provided in the Agreement, Customer will be solely responsible for providing and paying for any and all maintenance of all electronic, optronic

and other equipment, materials and facilities used by Customer in connection with the operation of their Dark Fibers, none of which is included in the maintenance services to be provided hereunder.

5. FIBER OPTIC CABLE/FIBERS.

(a) The CITY shall perform appropriate testing on the fiber optic cable contained in the Fiber System in accordance with CITY'S then current preventative maintenance procedures as agreed to by Customer, which shall not substantially deviate from standard industry practice.

(b) The CITY shall maintain sufficient capability to teleconference with Customer during Emergency Unscheduled Maintenance in order to provide regular communications during the restoration process. When correcting or repairing fiber optic cable discontinuity or damage, including but not limited to, an event of Emergency Unscheduled Maintenance, CITY staff shall arrive on site within two (2) hours of learning of traffic affecting discontinuity and effect repair of first fiber within six (8) hours after the CITY maintenance employee's arrival at the problem site. In order to accomplish such objective, it is acknowledged that the repairs so effected may be temporary in nature. In such event, within twenty-four (24) hours after completion of any such Emergency Unscheduled Maintenance, the CITY and/or its contractors shall commence its planning for permanent repair, and thereafter promptly shall notify Customer of such plans, and shall implement such permanent repair within an appropriate time thereafter. Restoration of open fibers on fiber strands not immediately required for service shall be completed on a mutually agreed-upon schedule.

(c) During restoration, the CITY will work to restore all traffic as quickly as possible. The CITY, promptly upon arriving on the site of the cut, shall determine the course of action to be taken to restore the Fiber System and shall begin restoration efforts. The CITY and its contractor(s) shall splice fibers tube by tube or ribbon by ribbon in a logical order with consideration to all lit fibers within the cable.

(d) In performing permanent repairs, including the repair of micro bends and splice work, the CITY shall comply with the splicing specifications as set forth in Exhibit B, and shall take all reasonable steps to ensure that attenuation across the zone of repair satisfies the specifications in Exhibit B. CITY shall provide to Customer any modifications to these specifications as may be necessary or appropriate in any particular instance for Customer's approval, which approval shall not be unreasonably withheld.

(e) CITY'S representatives and /or its contractors who are responsible for initial restoration of a cut fiber optic cable shall carry on their vehicles the typical appropriate equipment that would enable a temporary splice, with the objective of restoring operating capability in as little time as possible. CITY and/ or its contractors shall maintain an inventory of spare fiber optic cable in storage facilities supplied and maintained at strategic locations to facilitate timely restoration.

6. Scheduled Maintenance which is reasonably expected to produce any signal discontinuity shall be scheduled between 12:01 AM and 6:00 AM Central Time. Major system work, such as fiber rolls and hot cuts, will be scheduled for weekends and shall allow work during daylight hours if on a Saturday or Sunday.

7. CITY may subcontract any of the maintenance services hereunder; provided that the CITY shall require the subcontractor(s) to perform in accordance with the requirements and procedures set forth herein. The use any such subcontractor shall not relieve the CITY of any of its obligations hereunder.

(DARK FIBER ACCEPTANCE NOTICE AND SIGNATURE PAGE TO FOLLOW)

EXHIBIT E

Dark Fiber Acceptance Notice

By signature affixed below, the City of Decatur ("CITY") hereby officially notifies Sunna Fiber ("Customer") that the Dark Fiber provided to Customer, pursuant to the IRU Agreement between the CITY and Customer dated _____, 2021 ("Agreement"), and has a route described as follows:

Customer IRU fiber leaves Richland Community College Illinois Century Network Point of Presence ("A" Endpoint), runs east on Hubbard Avenue and turns south on 27th street to Pershing Avenue then goes west across Pershing and turns south on Jasper Avenue to Garfield Avenue and then turns south on Martin Luther King Jr., turns west on Division Street and then south on Main Street ally to Fire House 1 located at 1415 North Water Street. Route further runs out of Firehouse 1 to the north on Main Street ally and then east across Division Street to Martin Luther King Jr. where it turns south. Route continues south to North Street where it turns west and enters the Decatur Civic Center at #1 Gary K. Anderson Drive. The fiber then leaves the Decatur Civic Center and goes east across North Street and then turns south on Martin Luther King Jr Drive to Wood Street where it turns west and travels to a ground box on the northwest corner of Wood Street and Monroe Street. From here the fiber travels north on Monroe Street where it turns west on West William Street to a ground box in the right of way south of 861 West William Street. ("Z" Endpoint).

Has an Acceptance Date of _____, 2021.

Accordingly, for purposes of the Agreement, the Acceptance Date shall be the above stated date.

Signed and acknowledged without exception:

**City of Decatur
An Illinois Municipality**

**Pontus LLC, a series LLC for the
individually protected Sunna Fiber LLC,
DBA Sunna Fiber**

by _____

By _____

Date:

Date:

Name:

Name: Megan Mastin

Title:

Title: President