

## CITY OF ERIE WIFI - RIGHT OF ENTRY AGREEMENT

This Entry Agreement (hereinafter the "Agreement") is by and between building owner (hereinafter the "Owner"), as completed on <https://www.velocitynetwork.net/erie-public-wifi/> form with address information entered on the same form, (hereinafter the "Premises") and **the City of Erie** on behalf of itself, its affiliates, and contractors, (hereinafter collectively "Provider"), with a mailing address of 626 State Street, Erie PA 16501. This Agreement commences on the later of the execution dates set forth below the signatures (hereinafter the "Effective Date"). Provider and Owner may individually be referred to as a "Party" or collectively as the "Parties".

### THE PARTIES AGREE AS FOLLOWS:

#### 1. RIGHT OF ENTRY AND EQUIPMENT.

- a. In consideration of the mutual benefits and obligations set forth herein, Owner hereby grants to Provider a non-exclusive right of entry to the Premises and those buildings of Owner located on the Premises ("Buildings") for the installation, attachment, maintenance, modification, inspection, relocation, repair, upgrade, replacement or removal of any equipment and facilities and other communications accessories, equipment, apparatus, fixtures, hardware, appliances, and appurtenances and any other associated equipment (collectively, "Equipment") to provide any of Provider's services (hereinafter the "Services") to any customers who can receive Services by such Equipment. Owner also hereby authorizes Provider to utilize those conduits and ducts of Owner that Owner may designate as available for Provider's use (collectively "Conduit").
- b. The rights herein granted to Provider shall include use of available power at the Premises, together with the right to access and use all i) risers in the Buildings, ii) Building entrance facilities, iii) Building utility entrance facilities, iv) utility closets in the Buildings, v) private rights-of-way, and vi) other areas on the Premises and Buildings as is reasonably required for the purpose set forth herein.
- c. All of the above grants and authorizations given by Owner are to the extent necessary or desirable for Provider to provide its Services to the Premises and shall extend to Provider's authorized agents.

2. **OWNER REPRESENTATIONS.** Owner represents and warrants to Provider that Owner is the legal owner of the Premises, the Building(s) and Conduit (if applicable), and that no other person has any rights in the forgoing that conflict with Provider's rights under this Agreement. Owner recognizes Provider's right to have exclusive control over any Provider installed Equipment, and Owner will not attach to or use, and will not knowingly allow a third party to attach to or use, Provider's Equipment for any purpose without Provider's prior written consent. In the event the Owner is not executing this Agreement, the undersigned person executing on behalf of Owner represents that the undersigned is Owner's authorized agent and has full authority to bind Owner to the terms and conditions of this Agreement.

3. **RESPONSIBILITY TO MARK PRIVATE FACILITIES.** If Owner has private lines at the Premises that could impact Provider's installation of Equipment, including, but not limited to, electrical services, gas lines, sprinklers, sprinkler heads, drains, cables, pipes and wires (collectively "Impacted Private Lines") then both Parties shall, in advance of any construction performed by Provider, work together, to the best of their abilities, to research the existence of all Impacted Private Lines (hereinafter "Joint Effort").

In order to facilitate the installation, information has been provided to Provider to contact Owner's on-site representative.

4. **TERM.** The term of this Agreement commences on the Effective Date and shall remain in full force and effect for ten (10) years after the Effective Date (Initial Term). Following the expiration of the Initial Term, agreement will renew for successive annual renewal terms unless terminated by either party with 90 days written notice. Upon termination of agreement, Provider may elect to remove Equipment or abandon in-place all or certain portions of Provider's Equipment at the Premises which, upon abandonment, shall be deemed the property of the Owner, with lien free title thereto passing immediately to Owner at no cost to Owner.
5. **ASSIGNMENT.** This Agreement may be freely assigned by either Party, provided that the assignee agrees in writing to assume all of the obligations of assignor hereunder, and be bound by all of the terms and conditions of, this Agreement. Notwithstanding anything to the contrary herein, either Party shall be obligated to assign this Agreement to a successor in interest in the event of a change of control resulting from a merger, sale of stock or sale of all or substantially all of the assets of the Party relating to the Services or applicable Buildings. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, legal representatives and assigns.
6. **LIMITATION OF LIABILITY.** PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES--EXPRESS OR IMPLIED-- REGARDING THE EQUIPMENT OR THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL PROVIDER OR OWNER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, RELIANCE OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.
7. **INDEMNIFICATION.** Each Party will indemnify, defend, and hold the other harmless from and against all liability, loss, costs, damages, (together with reasonable attorneys' fees associated therewith) arising out of any third party claims resulting from the negligence, willful misconduct of a Party, or breach of this Agreement (including but not limited to any representation or warranty hereunder).

8. **ENTIRE AGREEMENT; AMENDMENTS.** This Agreement constitutes the entire agreement between the Parties with respect to, and supersedes all prior agreements, promises and understandings, whether oral or written, with respect to, the subject matter contained herein. This Agreement shall not be modified, amended, supplemented or revised, except by a written document signed by both Parties.
9. **COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be signed in several counterparts, each of which will be fully effective as an original and all of which together will constitute one and the same instrument. Signatures to this Agreement may be transmitted electronically and signatures so transmitted will be deemed the equivalent of delivery of an original signature.

This Agreement shall be construed to be in accordance with the laws of the Commonwealth of Pennsylvania.