

MASTER ATTACHMENT AGREEMENT

This Master Attachment Agreement (this "**Agreement**"), dated as of _____ (the "**Effective Date**"), is entered into by and between Ubicquia, Inc. ("**Licensee**"), a Delaware corporation, with offices located at 401 East Las Olas Blvd., Suite 800, Fort Lauderdale, FL 33301, and Town of Falmouth ("**Licensor**"), a Maine municipality, with offices located at 271 Falmouth Road, Falmouth, ME 04105. Licensee and Licensor are referred to herein as the "**Parties**," and each a "**Party**."

RECITALS

WHEREAS, Licensor owns and/or controls certain streetlight fixtures;

WHEREAS, Licensee desires to use such streetlight fixtures to attach certain equipment for the provision of services related to telecommunications, public safety, public service, and/or public Wi-Fi access;

WHEREAS, Licensor desires to permit Licensee to attach such equipment to the streetlight fixtures now existing or hereafter erected;

WHEREAS, because it is impractical to execute a separate agreement in each instance in which Licensee desires to attach such equipment to a streetlight fixture owned or controlled by Licensor, the Parties intend that this Agreement shall be the all-inclusive master agreement regarding such attachments for the duration of this Agreement; and

WHEREAS, the Parties desire by this Agreement to set forth their understanding about such matters.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth hereinafter and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee agree as follows:

AGREEMENT

1. **DEFINITIONS.**

1.1 "**Affiliates**" means, with respect to a Party, an entity that directly or indirectly controls, is controlled by or is under common control with such Party, wherein "control" shall mean the ownership of at least 50% of the shares and/or voting rights in an entity.

1.2 "**Attachment(s)**" means the equipment to be attached by Licensee (or its subcontractor) to the Streetlight Fixtures.

1.3 "**Confidential Information**" means a Party's confidential, proprietary or non-public information (or such non-public information of a third party that is in the possession of a Party), including without limitation, trade secrets, discoveries, ideas, concepts, know-how, techniques, processes, procedures, designs, specifications, strategic information, proposals, requests for proposals, proposed products, drawings, blueprints, tracings, diagrams, models, samples, flow charts, data, computer programs, marketing plans, employee personal information, health or financial information, authentication credentials, operations, infrastructure, networks, systems, facilities, products, rates, regulatory compliance, competitors and other technical, financial or business information, whether disclosed in writing, orally, or visually, in tangible or intangible form, including in electronic mail or by other electronic communication. All Confidential Information, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with this Agreement is confidential to the disclosing Party. Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of a Party's breach of this Agreement; (b) is obtained by the receiving Party on a non-confidential basis from a third party that was not legally or contractually restricted from disclosing such information; (c) the receiving Party establishes, by documentary evidence, such information was in its possession prior to disclosure by the disclosing Party; (d) was or is independently developed by the receiving Party without using any of the disclosing Party's Confidential Information; or (e) is a public record

containing information that Licensor is obligated by law to disclose, including, but not limited to, according to Maine's Freedom of Access Act, 1 M.R.S. §§ 401 *et seq.*

1.4 **"Force Majeure"** means an event or other circumstance that is beyond the Party's reasonable control, without the Party's fault or negligence, and which could not have been avoided by the Party's use of due care, which may include, without limitation: acts of God including hurricanes, tornadoes, wildfires, earthquakes, ice storms, and floods; acts of terrorism; civil unrest; interference by civil or military authority, including war and embargoes; fires; epidemics or pandemics; acts of any branches of government relating to declarations of emergencies; and labor strikes (other than labor strikes with the workforce of the delayed Party).

1.5 **"Request Form(s)"** means the request form provided by Licensee pursuant to the terms contained herein for Licensor's approval, setting forth the Attachments and Streetlight Fixtures which Licensee wishes to use. All Request Forms agreed between the Parties shall be governed by the terms and conditions of this Agreement and incorporated therein by this reference. A sample Request Form is attached as Exhibit A.

1.6 **"Streetlight Fixture(s)"** means an electrically powered streetlight fixture with a functional NEMA socket located atop the fixture's luminaire, including without limitation any chases, risers, trays, pipes, vaults, and hand holes, owned and/or controlled by Licensor. The Streetlight Fixture locations shall be stated in each Request Form, as such as been agreed upon by both Parties.

1.7 **"Streetlight Fixture Infrastructure"** means any and all form of existing power supply, conduit, pull boxes, electrical circuits, or other form of infrastructure fixtures or equipment for the delivery of power or communication services: (i) approved by the Licensor for use by the Licensee and (ii) reasonably related to the operation of a Streetlight Fixture or otherwise located in the public right of way or other location controlled or owned by the Licensor and reasonably capable of being used in connection with a Streetlight Fixture.

2. RIGHTS.

2.1 **Grant of License.** During the Term, Licensor hereby grants Licensee a license to construct, install and attach, or have installed and attached and operate, maintain, repair, replace, remove, reattach, reinstall, relocate and upgrade the Attachments to the Streetlight Fixtures and/or Streetlight Fixture Infrastructure identified in each accepted Request Form, if approved by Licensor. The Parties agree that Licensor, in granting such license to Licensee, in no way purports to grant to Licensee an interest in any property, but only grants Licensee the right, subject to the provisions of this Agreement, to attach Attachments to the Streetlight Fixture and/or Streetlight Fixture Infrastructure if approved by Licensor. The license granted in this Section 2.1 shall be non-exclusive and nothing herein shall be construed as affecting the rights or privileges previously conferred by Licensor or by law to other third parties.

2.2 **Third Party Consent.** To the extent that Licensor's rights to use and access a Streetlight Fixture emanate from an easement or from a license grant that Licensor determines does not permit the use of the Streetlight Fixture by Licensee as provided in this Agreement, Licensor shall so advise Licensee and shall provide Licensee with copies of the easement or other property document establishing Licensor's rights at any such Streetlight Fixture. Notwithstanding any other term or provision hereof, Licensor shall have the sole responsibility for negotiating and acquiring property rights necessary to permit the installation, maintenance, removal and operation of the Attachments on any such Streetlight Fixtures, along with any associated costs. Licensor should not approve the use of a Streetlight Fixture by Licensee unless and until it can demonstrate the successful acquisition of such rights. In performing any installation, alteration or repair of the Attachments under this Agreement, Licensee and/or its contractors shall comply with the terms and conditions of any easement or license grant applicable to the Streetlight Fixture on which such work is being performed and shall conform to the insurance requirements, if any, of the applicable owner.

2.3 **Previously Conferred Rights.** Licensor shall provide to Licensee a list of any previously granted rights to the Streetlight Fixtures, including the name and contact of the existing grantee, and shall provide written confirmation to Licensee that any equipment previously mounted to a Streetlight Fixture, or any rights previously granted will not prevent the affixing of the Attachments to the

Streetlight Fixtures or affect Licensee's rights granted herein.

2.4 **Exclusive Access.** Licenser will not grant exclusive or priority access to any Streetlight Fixture or group of Streetlight Fixtures to a third-party and will not require existing Attachments to be removed during the Term for any reason other than as permitted in this Agreement.

2.5 **Risk of Loss; Waiver of Claims.** Licensee acknowledges and agrees that Licenser shall not be liable for any cost of repair to Licensee's Attachments installed by Licensee on Streetlight Fixtures pursuant to this Agreement, including, without limitation, damage caused by Licenser's removal of such as provided herein, except to the extent that such loss or damage was caused by the gross negligence or willful misconduct of Licenser, its officers, agents, employees and contractors. In consideration for the rights granted under this Agreement, Licensee waives all claims, demands, causes of action, and rights it may assert against Licenser and its officials, personnel, agents, and representatives because of any loss, damage, or injury to any Attachments, or any loss or degradation of service resulting from the installation, operation, maintenance or malfunction of Attachments regardless of cause, except as provided in Section 12 and except with respect to claims, demands, causes of action and rights Licensee may assert against Licenser and its officials, personnel, agents, and representatives in connection with their negligence and willful misconduct.

3. **TERM.** The initial term of this Agreement shall be for five (5) years, commencing as of the Effective Date (the "**Initial Term**"). Upon expiration of the Initial Term, this Agreement will automatically renew on the same terms and conditions, for up to four (4) additional 5-year terms, or until terminated by either Party hereto as set forth in this Agreement (the Initial Term, together with any such renewals, is herein referred to as the "**Term**"). Either Party shall have the right to terminate this Agreement by written notice given to other party at least sixty (60) days prior to the expiration of the Initial Term or any renewal term.

4. **FEES AND CHARGES.**

4.1 **Attachment Fee.** Licensee agrees to pay an annual fee set forth in the Exhibit C (the "**Fee**"). The Fee shall be invoiced annually, starting from the date of installation of such Attachment, and shall be paid by Licensee within thirty (30) days of receipt of invoice from Licenser.

4.2 **Removed Attachments.** Licensee shall not be entitled to any refund of any Fee or other amount paid by Licensee for an Attachment that has been removed by Licensee in its sole discretion. Licensee shall be entitled to a pro-rata refund of any Fee paid in advance to Licenser if Licenser mandates removal of the Attachment for any reason, unless such removal is required due to: (1) a bona fide emergency; (2) Licensee's failure to comply with any material provision of this Agreement; or (3) Licenser's concern regarding the structural or operational integrity of a Streetlight Fixture.

4.3 **Additional Costs.** Licensee hereby acknowledges and agrees that all costs associated with the installation of the Attachments, including without limitation, permit costs, installers' fee, traffic mitigation costs, costs imposed by the pole owner and any similar costs and expenses, shall be Licensee's sole obligation.

5. **ATTACHMENTS & INSTALLATION.**

5.1 **Attachments.** At no time during or after the Term will Licenser acquire any rights in and to the Attachments, unless they are abandoned by Licensee for a period of six (6) months or more, in which case they shall become the Licenser's property. The Attachments shall remain the sole responsibility of Licensee. Any material deviation to the description(s) of Attachments as set forth in a Request Form (such as for example a change in weight or voltage) must be approved by Licenser in writing.

5.2 **Third Party Owned Attachments.** The Parties acknowledge that Attachments deployed by Licensee in the Streetlight Fixtures pursuant to this Agreement may be owned and/or remotely operated by a third party ("**Third Party**") and installed and maintained by Licensee pursuant to existing agreements between Licensee and a Third Party. Such Attachment shall be treated as Licensee's Attachment for all purposes under this Agreement and any applicable Request Form. A Third Party's ownership and/or operation of such Attachment shall not constitute an assignment under this Agreement. Licensee shall remain solely responsible and liable for the performance of all

obligations under this Agreement and applicable Request Form with respect to any Attachment owned and/or remotely operated by a Third Party, and Licensee shall be liable for all acts and/or omissions of such Third Party related to the Attachment. Licensee will not allow to exist any lien with respect to any Streetlight Fixture or Infrastructure or other Licensor property or facility resulting from any work performed by or on behalf of Licensee pursuant to this Agreement, or any act or claim against Licensee or any of its contractors, agents, or customers. Licensee will, at its sole expense, promptly bond or otherwise discharge any such lien within thirty (30) days of receipt of written notice from Licensor of the existence of such lien.

5.3 Limitations. Attachments will be limited to one per Streetlight Fixture and will be allowed only pursuant to the terms of the Request Form. The locations of the Attachments on the Streetlight Fixtures may be subject to engineering and safety analysis. Licensor shall have the right to refuse or remove any Attachment that adversely affects the structural or operational integrity of a Streetlight Fixture, or, to the extent that the pole owner requires, removal of the Streetlight Fixture. Any costs related to such removals shall be Licensee's sole responsibility.

5.4 Locations. Licensee and Licensor shall collaborate to identify suitable Streetlight Fixtures for the Attachments. If the Parties determine that a modification or other adjustment is needed before one or more of the Streetlight Fixtures can be used by Licensee, then (i) Licensor shall obtain any and all permissions necessary (if any) to perform such modification or adjustment, and (ii) Licensee shall be responsible for the performance and cost associated with the modification or adjustment. Under no circumstances is Licensee permitted to make any modification or adjustment to the Streetlight Fixture without the advance written consent of Licensor. The Parties will mutually agree on a scope of work prior to the commencement of any work as permitted under this Section 5.4. Every 6 months Licensor shall provide an updated list of Streetlight Fixtures to Licensee.

5.5 Use of Facilities. At its own expense, Licensee shall construct, install, and operate all Attachments in accordance with generally applicable engineering requirements, and the specifications in the terms of the Request Form and this Agreement so as not to interfere with Licensor's present or future use of any Streetlight Fixture. Under no circumstances shall Licensor be required to repair or maintain any Attachment, which shall be Licensee's sole responsibility. In addition, all Attachments must be made on Streetlight Fixtures that are bucket truck accessible. At all times, Licensee shall maintain, operate, and construct/install all Attachments in such manner as to ensure that Licensor has full and free access to all of its Streetlight Fixtures. Licensee shall not alter any Licensor's property except as specifically authorized. Prior to the installation of an Attachment on a Streetlight Fixture that has smart lighting controls already installed, Licensee shall configure the Attachment to perform such lighting controls according to Licensor's desired dimming level and/or schedule, such that the Streetlight Fixture operates from a lighting perspective after installation of the Attachment in substantially the same manner as the Streetlight Fixture operated before the Attachment was installed. Licensor acknowledges that the lighting configuration for such a Streetlight Fixture shall remain unchangeable until the lighting control features of the installed Attachment are accessible through the cellular network of the carrier or operator supplying cellular service to the Attachment.

5.6 Compliance with National Electrical Safety Code. All work performed by Licensee under this Agreement shall be performed in accordance with applicable National Electrical Safety Code standards, including amendments thereto adopted at any time by any jurisdiction in which such work occurs. Licensee shall take all necessary precautions, by the installation of protective equipment or other means, to protect all persons and property of all kinds against injury or damage caused by or occurring by reason of the installation or existence of Attachments. Licensee shall follow industry-standard practices in the operation, maintenance, and inspection of its Attachments, and shall make all regular and special inspections as necessary to ensure compliance with this Section 5.6.

5.7 Compliance with Applicable Laws. The Parties shall comply with all applicable federal, state, and local laws, rules, and regulations in undertaking its obligations under this Agreement.

5.8 Operation and Maintenance of the Attachments. Licensee and/or its contractors must operate and maintain the Attachments to ensure proper functioning of the Attachments and limit intervention to the Streetlight Fixtures. Licensee must ensure that its contractors comply with any and all

applicable provisions of this Agreement to the same extent such provisions would apply to Licensee.

5.9 Reports. Licensee will provide to Licensor regular updates on installation progress and maintenance schedule, including a listing of all Attachments installed on Licensor's Streetlight Fixtures with Streetlight Fixture number, address, or other identifier mutually agreed between the Parties.

5.10 Interference or Hazard. Whenever Licensor notifies Licensee in writing that, in Licensor's reasonable judgment, the Attachment(s) or the condition of Attachment(s) of Licensee on any Streetlight Fixture(s) (i) interfere(s) with the use of such Streetlight Fixture(s) or the operation of Licensor's facilities or equipment; (ii) constitute(s) a hazard to Licensor's personnel or any other persons authorized by Licensor to use such Streetlight Fixture; (iii) cause(s) a danger to the public; or (iv) materially fail(s) to comply with the terms of the Request Form, this Agreement, applicable law, codes or regulations, Licensee shall, within ten (10) business days, either (a) obtain Licensor's approval to leave the Attachment(s) as is or (b) remove, rearrange, repair or change the Attachment(s) as necessary. IN CASE OF A HAZARDOUS CONDITION OR OTHER EMERGENCY WHICH IN LICENSOR'S GOOD FAITH JUDGMENT REQUIRES IMMEDIATE ACTION, LICENSOR RESERVES THE RIGHT, WITHOUT PRIOR NOTICE AND WITH NO LIABILITY TO LICENSEE, TO DISABLE, REMOVE OR RELOCATE APPLICABLE ATTACHMENTS AS REQUIRED, PROVIDED THAT LICENSOR SHALL PROVIDE LICENSEE WITH WRITTEN NOTICE OF ANY SUCH ACTION AS SOON AS POSSIBLE THEREAFTER.

5.11 Unauthorized Attachments. Licensee agrees not to make any unauthorized or non-compliant Attachments to Streetlight Fixtures; provided, however, if an Attachment is made without permission, Licensor reserves the right to remove such Attachment with no liability to Licensee. If Licensor elects not to remove the unauthorized or non-compliant Attachment, such Attachment shall be subject to the terms and conditions of this Agreement.

5.12 Reserved Rights; Maintenance and Operation of Streetlight Fixtures. Licensor reserves to itself the right to maintain Streetlight Fixtures and other Licensor's property and to operate its business and maintain its property in such a manner as will best enable it to fulfill its own service requirements and to protect the public health, safety and welfare. Licensor shall maintain all Streetlight Fixtures in a safe and serviceable condition and shall replace, reinforce or repair any Streetlight Fixture that becomes defective, and may decide to permanently remove a Streetlight Fixture without replacement, in its sole discretion.

5.13 Removal, Relocation of Streetlight Fixtures; New Streetlight Fixture. Except in emergency or dangerous situations as stated in Section 5.10 above, Licensor may from time-to-time need to replace, relocate, remove, or abandon a Streetlight Fixture or group of Streetlight Fixtures and to cause the relocation or removal of any Attachment, consistent with normal operating, maintenance and development procedures and prudent utility practices. Licensor shall use its best efforts to provide an alternate location for any of the Attachments required to be relocated or removed. Licensor shall provide written notice to Licensee at least sixty (60) days prior to such removal and/or relocation specifying in such notice the time of such proposed replacement or relocation (except in case of emergency, according to Section 5.10 above). Licensor will bear all costs and expenses of any relocation of the Streetlight Fixture (s) and the Attachment(s) mounted thereupon, but shall not be liable to Licensee for any interruption in service caused by such removal and/or relocation of Attachment(s). Nothing in this Section shall prevent Licensor from deciding to permanently remove a Streetlight Fixture without replacement or relocation.

5.14 Interference. It is expressly understood and agreed that the operation of an Attachment shall not interfere with any other equipment of Licensor installed on the Streetlight Fixture prior to installation of the Attachment. Licensor shall not be responsible for any interference caused by other entities attaching equipment to a Streetlight Fixture on which one or more Attachments was previously installed, provided that Licensor requires such entities not to interfere with the operation of the earlier-installed Attachment(s) of Licensee.

5.15 Abandonment of Streetlight Fixture; Relocation of Attachments by Licensee. Licensee may at any time abandon the use of a Streetlight Fixture hereunder by giving written notice thereof to Licensor and removing therefrom all of its Attachments. Licensee may also request to relocate an

Attachment to another Streetlight Fixture. Any request for relocation must be submitted for approval by Licensor in writing, which approval shall not to be unreasonably delayed, withheld or conditioned. To the extent Licensee abandons a Streetlight Fixture, Licensee shall not be entitled to any refund of any Fees paid to Licensor. To the extent Licensor rejects Licensee's request to relocate the Attachment to a new Streetlight Fixture, Licensor shall refund the pro-rata portion of the Fee prepaid by Licensee for such Attachment. Licensee shall bear all costs of removal and relocation of the Attachment.

5.16 Inventory of Attachments. Licensee shall maintain a current inventory of all Attachments installed during the Term. Within ten (10) business days of Licensor's written request, Licensee shall provide a copy of the inventory of Attachments installed by December 31st of each year until the end of the Term. The inventory shall include roadway intersection (if applicable), GIS coordinates, date of installation, the Company Site ID #, type of pole used for installation, pole owner, and description/type of installation for each Attachment. With regard to Attachments that become inactive, the inventory shall include the same information as active installations in addition to the date the Attachment was deactivated and the date of removal.

6. LICENSEE'S PROTECTION AGAINST INTERFERENCE BY THIRD PARTIES. So long as Licensee is not in default hereunder, beyond the applicable notice and cure period, Licensor shall not grant a license to a third party for use of a Streetlight Fixture used by Licensee if such use would materially adversely interfere with Licensee's normal operation of its Attachment. Any such future license granted to a third party that permits the installation of equipment to a Streetlight Fixture licensed to and occupied by Licensee shall be conditioned upon such potential (third party) licensee not causing measurable interference with Licensee's signal or materially impairing Licensee's ability to utilize the Streetlight Fixture.

7. REQUEST. Before receiving approval from Licensor to attach an Attachment on any Streetlight Fixture, Licensee shall submit to Licensor a Request Form along with detailed construction plans and drawings for each individual location, together with maps, showing specifically the number and character of the Attachments to be placed on such Streetlight Fixtures, equipment necessary for the use, proposed replacement of existing Streetlight Fixtures, any additional equipment required for the installation including transmission conduit, pull boxes, and related appurtenances. Licensor or its designee shall determine, in his/her sole but reasonable discretion, whether to give Licensee permission to proceed with the work as proposed and designed by Licensee on the Request Form. Licensee shall perform all work at its own expense and make attachments in such manner as to not interfere with the services of Licensor. Licensor shall approve or deny the authorization to proceed within twenty (20) days of its receipt of a Request Form. Licensor shall have the sole right to determine the availability of space on or in any such Streetlight Fixture for use by Licensee and shall be under no obligation to grant permission for its use by Licensee, provided that such permission shall not be unreasonably withheld, conditioned or delayed. Licensor may also provide alternative Streetlight Fixture locations or a revised Request Form for Licensee's review and approval. Once a Request Form is approved by Licensor, Licensee shall have the right to use such Streetlight Fixture in accordance with the terms of this Agreement.

8. INSURANCE. During the term of this Agreement, Licensee shall maintain and shall cause its contractor(s) to procure and to maintain in full force and effect, at the Licensee (or contractor's) sole expense, insurance policies of the types and amounts listed below. Prior to installation of any Attachment, Licensee (and each of its contractors, if any) shall furnish Licensor with certificates of insurance. Each such certificate shall accurately reflect the insurance in place and shall be in a form reasonably satisfactory to Licensor, and shall list Licensor as an additional insured on any liability policies. Failure by Licensor to request such certificate of insurance shall not be deemed a waiver of Licensee's obligation under this Section 8.

8.1. Certificate of Insurance. As part of the Request Form, Licensee shall furnish Licensor, and thereafter maintain certificates evidencing the insurance coverage and limits required by this Section

while Licensee has any Attachment installed in Licensor's Streetlight Fixtures. Licensee agrees to maintain the required insurance from an insurance company having and maintaining an A.M. Best rating of at least A VII and deliver to Licensor a Certificate of Insurance evidencing the types of insurance and policy limits required.

8.2 Required Insurance.

(a) Workers' Compensation and Employer's Liability insurance, as required by statute, with Employer's Liability limits of \$500,000 each accident, \$500,000 by disease policy limits, and \$500,000 by disease each employee. To the extent allowed by Laws, the policy must include a blanket waiver of subrogation in favor of Licensor.

(b) Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage, with limits of:

\$2,000,000	General Aggregate Limit
\$1,000,000	Each Occurrence
\$1,000,000	Each Occurrence - Personal Injury and Advertising Injury
\$2,000,000	Products/Completed Operations Aggregate Limit

The required Commercial General Liability policy must include, by endorsement with respect to this Agreement, Licensor as an additional insured on a primary and non-contributory basis and a waiver of subrogation in favor of Licensor.

(c) Business Automobile Liability insurance with limits of \$1,000,000 Combined Single Limit for each Accident for Bodily Injury and Property Damage, extending to all company owned (if applicable), leased (if applicable), and non-owned vehicles.

8.3 Notice of Cancellation. Licensee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance. Licensee shall provide at least thirty (30) days advance written notice of cancellation or non-renewal of any required insurance that is not replaced. Notwithstanding the foregoing, Licensee may self-insure the required insurance under the same terms and conditions as outlined above.

8.4 Miscellaneous Insurance Provisions. With respect to the Automobile and Commercial General Liability Insurance, Licensee shall include Licensor as an additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to Licensor under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to Licensor. Licensee shall provide a copy of any blanket endorsement including Licensor as additional insured, at Licensor's request. A certificate that merely has a box checked under "Addl Insr," or the like, or that merely states the Town of Falmouth is named as an Additional Insured, will not be acceptable. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the Town of Falmouth, its agents, officers or employees. Licensee shall be responsible for any and all deductibles and/or self-insured retentions. Licensor's acceptance or lack of acceptance of Licensee's Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the Licensee's obligation to obtain and maintain such insurance as required by this agreement. Additional insured status, including coverage for ongoing and completed operations, must apply to a claim caused, in whole or in part, by Licensee's performance of the Agreement or caused in whole or in part by act or omission of Licensee, but will not apply to a claim resulting from the negligence of Licensor, its authorized users or any authorized representative acting on its behalf.

9. REPRESENTATION AND WARRANTIES.

9.1 Mutual Representations and Warranties. Each of the Parties represents and warrants to the other, acknowledging that the other Party is relying upon such representations and warranties in connection with its entering into this Agreement, as follows: (a) the Party has all requisite power and authority to execute and deliver this Agreement and has all necessary power and authority, and the skills, rights, and financial resources necessary to perform its obligations as set out herein; (b) the entry into this Agreement will not result in the violation of any of the terms and provisions of any

agreement, written or oral, to which the Party may be a party; (c) there are no actions, suits, obligations, agreements, or proceedings, existing, pending or to its knowledge threatened, which prevent the Party from fulfilling its obligations under this Agreement or will have a material adverse effect on its ability to fulfill its obligations under this Agreement, and (d) the execution and delivery of this Agreement has been duly authorized by all necessary action on the part of the Party and this Agreement, when duly executed and delivered by such Party, will constitute a legal and binding obligation of the Party, enforceable in accordance with its terms.

9.2 By Licensors. Licensors further represents and warrants that it has the right and has obtained and will maintain throughout the Term all rights and permissions necessary to grant to Licensee the rights and access granted hereunder.

10. INDEMNITY & LIMITATION OF LIABILITY.

10.1 Licensors' Indemnification. Subject to the terms and conditions of this Agreement, including those set forth in Section 10.3 and Section 10.4, Licensors shall indemnify, defend and hold harmless Licensee, its Affiliates, officers, directors, employees, contractors, or agents (collectively, "**Licensee Indemnified Parties**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement (collectively, "**Losses**") incurred by any one or more Licensee Indemnified Parties relating to, arising out of or resulting from any third-party claim alleging (a) a breach of any representation or warranty by Licensors, (b) any grossly negligent or more culpable act or omission of Licensors, its subcontractors or its personnel (including any intentional, reckless or willful misconduct) in connection with the performance of this Agreement; or (c) any failure by Licensors, its subcontractors or its personnel to comply with any applicable laws.

10.2 Licensee Indemnification. Subject to the terms and conditions of this Agreement, including those set forth in Section 10.3 and Section 10.4, Licensee agrees to indemnify and defend Licensors, its affiliates, officers, directors, employees, contractors, or agents (collectively, "**Licensors Indemnified Parties**") against all Losses incurred by one or more Licensors Indemnified Parties, arising directly from any third-party claim alleging bodily injuries, death, damage to property, trespass or other personal injury or physical property damage cause of action due to the installation, operation, maintenance, repair, modification, removal or presence of Attachments on the Streetlight Fixtures, whether such installation was performed by Licensee or its contractors. Licensee agrees to require its contractors and subcontractors to indemnify Licensors to the fullest extent permitted by law consistent with the foregoing indemnity.

10.3 Procedure. The Party seeking indemnification (the "**Indemnified Party**") will: (i) unless prohibited by applicable law or court order, inform the Party providing the indemnification ("**Indemnifying Party**") as promptly as reasonably practical of any claim for which the Indemnified Party is seeking indemnification; (ii) provide the Indemnifying Party with reasonable assistance in the defense of the claim; (iii) have the right, but not the obligation, to participate in the defense of the claim at its own expense and through counsel of its choice; and (iv) if the Indemnifying Party refuses to defend the Indemnified Party for any indemnifiable claim, control the defense or settlement of such claim and retain all rights to seek recovery from the Indemnifying Party.

10.4 Limitation of Obligations. Notwithstanding anything to the contrary in this Agreement, an Indemnifying Party is not obligated to indemnify or defend (if applicable) an Indemnified Party against any claim if such claim or corresponding Losses arise out of or result from, in whole or in part, the Indemnified Party's: (a) gross negligence or more culpable act or omission (including intentional, reckless, or willful misconduct); (b) any bad faith failure by the Indemnified Party to materially comply with any of its obligations set forth in this Agreement; or (c) use of the Attachments or the Streetlight Fixtures in any manner not authorized under this Agreement or that does not materially conform with any usage instructions, the terms of the Request Form, or specifications expressly set forth in this Agreement, or provided in writing by or for a Party.

10.5 NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. EXCEPT FOR LIABILITY FOR A BREACH OF SECTION 13 BELOW, IN NO EVENT SHALL EITHER PARTY OR

THEIR REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT THE OTHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

10.6 Waiver of Claims Regarding Fitness of Streetlight Fixtures. Licensee acknowledges that Licensor has made no warranties or representations regarding the fitness, availability or suitability of any Streetlight Fixtures for the installation of Attachments, or for any other activities permitted under this Agreement, and that, except as expressly provided in this Agreement, any performance of work or costs incurred by Licensee or provision of services contemplated under this Agreement by Licensee is at Licensee's sole risk. Except as otherwise expressly provided in this Agreement, Licensee, on behalf of itself and its successors and assigns, waives its right to recover from, and forever releases and discharges, Licensor and its agents, and their respective heirs, successors, administrators, personal representatives and assigns, from any and all claims, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Streetlight Fixtures, any Licensor property affected by this Agreement, or any law or regulation applicable thereto, except to the extent that such liabilities, damages or claims are a result of the negligence or willful misconduct of Licensor.

10.7 No Waiver. The parties acknowledge that Licensor is a political subdivision of the State of Maine to which the Maine Tort Claims Act applies. Nothing in this Agreement is intended, or shall be construed, to constitute a waiver of any defense, immunity or limitation of liability that may be available to Licensor, its officers, agents and employees, pursuant to the Maine Tort Claims Act or as otherwise provided by law.

11. **FORCE MAJEURE.** Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by a Force Majeure event. A Party will be excused from performance under this Agreement for any period and to the extent that is prevented from performing its obligations, in whole or in part, as a result of delays caused by an event of Force Majeure. The Party relying upon the Force Majeure event must (i) provide to the other Party prompt written notice describing the Force Majeure condition, and (ii) take all reasonable steps to avoid or remove such causes of nonperformance and immediately continue performance whenever and to the extent such causes are removed; provided however, that specific written notice need not be given where the relied-upon event of Force Majeure is or has been widely publicized, such as in the case of, for example, pandemic, epidemic, war, an act of terrorism, and so forth.

12. **TERMINATION.**

12.1 Mutual Right to Terminate. Either Party may terminate this Agreement without liability to the other if (i) the Party's performance hereunder would be illegal under applicable law or regulation or under any order or ruling issued by any federal, state or local agency having regulatory jurisdiction over the Streetlight Fixtures or the Attachments; (ii) the other Party fails to comply with any of the material provisions of this Agreement or defaults in any of its obligations under this Agreement and fails to correct such default or noncompliance within thirty (30) days after receiving written notice from the non-breaching Party; or (iii) after sixty (60) days of a Force Majeure event which has made performance impossible or economically impractical.

12.2 Termination for Insolvency. Either Party may terminate this Agreement upon written notice to the other, if the other Party (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (ii) files or has filed against it a petition for bankruptcy, which has not been dismissed within 90 days of such filing, (iii) makes or seeks to make a general assignment for

the benefit of its creditors, or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

12.3 Removal of the Attachment. Unless Licensee terminates this Agreement for cause, upon termination or expiration of this Agreement, Licensee shall (i) remove all Attachments, including any equipment, conduits, fixtures and all personal property, from the Streetlight Fixtures at its own expense within 90 days; and (ii) after such removal, restore the Streetlight Fixtures to the same condition as they were when the Attachments were installed except for ordinary wear and tear, or damage not caused by the Attachments. Should Licensee terminate this Agreement for cause, (i) Licensee may remove the Attachments at the cost of Licensor; or, (ii) if the Licensor removes the Attachments before the Licensee does so (but only after the termination of this Agreement by Licensee for cause), Licensor must provide written notice of the removal to Licensee and Licensee shall have 180 days to retrieve the Attachments from Licensor. Should the Attachments not be removed by Licensor during the mentioned 180 days period, Licensor may dispose of the Attachments without liability to Licensee.

13. CONFIDENTIAL INFORMATION.

13.1 Standard of Care. The receiving Party shall maintain the disclosing Party's Confidential Information with the same degree of care it uses to maintain its own Confidential Information, and, in all events, it shall maintain the disclosing Party's Confidential Information with no less than commercially reasonable care. The disclosing Party shall be entitled to seek injunctive relief for any violation of this Section 13.

13.2 Retention. Notwithstanding anything herein to the contrary, the receiving Party may retain Confidential Information as may be required by (a) law, including without limitation Maine's Freedom of Access Act, 1 M.R.S. §§ 401 et seq. ("FOAA"), (b) professional requirements, or (c) internal document retention policies.

13.3 Limitations of Use. The receiving Party may use the disclosing Party's Confidential Information solely in relation to the performance or in connection with the purposes of this Agreement and will not disclose the disclosing Party's Confidential Information except as authorized by the disclosing Party in writing or as otherwise permitted under this Agreement or required by law, including, without limitation, FOAA. Confidential Information may be disclosed by the receiving Party to its representatives who have a need to know and who are subject to a confidentiality agreement that contains terms and conditions at least as restrictive as those set forth in this Section 13. Further, the receiving Party will not be restricted from disclosing the disclosing Party's Confidential Information as required pursuant to law, regulation or judicial or governmental order, provided that any such disclosure will be limited to the extent of the legal requirement and the receiving Party will promptly notify the disclosing Party and cooperate with the disclosing Party, at the disclosing Party's expense, so that the disclosing Party may intervene and object to such disclosure or seek a protective order or other appropriate protection for its Confidential Information.

13.4 No Disclosure to Competitors. Except as otherwise set forth in this Agreement, neither Party may disclose any Confidential Information of the other Party to any known competitor of the other Party without receiving prior written permission of the other Party, unless such disclosure is required by law, including without limitation, FOAA.

13.5 Survival. The terms set forth in this Section 13 will survive the expiration or termination of this Agreement for a period of 3 years.

14. GENERAL.

14.1 Notices. All notices, consents, claims, demands, waivers, and other communications under this Agreement must be in writing and addressed to the other Party at its address set out below (or to such other address that a Party may designate from time to time in accordance with this Section 14.1). Unless otherwise agreed herein, all notices must be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid) with a copy provided to the Party's email address set forth below. Except as

otherwise provided in this Agreement, a notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the notice has complied with the requirements of this Section 14.1:

Notices to Licensor:

271 Falmouth Road
Falmouth Maine 04105
Attn: Town Manager
e-mail: npoore@falmouthme.org

Notices to Licensee:

Ubicquia, Inc.
401 East Las Olas Blvd., Suite 800
Fort Lauderdale, FL 33301
Attn: Legal Department
Email: legal@ubicquia.com

14.2 Assignment. Neither Party may assign this Agreement to any entity without prior written notification and consent of the other, except (i) to an Affiliate that does not compete with the other Party or (ii) pursuant to a merger, acquisition, reorganization, restructuring, or sale of a substantial portion of the assets of the Party's business, as applicable, to which the assignment relates. Upon assignment, as such may be permitted under this Section 14.2, the assigning Party shall be relieved of all future performance, liabilities, and obligations under this Agreement arising after the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the Parties, their successors and permitted assigns.

14.3 No Third-Party Beneficiaries. This Agreement benefits solely the Parties and their respective successors and permitted assigns and nothing in this Agreement, express or implied, confers on any third party any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

14.4 Relationship of Parties and Independent Contractor Status. Neither Party shall be deemed to be a partner, agent, or joint venturer with or of the other by reason of this Agreement. Licensor and Licensee shall perform their duties under this Agreement as independent contractors and at their own risk. Neither Party shall at any time hold itself out as being a partner, co-venturer or agent of the other.

14.5 Publicity. Each Party shall obtain the written consent of the other Party, not to be unreasonably delayed, withheld or conditioned before making any public announcement or press release relating to this Agreement or the Parties' relationship.

14.6 Survival. Expiration or termination of this Agreement for any reason shall not release either Party from any liability or obligation set forth in this Agreement which (i) the Parties have expressly agreed will survive any such expiration or termination, or (ii) remains to be performed or by its nature would be intended to be applicable following such expiration or termination. Notwithstanding the foregoing, the provisions of Sections 1, 8, 9, 10, 12, and 13 shall survive termination of this Agreement.

14.7 Severability. Should any part of this Agreement be deemed invalid, illegal or unenforceable, such part shall be removed from this Agreement and the Agreement shall otherwise remain in full force and effect and shall be applied by the Parties in such manner as most nearly accomplishes the expressed purposes of the Parties in executing this Agreement.

14.8 Dispute Resolution. Except under circumstances requiring injunctive relief, any dispute, controversy, or claim arising out of or relating to the Agreement, the Parties' performance under it, or its breach (a "**Dispute**") shall be dealt with in accordance with the negotiation procedure set forth in this Section 14.8 before resorting to litigation. If any Dispute is not resolved promptly in the ordinary course of business, the Parties shall attempt to resolve such Dispute by face-to-face negotiations with each other before resorting to mediation, arbitration, or litigation. These face-to-face negotiations shall be initiated within 5 business days from receipt of written notice from one Party to the other and shall be conducted by a duly appointed representative of each Party with authority to

settle the Dispute. The Parties hereby agree to negotiate in good faith a resolution to the Dispute within 30 days. If after 30 days, the Parties have not resolved or settled the Dispute, either Party may submit the Dispute to litigation pursuant to Section 14.9 below.

14.9 Governing Law; Venue. This Agreement and all related documents, including all attachments thereof, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Maine, United States of America, without giving effect to the conflict of laws principles or rules thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Maine. Each Party irrevocably and unconditionally agrees that any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all Request Forms, as well as all exhibits, schedules, attachments, and appendices attached to this Agreement, and all contemplated transactions, shall be brought in a federal or state court located in Cumberland County, State of Maine. Each Party agrees that a final judgment in any such action, litigation, or proceeding, unless timely appealed, is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

14.10 Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY REQUEST FORMS, STATEMENTS OF WORK, EXHIBITS, SCHEDULES, ATTACHMENTS, OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14.11 Amendments. This Agreement may not be modified, amended, or discharged, and no provision hereof may be waived, except by an instrument in writing and duly executed by an authorized signatory for the Party against whom enforcement of the amendment, modification, discharge, or waiver is sought.

14.12 Entire Agreement. This Agreement, including and together with any related exhibits, schedules, attachments, and documents incorporated herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof and it supersedes all prior oral or written agreements, commitments, or understandings with respect to the subject matter hereof.

14.13 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A wet or electronically signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date next to their signatures.

TOWN OF FALMOUTH

By: _____

Name: _____

Title: _____

Date: _____

UBICQUIA, INC.

By:

Name: David Wong

Title: VP, Site Acquisition & Deployment

Date: _____

EXHIBIT A
REQUEST FORM

This Request Form, as referenced in that certain Master Attachment Agreement, between Licensor and Licensee dated _____ , 20__ ("Agreement"), which is incorporated by reference as if fully set out here. Licensee submits a Request Form pursuant to the Agreement for Licensor review and approval subject to all of the terms and conditions of the Agreement. In the event of a contradiction or inconsistency between the terms of the Agreement and this Request Form, the terms of this Request Form shall govern. Capitalized terms used in this Request Form shall have the same meaning ascribed to them in the Agreement unless otherwise indicated herein.

Date of Application: _____

Total # of Pages (including this one): _____

Site Name/Project #: _____

Approved by (name and signature): _____

Date of the Approval: _____

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ATTACHMENT TO EXISTING FIXTURE

[illegible]

DEPICTURE OF THE DESIGN AND SPECIFICATIONS OF THE ATTACHMENT

[Add image and specifications]

EXHIBIT B

BACKUP DOCUMENTATION ATTACHED

List of equipment to be attached, full construction drawings of the proposed installation detailing method of attachment, location of power and fiber runs into and up each Streetlight Fixture, cut sheets, and actual product specifications.

All necessary land use permits (planning, building, encroachment) from the respective jurisdiction(s).

Wet stamped report by a licensed engineer demonstrating; 1) Streetlight Fixture can safely support the weight and wind loading of the Attachment; and 2) total number of watts per installation on each Streetlight Fixture and cumulative total number of watts including other systems placed within 100 feet of each Streetlight Fixture are within acceptable safety limits for human exposure.

EXHIBIT C

FEES

Application Fee: \$100/ Streetlight Fixture

Attachment Fee: \$360.00/per year per Streetlight Fixture

Attachment Fee will be increased by 2% over the Attachment Fee payable in the immediately previous year. The increase shall be effective on the anniversary of the installation of the first Attachment.

EXHIBIT D

CONTACT INFORMATION

Licensors:

Name:	Town Manager
Address:	271 Falmouth Road, Falmouth ME 04105
Phone #:	207-699-5314
E-mail Address	Npoore@falmouthme.org

Licensee:

Name:	Heidi Glennon
Address:	401 East Las Olas Blvd., Suite 800 Fort Lauderdale, FL 33301
Phone #:	1(954) 678 6191
E-mail Address	support@ubicquia.com

EXHIBIT E

MAINTENANCE AND OUTAGE

1. Maintenance:

A. By Licensor:

- (a) Licensor shall provide Licensee with 5 days' prior notice of any schedule or routine maintenance that could have a disruptive impact on the continuity or performance of the Attachment.
- (b) If a schedule maintenance activity is canceled or delayed, Licensor shall inform Licensee so the maintenance activity may be rescheduled.
- (c) If unscheduled maintenance must occur, Licensor shall use commercially reasonable efforts to Licensee with at least 2 hours' notice prior to any emergency repairs that may affect the Attachment.

B. By Licensee:

Maintenance to be provided by Licensee shall be in accordance with Section 5.10 of this Agreement.

2. Power Outage

Licensor shall make reasonable efforts to work with Licensee to assist in restoration of power or repairing any damages resulting in a service interruption of the Attachment.

The Streetlight Fixtures (including their electrically powered NEMA sockets) are expected to operate on a 24/7/365 basis. In the event of a presumed electrical service outage affecting one or more Streetlight Fixtures, the Party first becoming aware of the outage shall inform the other Party. Licensee will be responsible for any and all costs associated with diagnosing the cause of the outage and restoring power or other service to the affected Streetlight Fixture(s) and/or Attachment(s) if the outage is determined to be caused by (i) a defect in one or more Attachments; (ii) the improper installation of one or more Attachments; or (iii) a fiber outage. Otherwise, as between Licensor and Licensee, Licensor will be responsible for any and all such costs. Unless unavailable, Licensor's then-current Streetlight Fixture maintenance company will be used to perform any on-site diagnosis services, if necessary, after the Party intending to dispatch the maintenance company first confirms with Maine Central Power that electrical power service is available at the location(s) of the affected Streetlight Fixture(s) and/or Attachment(s).

