RIGHT-OF-WAY USE AGREEMENT

THIS RIGHT-OF-WAY USE AGREEMENT (this "Use Agreement") is dated as of _____, 2015 (the "Effective Date"), and entered into by and between the VILLAGE OF WESLEY HILLS, a New York municipal corporation (the "Village"), and CROWN CASTLE NG EAST LLC ("Crown Castle") a Delaware limited liability company.

RECITALS

A. Crown Castle owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission and the New York State Public Service Commission, a fiber-based telecommunications Network or Networks (as defined below) serving Crown Castle's wireless carrier customers and utilizing microcellular optical converter Equipment (as defined below) certified by the Federal Communications Commission.

B. For purpose of operating the Network, Crown Castle wishes to locate, place, attach, install, operate, control, maintain, upgrade and enhance Equipment in the Public Way (as defined below) on facilities owned by the Village, as well as on facilities owned by third parties therein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

1 DEFINITIONS. The following definitions shall apply generally to the provisions of this UseAgreement:

1.1 *Village.* ("Village") shall mean the Village of Wesley Hills, New York.

1.2 *Crown Castle.* "Crown Castle" shall mean Crown Castle NG East LLC, a Delaware limited liability company, and its lawful successors, assigns, and transferees.

1.3 *Decorative Streetlight Pole.* "Decorative Streetlight Pole" shall mean any streetlight pole that incorporates artistic design elements not typically found in standard steel or aluminum streetlight poles.

1.4 *Equipment.* "Equipment" means the optical converters, DWDM and CWDM multiplexers, antennae, fiber optic cables, wires, and related equipment, whether referred to singly or collectively, to be installed and operated by Crown Castle hereunder.

1.5 *Fee.* "Fee" means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the Village lawfully imposed by any governmental body (but excluding any utility users' tax, franchise fees, communications tax, or similar tax or fee).

1.6 *Gross Revenue.* "Gross Revenue" shall mean and include all recurring revenues received by Crown Castle for the provision of RF telecommunications transport services, either directly by Crown Castle or indirectly through a reseller, if any, to customers of such services wholly consummated within the Village. Gross Revenue shall not include any revenues received by Crown

Castle for the construction of network facilities in the Village. "Adjusted Gross Revenue" shall include offset for: (a) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which might have to be paid to or collected for federal, state, or local government (exclusive of the Right-of-Way Use Fee paid to the Village provided herein); (b) retail discounts or other promotions; (c) non-collectable amounts due Crown Castle or its customers; (d) refunds or rebates; and (e) non-operating revenues such as interest income or gain from the sale of an asset.

1.7 *ILEC.* "ILEC" means the Incumbent Local Exchange Carrier that provides basic telephone services, among other telecommunications services, to the residents of the Village.

1.8 *Installation Date.* "Installation Date" shall mean the date that the first Equipment is installed by Crown Castle pursuant to this Use Agreement.

1.9 *Laws.* "Laws" means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the Village or other governmental agency having joint or several jurisdiction over the parties to this Use Agreement.

1.10 *Municipal Facilities.* "Municipal Facilities" means Village-owned Streetlight Poles, Decorative Streetlight Poles, lighting fixtures, electroliers, or other Village-owned structures located within the Public Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used.

1.11 *Network.* "Network" or collectively "Networks" means one or more of the neutral-host, protocol-agnostic, fiber-based optical converter networks operated by Crown Castle to serve its wireless carrier customers in the Village.

1.12 *Public Way.* "Public Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the Village. This term shall not include state, county or federal rights of way or any property owned by any person or entity other than the Village, except as provided by applicable Laws or pursuant to an agreement between the Village and any such person or entity.

1.13 *PSC.* "PSC" means the New York State Public Service Commission.

1.14 *Services.* "Services" means the RF transport and other telecommunications services provided through the Network by Crown Castle to its wireless carrier customers pursuant to one or more tariffs filed with and regulated by the PSC.

1.15 *Streetlight Pole.* "Streetlight Pole" shall mean any standard-design concrete, fiberglass, metal, or wooden pole used for street lighting purposes.

2 TERM. This Use Agreement shall be effective as of the Effective Date and shall extend for a term of ten (10) years commencing on the Effective Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Use Agreement shall be renewed automatically for three (3) successive terms of five (5) years each on the same terms and conditions as set forth herein, unless Crown Castle notifies the Village of its intention not to renew not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

3 SCOPE OF USE AGREEMENT. Any and all rights expressly granted to Crown Castle under this Use Agreement, which shall be exercised at Crown Castle's sole cost and expense, shall be subject to the prior and continuing right of the Village under applicable Laws to use any and all parts of the Public Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Public Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in Crown Castle a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement shall be subject to the reasonable prior review and approval of the Village except that it is agreed that no zoning or planning board permit, variance, conditional use permit or site plan permit, or their equivalent under the City's ordinances, codes or laws, shall be required for the installation of Crown Castle's Equipment installed in the Public Way and/or on Municipal Facilities, unless such a process has been required for the placement of all communications facilities and equipment in the Public Way by all other telecommunications providers, including but not limited to the ILEC and local cable provider(s).

3.1 *Attachment to Municipal Facilities.* The Village hereby authorizes and permits Crown Castle to enter upon the Public Way and to locate, place, attach, install, operate, maintain, control, remove, reattach, reinstall, relocate, and replace Equipment in or on Municipal Facilities for the purposes of operating the Network and providing Services. In addition, subject to the provisions of § 4.5 below, Crown Castle shall have the right to draw electricity for the operation of the Equipment from the power source associated with each such attachment to Municipal Facilities.

3.2 *Attachment to Third-Party Property.* Subject to obtaining the permission of the owner(s) of the affected property, the Village hereby authorizes and permits Crown Castle to enter upon the Public Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Equipment in or on poles or other structures owned by public utility companies or other property owners located within the Public Way as may be permitted by the public utility company or property owner, as the case may be. Where third-party property is not available for attachment of Equipment, Crown Castle may install its own utility poles in the Public Way, consistent with the requirements that the Village imposes on similar installations made by other utilities that use and occupy the Public Way.

3.3 *Preference for Municipal Facilities.* In any situation where Crown Castle has a choice of attaching its Equipment to either Municipal Facilities or on Municipal Property or third-party-owned property in the Public Way, Crown Castle agrees to attach to the Municipal Facilities, provided that (i) such Municipal Facilities are at least equally suitable functionally for the operation of the Network and (ii) the rental fee and installation costs associated with such attachment over the length of the term are equal to or less than the fee or cost to Crown Castle of attaching to the alternative third-party-owned property.

3.4 *No Interference.* Crown Castle in the performance and exercise of its rights and obligations under this Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, ærial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Use Agreement. The Village agrees to require the inclusion of the same or a similar prohibition on interference as that stated above in all agreements and franchises the Village may enter into after the Effective Date with other information or communications providers and carriers.

3.5 *Compliance with Laws.* Crown Castle shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Use Agreement.

4 COMPENSATION; UTILITY CHARGES. Crown Castle shall be solely responsible for the payment of all lawful Fees in connection with Crown Castle's performance under this Use Agreement, including those set forth below.

4.1 *Annual Fee.* In order to compensate the Village for Crown Castle's entry upon and deployment within the Public Way and as compensation for the use of Municipal Facilities, Crown Castle shall pay to the Village an annual fee (the "Annual Fee") in the amount of Five Hundred Dollars ($500.00) for the use of each Municipal Facility, if any, upon which Equipment has been installed pursuant to this Use Agreement. The aggregate Annual Fee with respect to each year of the term shall be an amount equal to the number of Municipal Facilities upon which Equipment is installed during the preceding twelve (12) months multiplied by the Annual Fee, prorated as appropriate, and shall be due and payable not later than forty-five (45) days after each anniversary of the Effective Date. The Village represents and covenants that the Village owns all Municipal Facilities for the use of which it is collecting from Crown Castle the Annual Fee pursuant to this § 4.1.

4.1.1 *CPI Adjustment.* Effective commencing on the fifth (5th) anniversary of the Installation Date and continuing on each fifth (5th) anniversary thereafter during the term, the Annual Fee with respect to the ensuing five-year period shall be adjusted by a percentage amount equal to the percentage change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Items, All Urban Consumers, 1982-1984=100) which occurred during the previous five-year period for the New York-Northern New Jersey-Long Island, NY-NJ-PA Metropolitan Statistical Area (MSA).

4.2 *Right-of-Way Use Fee.* In order to compensate the Village for Crown Castle's entry upon and deployment of Equipment within the Public Way and on Village-owned Property, Crown Castle shall pay to the Village, on an annual basis, an amount equal to five percent (5%) of Adjusted Gross Revenues (the "Right-of-Way Fee"). The Right-of-Way Fee shall be payable for the period commencing with the Effective Date and ending on the date of termination of this Use Agreement. Crown Castle shall make any payment of the Right-of-Way Fee that may be due and owing within forty-five (45) days after the first anniversary of the Effective Date and within the same period after each subsequent anniversary of the Effective Date. Within forty-five (45) days after the termination of this Use Agreement, the Right-of-Way Fee shall be paid for the period elapsing since the end of the last calendar year for which the Right-of-Way Fee has been paid. Crown Castle shall furnish to the Village with each payment of the Right-of-Way Fee a statement, executed by an authorized officer of Crown Castle or his or her designee, showing the amount of Adjusted Gross Revenues for the period covered by the payment. If Crown Castle discovers any error in the amount of compensation due, the Village shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the Village through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the Village of any payment of the Right-of-Way Fee shall not be deemed to be a waiver by the Village of any breach of this Use Agreement occurring prior thereto, nor shall the acceptance by the Village of any such payments preclude the Village from later establishing that a larger amount was actually due or from collecting any balance due to the Village.

4.3 *Accounting Matters.* Crown Castle shall keep accurate books of account at its principal office in Canonsburg, PA, or such other location of its choosing for the purpose of determining the amounts due to the Village under §§ 4.1 and 4.2 above. The Village may inspect Crown Castle's books of account relative to the Village at any Crown Castle office within 50 miles of the Village at any time

during regular business hours on thirty (30) days' prior written notice and may audit the books from time to time at the Village's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under § 4.1 above. The Village agrees to hold in confidence any non-public information it learns from Crown Castle to the fullest extent permitted by Law.

4.4 *Most-Favored Municipality.* Should Crown after the parties' execution and delivery of this Agreement enter into an attachment or franchise agreement with another municipality of the same size or smaller than the Village in the same County, which agreement contains financial benefits for such municipality which, taken as a whole and balanced with the other terms of such agreement, are in the Village's opinion substantially superior to those in this Agreement, the Village shall have the right to require that Crown modify this Use Agreement to incorporate the same or substantially similar superior benefits and such other terms and burdens by substitution, *mutatis mutandis*, of such other agreement or otherwise.

4.5 *Electricity Charges.* Crown Castle shall be solely responsible for the payment of all electrical utility charges to the applicable utility company based upon the Equipment' usage of electricity and applicable tariffs.

5 CONSTRUCTION. Crown Castle shall comply with all applicable federal, State, and Village codes, specifications, and requirements, if any, related to the construction, installation, operation, maintenance, and control of Crown Castle's Equipment installed in the Public Way and on Municipal Facilities in the Village. Crown Castle shall not attach, install, maintain, or operate any Equipment in or on the Public Way and/or on Municipal Facilities without the prior approval of the Village for each location.

5.1 *Obtaining Required Permits.* If the attachment, installation, operation, maintenance, or location of the Equipment in the Public Way shall require any permits, Crown Castle shall, if required under applicable Village ordinances, apply for the appropriate permits and pay any standard and customary permit fees, so long as the permit fees and process that the Village requests of Crown Castle are functionally equivalent to the fees and the process that are applied to the ILEC and/or the cable provider(s). In addition, the Village agrees to process applications, if required, pursuant to the terms of and within the timeframes provided by the FCC's Declaratory Ruling, WT Docket No. 08-165, FCC 09-99, November 18, 2009.

5.1.1 *Modifications and Colocations.* The Village agrees to process applications for upgrades, modifications, colocations and other applicable requests, if application is required, pursuant to the terms of Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (the "Spectrum Act") and the terms and timeframes provided by the FCC's Report and Order, WT Docket No. 13-238, FCC 14-153, October 17, 2014, as respectively applicable.

5.2 *Relocation and Displacement of Equipment.* Crown Castle understands and acknowledges that the Village may require Crown Castle to relocate one or more of its Equipment installations. Crown Castle shall at the Village's direction relocate such Equipment at Crown Castle's sole cost and expense, whenever the Village reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a Village project; (b) because the Equipment is interfering with or adversely affecting proper operation of Village-owned light poles, traffic signals, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, the Village shall use its best efforts to afford Crown Castle a reasonably equivalent alternate location. If Crown Castle shall fail to relocate any Equipment as requested by the Village within a reasonable time under the circumstances in accordance with the foregoing provision, the Village shall be entitled to relocate the Equipment at Crown Castle's sole cost and expense, without further notice to Crown Castle. To the

extent the Village has actual knowledge thereof, the Village will attempt promptly to inform Crown Castle of the displacement or removal of any pole on which any Equipment is located.

5.3 *Damage to Public Way.* Whenever the removal or relocation of Equipment is required or permitted under this Use Agreement, and such removal or relocation shall cause the Public Way to be damaged, Crown Castle, at its sole cost and expense, shall promptly repair and return the Public Way in which the Equipment are located to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If Crown Castle does not repair the site as just described, then the Village shall have the option, upon fifteen (15) days' prior written notice to Crown Castle, to perform or cause to be performed such reasonable and necessary work on behalf of Crown Castle and to charge Crown Castle for the proposed costs to be incurred or the actual costs incurred by the Village at the Village's standard rates. Upon the receipt of a demand for payment by the Village, Crown Castle shall promptly reimburse the Village for such costs.

6 INDEMNIFICATION AND WAIVER. Crown Castle agrees to indemnify, defend, protect, and hold harmless the Village, its Board of Trustees, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from Crown Castle's activities undertaken pursuant to this Use Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the Village, its Board of Trustees or board members, officers, elected trustees, employees, agents, or contractors.

6.1 *Waiver of Claims.* Crown Castle waives any and all claims, demands, causes of action, and rights it may assert against the Village on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the Village.

6.2 *Limitation of the Village's Liability.* Except as provided for above, the Village shall be liable only for the cost of repair to damaged Equipment arising from the negligence or willful misconduct of the Village, its employees, agents, or contractors

6.3 *Waiver of Punitive and Consequential Damages.* Both parties hereby waive the right to recover punitive or consequential damages from the other party.

7 INSURANCE. Crown Castle shall obtain and maintain at all times during the term of this Use Agreement Commercial General Liability insurance protecting Crown Castle in an amount not less than One Million Dollars ($1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars ($2,000,000) general annual aggregate and Two Million Dollars ($2,000,000) products-competed operations aggregate and Commercial Automobile Liability insurance in an amount not less than One Million Dollars ($1,000,000) per occurrence (combined single limit), including bodily injury and property damage. The Commercial General Liability insurance policy shall name the Village, its elected officials, officers, and employees as additional insureds as respects any covered liability arising out of Crown Castle's performance of work under this Use Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Crown Castle shall be responsible for notifying the Village in writing of any cancellation, except for non-payment of premium, or changes in the occurrence or aggregate limits set forth above at least thirty (30) days' prior to such change or cancellation.

7.1 *Filing of Certificates and Endorsements.* Prior to the commencement of any work pursuant to this Use Agreement, Crown Castle shall file with the Village the required original certificate(s) of insurance with endorsements, which shall state the following:

(a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;

(b) that the Village shall receive thirty (30) days' prior notice of cancellation;

(c) that Crown Castle's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the Village may possess, including any self-insured retentions the Village may have; and any other insurance the Village does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and

(d) that Crown Castle's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the Village.

The certificate(s) of insurance with notices shall be mailed to the Village at the address specified in § 8 below.

7.2 *Workers' Compensation Insurance.* Crown Castle shall obtain and maintain at all times during the term of this Use Agreement statutory workers' compensation and employer's liability insurance in an amount not less than One Million Dollars ($1,000,000) and shall furnish the Village with a certificate showing proof of such coverage.

7.3 *Insurer Criteria.* Any insurance provider of Crown Castle shall be admitted and authorized to do business in the State of New York and shall carry a minimum rating assigned by *A.M. Best & Company's Key Rating Guide* of "A" Overall and a Financial Size Category of "X" (*i.e.*, a size of $500,000,000 to $750,000,000 based on capital, surplus, and conditional reserves). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

7.4 *Severability of Interest.* Any self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the Village. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

8 NOTICES. All notices which shall or may be given pursuant to this Use Agreement shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

if to the Village:

VILLAGE OF WESLEY HILLS
Attn: Mayor's Office
432 Route 306
Wesley Hills, NY 10952

if to Crown Castle:

CROWN CASTLE NG EAST LLC
c/o Crown Castle USA Inc.
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: General Counsel, Legal Department

with a copy which shall not constitute legal notice to:

CROWN CASTLE NG EAST LLC
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: SCN Contracts Management

8.1 *Date of Notices; Changing Notice Address.* Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

9 TERMINATION. This Use Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term.

10 ASSIGNMENT. This Use Agreement shall not be assigned by Crown Castle without the express written consent of the Village, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of Crown Castle to a parent, subsidiary, or other affiliate of Crown Castle or to any successor in interest or entity acquiring fifty-one percent (51%) or more of Crown Castle's stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Use Agreement and therefore shall not require the consent of the Village, provided that Crown Castle reasonably demonstrates to the Village's lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of Crown Castle immediately prior to the transfer; (ii) any such transferee assumes all of Crown Castle's obligations hereunder; and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with Crown Castle's management team, in the provision of telecommunications or similar services, evidences an ability to operate the Network. Crown Castle shall give at least thirty (30) days' prior written notice (the "Exempted Transfer Notice") to the Village of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why Crown Castle believes the Exempted Transfer Criteria have been satisfied. The Village shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that Crown Castle gives the Village its Exempted Transfer Notice to object in writing to the adequacy of the evidence contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until the Village has received from Crown Castle any and all additional information the Village may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as the Village gives Crown Castle notice in writing of the additional information the Village requires within fifteen (15) days after the Village's receipt of the

original Exempted Transfer Notice. If the Village fails to act upon Crown Castle's Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the foregoing provisions), such failure shall be deemed an affirmation by the Village that Crown Castle has in fact established compliance with the Exempted Transfer Criteria to the Village's satisfaction.

11 MISCELLANEOUS PROVISIONS. The provisions which follow shall apply generally to the obligations of the parties under this Use Agreement.

11.1 ***Nonexclusive Use.*** Crown Castle understands that this Use Agreement does not provide Crown Castle with exclusive use of the Public Way and that the Village shall have the right to permit other providers of communications services to install equipment or devices in the Public Way

11.2 ***Waiver of Breach.*** The waiver by either party of any breach or violation of any provision of this Use Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Use Agreement.

11.3 ***Severability of Provisions.*** If any one or more of the provisions of this Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement. Each party hereby declares that it would have entered into this Use Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

11.4 ***Contacting Crown Castle.*** Crown Castle shall be available to the staff employees of any Village department having jurisdiction over Crown Castle's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Equipment. The Village may contact by telephone the network control center operator at telephone number (888) 632-0931 regarding such problems or complaints.

11.5 ***Governing Law; Jurisdiction.*** This Use Agreement shall be governed and construed by and in accordance with the laws of the State of New York, without reference to its conflicts of law principles. If suit is brought by a party to this Use Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of New York, in the County where the Village is located or in the United States District Court for the Eastern District of New York.

11.6 ***Attorneys' Fees.*** Should any dispute arising out of this Use Agreement lead to litigation, the prevailing party shall be entitled to recover its costs of suit, including (without limitation) reasonable attorneys' fees.

11.7 ***Consent Criteria.*** In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Use Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

11.8 ***Representations and Warranties.*** Each of the parties to this Use Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as provided in § 3.2 above.

11.9 ***Amendment of Use Agreement.*** This Use Agreement may not be amended except pursuant to a written instrument signed by both parties.

11.10 ***Entire Agreement.*** This Use Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Use Agreement which are not fully expressed herein.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Use Agreement, the duly authorized representatives of the parties have executed this Use Agreement as of the Effective Date.

Village: **THE VILLAGE OF WESLEY HILLS**, a New York municipal corporation

By: _____

_____
[name typed]

Its: _____

Date: _____, 2015

Crown Castle: **CROWN CASTLE NG EAST LLC**, a Delaware limited liability company

By: _____

Robert D. Ward

Its: President – DAS and Small Cell Networks

Date: _____, 2015