

FIBER OPTIC INSTALLATION AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of _____, 2025, by SEBAGO FIBER & WIFI, LLC, a Maine limited liability company with an address of 824 Roosevelt Trail, #282, Windham, Maine 04062 ("Operator") and the TOWN OF CASCO, MAINE, (the "Town"), each referred to as the "Party" or jointly referred to as the "Parties".

WHEREAS, the Town is interested in having installed a municipal fiber optic network connecting all municipal buildings;

WHEREAS, the Town desires to have the Operator install a municipal fiber optic network connecting the municipal buildings (approximately 6.208 miles of fiber) (as specified in the attached Exhibit A), for the price of \$296,642.00;

NOW THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

Design and Installation of Municipal Fiber Optic Network

Operator hereby agrees to design and install, providing all necessary materials, labor, and Permits as defined in Section 11.1 of Exhibit B attached hereto, an approximately 6.208 mile fiber optic network to connect the municipal buildings (as specified in the attached Exhibit A) ("the System"), at a cost of \$296,642.00;

Indefeasible Right of Use

Following the final acceptance of the installation of the System, the Operator will grant to the Town for a period of twenty (20) years, renewable for one (1) additional twenty (20) year period, an Indefeasible Right of Use of the System at no cost to the Town. The Parties hereto agree to the terms and conditions of the Indefeasible Right of Use in the form appended hereto as Exhibit B;

Additional Agreements

Prior to the Operator's commencement of installation of the Network, Operator will provide the Town or its agents a final design plan and system specifications for System, and the Town shall have the opportunity to review and approve such design and specifications.

Following the Town's review and approval of the System's design and specifications; the Town shall pay the Operator the initial deposit of \$98,880.67.

The Town shall pay the Operator the balance of the cost of the System based on monthly progress statements subject to a 10% retainage, which retainage shall be paid upon final acceptance of the System, which acceptance shall not be unreasonably conditioned, delayed, or withheld.

Upon receipt of the Town's initial deposit, the Operator shall commence the installation of the System and shall complete such installation without interruption, or delay, of its own making.

If in the Operator's good faith and reasonable judgment it has sufficient capacity to the extent that such additional connections do not diminish the performance of the System available in the approved System, Operator may offer connections to additional Town facilities, or Town residents, or others for resale in any manner.

SAFETY PRECAUTIONS AND PROCEDURES

The Operator shall take all reasonable safety precautions with respect to its work, shall comply with all safety measures initiated by the Town and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property. Operator agrees not to employ for work on this project any person unfit or without sufficient skill to perform the job for which they are employed. The Operator shall immediately report to the Town any injury to any of the Operator's employees at the project, including a written report of the injury, including the status of the injured employee, an explanation of the circumstances that resulted in the injury, and any preventative measures being employed to avoid future injury.

Unless waived in writing by Town prior to commencement of the Work, hard hats, safety glasses and hard soled shoes must be worn at all times on the project site, no exceptions. If at the project site, Operator shall otherwise comply with all safety measures required by the Town.

MISCELLANEOUS PROVISIONS

1. All of the terms and conditions of this Agreement shall be construed according to the laws of the State of Maine, without regard to its choice of law provisions.
2. If a dispute arises between the Operator and Town regarding any claim, or regarding any matter arising out of or relating to this Agreement (the "Claims"), which cannot be settled through direct negotiations, prior to proceeding to arbitration, the Parties shall endeavor to settle the dispute by mediation in accordance with the Construction Industry Arbitration Rules of AAA. The costs of such mediation shall be divided equally among the Parties and shall be administered by a private mediator selected by the Parties. Should mediation prove unsuccessful, all Claims shall be resolved by arbitration administered by AAA in accordance with the Construction Industry Arbitration Rules, or upon mutual agreement of the Parties, by a private arbitrator. Any mediation or arbitration held to resolve a dispute or claim arising out of this Agreement shall, unless otherwise agreed in writing by the Parties, be held within sixty (60) miles of the location where the work was completed. The substantially prevailing party in any such dispute resolution proceeding shall be entitled to an award for their reasonable attorneys' costs and fees.
3. If any term or other provision of this Agreement is determined to be invalid, illegal, or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as

closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

4. A waiver by either Party of any of the above terms and conditions shall not be deemed a waiver of any of the other terms and conditions. None of the remedies provided to Operator or Town by this Agreement is intended to be exclusive, and both parties expressly reserve the right to exercise any other remedies provided by law.
5. No change, modification, or waiver of any provision of the Agreement shall be valid unless it is contained in a writing executed by both Parties.
6. This Agreement and any amendment may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.
7. This Agreement shall not be construed against either Party as the drafter.
8. This Agreement shall not be assigned, sublet, or transferred by the Operator in whole or in part without the Town's written consent. Any purported assignment or transfer without the Town's written consent shall be void and of no effect. It is further agreed that the Operator shall not assign any monies due or to become due under this Agreement without the written consent of the Town.

SIGNATURES ON FOLLOWING PAGE

Executed under seal as of _____ day of _____, 2025.

TOWN OF CASCO

By its duly Authorized _____

SEBAGO FIBER & WIFI, LLC

By its duly authorized Manager
ANDREW DAVIS

EXHIBIT A**Casco Municipal Fiber Path (12 Fiber, 1 tube) Path and Connected Buildings**Municipal Fiber Path 6.208 miles:**Casco Municipal Buildings and Future Locations connected via Dark Fiber**

<u>Town Building</u>	<u>Address</u>	<u>Town</u>
Casco Town Office	635 Meadow Road	Casco
Casco Fire Department	637 Meadow Road	Casco
Berry Property	639 Meadow Road	Casco
Casco Community Center	942 Meadow Road	Casco
Pleasant Lake Beach	Mayberry Hill Road	Casco
Casco Day Park	948 Meadow Road	Casco
Casco Naples Transfer Station	425 Leach Hill Road	Casco
Salt Shed	450 Leach Hill Road	Casco
Hackers Hill Preserver (Tower)	39 Quaker Ridge Rd	Casco

Sebago Fiber will provide drops at the described locations and perform work to pull drops into existing conduits. Any locations that require additional underground work to construct new open conduits are the responsibility of the town.

Commented [C01]: Is the Town okay with this?

FIBER OPTIC AGREEMENT AND GRANT OF IRU

THIS AGREEMENT ("Agreement") is made and entered into as of _____, 2025, by and SEBAGO FIBER & WIFI, LLC, a Maine limited liability company with an address of 824 Roosevelt Trail, #282, Windham, Maine 04062 ("Operator") and the TOWN OF CASCO, MAINE, (the "Town"), each referred to as the "Party" or jointly referred to as the "Parties".

BACKGROUND

- A. Pursuant to and subject to the terms and conditions of the Fiber Optic Installation Agreement dated _____, 2025 (the "FOIA"), by and among the Parties, the Operator will concurrently with the execution of this Agreement, install a fiber communications system (the "System") providing services to subscribers of the System in the Town.
- B. In connection with the final acceptance of the System, the Parties have agreed that:
 - (i) the Town shall have a right to use the fiber optic network consisting of approximately 6.208 miles of fiber connecting the municipal buildings (as described in Exhibit A to the FOIA), free of cost (the "Town Fiber"), and
 - (ii) the Town shall have the right to use any Additional Fibers (as defined below), subject to the terms and conditions set forth herein.
- C. The Parties desire to enter into an agreement governing the Town's right to use the Town Fiber and any Additional Fibers within the existing structural developments in the Town, upon all the terms and conditions set forth below.

DEFINITIONS

The following terms are used in this Agreement:

- A. "Acceptance Notice" means the notice of acceptance of an Additional Fiber pursuant to Article IV for Additional Fiber.
- B. "Additional Fibers" means for each route of Fiber any fibers in addition to the required under the FOIA dated the day and date hereof.
- C. "Dark Fiber" means Fiber between two specified locations that has no optronics or electronics attached to it.
- D. "Fiber" means a glass strand or strands which is/are protected by a color-coded buffer tube and which is/are used to transmit a communication signal along the glass strand in the form of pulses of light.
- E. "Fiber Optic Cable" or "Cable" means a collection of Fibers contained in color-coded buffer tubes with a protective outer covering, which covering includes stiffening rods and filler.
- F. "Indefeasible Right of Use" or "IRU" is an exclusive and irrevocable right, subject to the term in Article II, to use the Town Fiber and Additional Fibers; provided, however, that granting of such IRU does not convey legal title to the Fibers.

G. "Operator Cable" means a Cable containing one or more Fibers owned by the Operator and which contains Dark Fibers in which the Town has an IRU pursuant to the terms of this Agreement.

H. "Town Fiber " means the Fiber which is the subject of the Town approved final design plan, and system specifications for the municipal fiber optic network, as required by the FOIA dated the day and date hereof;

In consideration of their mutual promises, the Parties expressly agree as follows:

ARTICLE I

TOWN FIBER AND ADDITIONAL TOWN FIBER

1.1 The Town desires to obtain an IRU for the Town Fiber. Upon acceptance of Additional Fibers by the Town, the Operator grants an IRU to the Town for the Additional Fibers. The Town shall use the Town Fiber and Additional Fibers solely to connect Town buildings and other Town facilities, and not in any other capacity, including for resale in any manner. For the avoidance of doubt, nothing in this Agreement shall be deemed to obligate the Operator to provide any Fiber or offer any services to any party, other than the Town Fiber.

1.2 If in the Operator's good faith and reasonable judgment it has sufficient Fiber available in the conduit, additional and separate Fiber may be made available by the Operator to connect additional Town buildings and other Town facilities, and may be offered for resale in any manner at market rates. Other than as provided in the preceding sentence, nothing in this Agreement obligates the Operator to offer any Fiber beyond the Town Fiber, supply to the Town any optical or electrical equipment, or other facilities, including without limitation, local distribution facilities, collocation space, regeneration facilities, generators, batteries, air conditioners, fire protection equipment, monitoring equipment, and testing equipment, all of which are the sole responsibility of the Town.

Commented [CO2]: If this included in the price of this Agreement? Or is it an additional cost?

ARTICLE II

EFFECTIVE DATE AND TERM

2.1 The initial IRU term in respect of the Town Fiber and Additional Fibers, if any, shall commence on the date hereof and shall terminate upon the earlier of (a) the expiration of the useful life of such Fiber, as reasonably determined by the Operator and (b) twenty (20) years from the date hereof, with the option by the Town to renew this Agreement for one (1) additional twenty (20) year term.

In the event that the Operator replaces Town Fiber or Additional Fibers for its own purposes, the Operator will replace the Town Fiber at no cost to the Town, except that the Town will be responsible for any cost associated with deploying Fiber strands outside of the public right-of-way to reach the Town facilities.

Commented [CO3]: Is the Town okay with this?

2.2 Expiration or termination of this Agreement shall not affect the rights or obligations of any Party with respect to any payments of expenses incurred prior to the date of termination or pursuant to Article XXII (Taxes); Article IX (Liability) and Article XXII (Dispute Resolution).

ARTICLE III

CONSIDERATION

Subject to the splicing, testing, and other maintenance costs set forth herein, the Town's consideration for the Town Fiber and Additional Fibers shall be the satisfaction of its obligations under the FOIA and this Agreement.

ARTICLE IV

BOUNDARIES; ACCEPTANCE

4.1 In the event the Town's boundaries expand after the date hereof, the Operator shall be under no obligation to expand the Town Fiber, offer Additional Fibers or make any other changes to the System resulting from the change in such boundaries. The Town shall provide an Acceptance Notice to the Operator for the Additional Fibers.

After making available any Additional Fibers, the Operator shall provide the Town with the opportunity to perform a physical inspection of the corresponding IRU routes and Fibers. In addition, the Operator shall provide the acceptance test plan ("ATP") and test results for the Additional Fibers.

4.2 Within seven (7) days after receiving the ATP and test results, the Town shall inspect the Additional Fibers. Within two (2) business days after such inspection, the Town shall then provide the Acceptance Notice or indicate that the Additional Fibers do not meet the specifications by giving notice to the Operator, with such notice to include the specific details of any claim regarding non-compliance with the specifications with respect to the Additional Fibers. The Operator will reasonably cooperate with the Town to provide additional documentation that would reasonably allow the Town to evaluate the acceptability of the Additional Fibers, within five (5) business days of receiving notice of non-compliance. In addition, the Town shall be allowed to conduct its own tests, at the Town's expense, to determine acceptability of the Additional Fibers. If the Town determines that given the additional information, the Additional Fibers still do not meet the specifications, such non-compliance shall be deemed an event of default and Town can proceed in accordance with Section 17.1.

4.3 Upon Acceptance of Additional Fibers, the Town shall receive a grant of its IRU Fibers.

4.4 Any disputes as to Acceptance of Additional Fibers shall be resolved in accordance with Article XXII (Dispute Resolution).

ARTICLE V

LICENSE/PERMIT FEES, AND CO-LOCATION AGREEMENTS

The Town will be responsible for the appropriate government filings, licenses, etc. or other requirements to place the Town Fiber or the Additional Fibers into operation, including, but not limited to, applicable municipal licenses and/or franchise agreements. However, Operator shall work in good faith with the Town to help obtain any required licenses, filings, fees, etc.

ARTICLE VI

PAYMENT

6.1 The Operator shall be responsible for splicing and testing to provide the Town Fiber. Any cost for additional splicing and testing for Additional Fibers will be billed to and paid by the Town within thirty (30) days after the invoice is issued. Customary splicing fees shall apply for the Town to put into use Additional Fibers.

Commented [C04]: Note: Town is responsible for additional splicing costs

6.2 There is no maintenance fee due to the Operator during the initial IRU term of this Agreement. Following the expiration of the initial term of this Agreement, Town shall pay maintenance fees to the Operator for the Town Fiber and Additional Fibers, which are then currently in use.

Commented [C05]: Has Sebago Fiber provided an estimate of maintenance costs?

6.3 All undisputed payments not made when due may bear a late payment charge of one and one-half (1 1/2%) percent per month of the unpaid balance or the highest lawful rate, whichever is less.

ARTICLE VII

MAINTENANCE AND REPAIR

7.1 The Operator warrants that it will use commercially reasonable efforts to maintain its Cable containing Town Fiber and Additional Fibers in accordance with prevailing telecommunications industry standards.

7.2 All routine maintenance and repair functions and emergency maintenance and repair functions, including "one-call" responses, conduit locate services, and necessary relocation of the Operator Cable containing the Town Fiber and Additional Fibers in a common sheath with Operator Fiber, shall be performed by the Operator or its designee for a period coterminous with the term of this Agreement.

(a) Emergency Maintenance. The Operator shall respond to any failure, interruption or impairment in the operation of the Town Fiber or Additional Fibers within two (2) hours after receiving a report of any such failure, interruption, or impairment. Such a report shall contain information in respect of the location of such issue, a description of the problem in as much detail as possible, time and date the problem occurred, and whether problem presents a jeopardy situation to the Operator's Cable. The Operator shall use its commercially reasonable efforts to

perform maintenance and repair to correct any failure, interruption, or impairment in the operation of the Town Fiber or Additional Fibers within eight (8) hours. The Town will be responsible for the costs and expenses of any emergency maintenance caused by the Town, payable within thirty (30) days after invoice. For such other emergency maintenance, the Town shall pay a proportionate share for emergency maintenance, payable within thirty (30) days after invoice. The Town may assist with emergency maintenance if approved by the Operator.

Commented [C06]: Town responsible for emergency maintenance

(b) Routine Maintenance. The Operator shall schedule and perform specific periodic maintenance and repair checks and services. Additional maintenance can be performed from time to time on the Town Fiber or Additional Fibers at the Operator's reasonable discretion, or upon the Town's reasonable request with reasonable advance notice to the Operator. The annual maintenance fee described in Article VII covers all routine maintenance.

Commented [C07]: This isn't described in Article VII.

(c) The Town will reimburse one hundred percent of all related costs associated with damage to the System, Town Fiber or Additional Fibers, to the extent attributable to the negligence or willful misconduct of the Town, its affiliates, employees, agents, or contractors.

(d) For any damage caused by negligence or willful misconduct of the Operator, its affiliates, employees, contractors, or agents that impacts the functionality or use of the Town Fiber or Additional Fibers by the Town, the Operator shall repair, at its sole expense and without reimbursement from the Town such damage; provided, however, the foregoing shall not be interpreted to apply to a successor operator of the System, for any actions taken by, or caused by, the current Operator.

(e) The Operator will, upon request from the Town, perform maintenance, restoration, or relocation of Fiber laterals outside of the Right of Way and shall charge time and materials.

Commented [C08]: Might want to ask to have this defined

Commented [C09]: This should be defined

7.3 In the event the Operator, or others acting on the Operator's behalf, at any time during the term for the Town Fiber or Additional Fibers, or any extension thereof, discontinues maintenance and/or repair of the Town Fiber or Additional Fiber, the Town, or others acting on the Town's behalf, shall have the right, but not the obligation, to thereafter provide for the maintenance, repair, and splicing of the Town Fiber and Additional Fibers in the Operator Cable at the Operator's sole cost and expense. The Town shall use contractors pre-approved by the Operator, which approval shall not be unreasonably withheld or delayed, and shall be deemed approved after the expiration of a thirty (30) day notice period. Any maintenance, repair, and/or splicing discontinuance shall be upon no less than six (6) months' prior written notice by the Operator to the Town.

Commented [C010]: This seems to allow Sebago to make the Town do its own maintenance even though Sebago will pay for it. Is Sebago likely to pass this off to the Town?

7.4 Notwithstanding anything to the contrary contained herein, the Town shall solely be responsible, at its own expense, for the construction, installation, operation, maintenance, repair, and any other activity engaged by or on behalf of the Town relating to all communications transmission equipment used to "light" the Fibers and other terminal equipment and facilities required in connection with the use, electronics, or signals of the Town Fiber or Additional Fibers.

7.5 Except in cases of discontinuance as stated in 7.3 above, the Town must obtain prior written authorization, which such authorization shall not be unreasonably withheld, conditioned or delayed, from the Operator approving any further work and specify the party performing such work before the Town shall perform any work in or around the Operator Cable.

7.6 The Operator shall provide reasonable advance notice to the Town of maintenance or repairs that may affect the Town Fiber or Additional Fibers. The Town shall have the right, subject to the protocols of the Right-of-Way providers, to have a representative present any time maintenance or repairs are performed which may affect the Town Fiber or Additional Fibers.

Commented [CO11]: Define

ARTICLE VIII

SPLICING

8.1 The Town may require that Additional Fibers be spliced into the Operator Cable. In order to maintain the integrity of the Operator Cable, the Operator, or a contractor operating under the Operator's direction, must perform all splicing performed on the Operator Cable.

8.2 For future expansion at existing splice points, the Operator will perform the necessary splicing upon written or email request by the Town. Normal requests for splicing shall be submitted at least thirty (30) business days prior to the requested splicing date, and expedited requests shall be submitted at least fifteen (15) business days prior to the requested splicing date.

The Town agrees that it will not perform any splicing or interfere in any manner with the Operator Cable. The cost of splicing Fibers into the Operator Cable will be borne by the Town. The Optical Splice Points for each route shall be mutually agreed upon in writing by the Parties. The Operator shall provide the Town with a splicing and splice testing schedule(s) so the Town's representative may be present. Splicing documentation ((ATP) and test results) will be provided by the Operator within ninety (90) days after splicing is completed.

Commented [CO12]: Town responsible for cost to splice. Is this included in cost?

8.3 The Town shall provide thirty (30) business days written notification to the Operator if a new splice point is needed after the Town provides Acceptance Notice of Additional Fibers. Approval of new splice points will be at the sole discretion of the Operator, and such approval shall not be unreasonably withheld.

8.4 All splicing will be performed by the fusion splicing method or by any other method that is mutually agreeable. All costs and expenses in connection with the foregoing splicing shall be borne by the Town.

ARTICLE IX

LIABILITY

9.1 Neither Party shall be liable for any consequential damages (including, but not limited to, any claim for loss of services) arising under this Agreement or from any breach or partial

breach of the provisions of this Agreement or arising out of any act or omission of either Party hereto, its directors, officers, employees, servants, contractors and/or agents.

9.2 Subject to the limitation on consequential damages in Article 9.1, each Party assumes, releases and agrees to indemnify, defend, protect, and save the other (including its directors, officers, agents, representatives, and employees) harmless from and against any claim, damage, loss, liability, injury, cost, and expense (including reasonable attorney's fees and expenses) in connection with any loss or damage to any property or facilities of the indemnified Party arising out of or resulting in any way from the acts or omissions to act, negligence, or willful misconduct of the indemnifying Party, its directors, officers, employees, servants, contractors, and/or agents in connection with the exercise of its rights and obligations under the terms of this Agreement. In no event shall the liability of the Operator at any given time exceed the total amount of the greater of the fees paid by the Town to the Operator and insurance proceeds pursuant to this Agreement. In the event a Party shall fail for any reason to indemnify, defend, protect, and save the other harmless, the indemnified Party hereby expressly recognizes that its sole remedy in such event shall be the right to bring a claim pursuant to Article XXII against the indemnifying Party for its damages as a result of the indemnifying Party's failure to so indemnify, defend, protect and hold harmless.

9.3 Nothing contained herein shall operate as a limitation on the right of either Party hereto to bring an action for damages, including consequential damages, against any third party based on any acts or omissions of such third party as such acts or omissions may affect the, operation or use of the Operator Cable, or any Town Fiber or any Additional Fibers; provided, however, that each Party hereto shall assign such rights or claims, execute such documents, and do whatever else may be reasonably necessary to enable the injured Party to pursue any such action against such third party, other than against the Operator or its affiliates. This Agreement shall not limit any rights of recovery or claims pursuant to the PFO.

Commented [CO13]: This needs to be defined

9.4 The Operator recognizes that the Town is a political subdivision of the State of Maine to which the Maine Tort Claims Act is applicable. Accordingly, nothing in this Agreement shall operate in any practical effect to waive any defense, immunity, limitation of liability, or limitation of actions available to Town pursuant to applicable law, including the Maine Tort Claims Act. Furthermore, the Operator agrees that nothing in this Agreement, including any contractual indemnification, is intended or shall operate in any practical effect to create a greater liability on the Town's part to the Operator for third party claims than Town has or would have for claims brought by such third party directly against the Town in accordance with the provisions of the Maine Tort Claims Act.

ARTICLE X

FORCE MAJEURE

The obligations of the Parties (except for the payment of money hereunder) are subject to force majeure, and neither the Operator nor the Town shall be in default under this Agreement if any failure or delay in performance is caused by strike or other labor dispute; accidents; acts of

God; fire; flood; earthquake; lightning; unusually severe weather; material or facility shortages or unavailability not resulting from such Party's failure to timely place orders; lack of transportation; legal inability to access property; acts of any governmental authority; government codes, ordinances, laws, rules and regulations or restrictions (collectively "Regulations") (but not to the extent the delay caused by such Regulations could be avoided by rerouting the Cable if such a reroute was commercially reasonable); condemnation or the exercise of rights of eminent domain; war or civil disorder; or any other cause beyond the reasonable control of either Party hereto. The excused Party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. Notification shall be given by the excused Party of the cause and of the estimated duration, when possible.

ARTICLE XI

REPRESENTATIONS AND WARRANTIES

11.1 In respect of the Town Fiber and Additional Fibers as they shall exist as of the date of final completion it is expressly understood that the Operator shall have no obligation to obtain any additional right-of-way agreements, easements, licenses, rights, or other agreement necessary for the use of poles, conduit, cable, wire, physical plant facilities, access to real property underlying the Operator Cable, rights, licenses, franchises, authorizations, agreements, permits, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) (collectively, "Permits"), and the Operator shall not be responsible or liable for any failure to obtain any Permit, including for any such actions, events, circumstances or matters arising prior to or, related to, the period prior to the closing of the transactions contemplated by the PFO. In the event any changes in the Town Fiber or Additional Fibers would require the Operator to obtain any Permit, Operator shall exercise commercially reasonable efforts to obtain such Permit. The Operator is responsible for obtaining all Permits until Final Acceptance by the Town.

11.2 By signing this Agreement, the Operator represents that it is properly licensed in the jurisdiction where the project is located to provide the services required or shall cause such services to be performed by appropriately licensed design professionals.

11.3 Operator shall perform its services consistent with the professional skill and care ordinarily provided by architects, engineers, designers and/or professionals practicing in the same or similar locality under the same or similar circumstances. Operator shall perform its services as expeditiously as is consistent with such professional skill and care, the approved schedule for the work, and the orderly progress of the work.

11.4 No payment, or partial, or entire use of the Cable, System, Town Fiber, or Additional Fibers by the Town constitutes acceptance of under this Agreement.

ARTICLE XII

RELOCATION OF CABLE

12.1 If the Operator is required to relocate or replace its Cable or any of the appurtenant facilities and equipment used or required in providing the IRU, and the gross cost (excluding reimbursements) of the Operator's relocation or replacement exceeds \$5,000 per occurrence, then, so long as such work is not necessitated by a breach of the Operator's obligations, the Town shall reimburse the Operator for the Town's proportionate share of such costs, including, without limitation, placement or relocation labor, Fiber acquisition, splicing, and testing. In the event that a third party reimbursed the Operator for all or a portion of the cost to perform such work, then this reimbursement amount shall reduce on a dollar for dollar basis the aggregate amount of costs deemed to have been spent by the Operator. The Operator shall deliver to the Town updated as-built drawings and documentation with respect to any relocated portion of the Cable not later than ninety (90) days following such relocation.

12.2 The Operator shall give the Town sixty (60) days prior notice of any such relocation or replacement, if possible, and, upon approval by the Town, shall have the obligation to proceed with such relocation or replacement, including, but not limited to, the right to determine the extent of, the timing of, and methods to use for such relocation or replacement; provided that any such relocated or replaced Cable and Fibers shall be constructed and tested in accordance with the specifications and requirements set forth in this Agreement. Acceptance of the relocated or replaced IRU Fibers shall be in accordance with Article IV (Acceptance) of this Agreement. In addition, the Operator shall use reasonable efforts to ensure relocation or replacement shall not result in an adverse change to the operations, performance, or connection points with the network of the Town, or end points of the applicable Cable.

12.3 The Town has the right to review the relocation or replacement plans of the Operator fourteen (14) days prior to any relocation and has the right to have a representative present at the time the Operator relocates or replaces the Cable that contains the Town Fiber or Additional Fibers.

ARTICLE XIII

INSURANCE

13.1 Each of the Town and the Operator shall maintain insurance, for the duration of this Agreement, as follows:

(a) Workers' Compensation Insurance complying with the law of the state or states in which the services are to be provided and Employers Liability Insurance with the limits of \$500,000 each accident, including occupational disease coverage with limits of \$500,000 each employee, \$500,000 policy limit.

(b) Commercial General Liability Insurance, including premises, operations, products and completed operations, contractual, broad form property damage, independent contractors and personal injury with the following minimum limits: Personal Injury - \$5,000,000 each person and \$5,000,000 each accident, and Property Damage - \$1,000,000 each accident in any

Commented [BM14]: Sebago is providing the services under this Contract, so I'm not sure the need for the Town to provide its own insurance. If Sebago insists, then the Town's insurance for general liability should be capped at \$400,000.

Commented [CO15]: Town should confirm that you have these insurance requirements.

combination of primary or umbrella coverage; provided, however, that the Town need only maintain commercial general liability insurance in an amount of \$400,000 combined total limit.

(c) Automobile Liability Insurance for owned, hired and non-owned autos: \$2,000,000 combined single limit bodily injury/property damage.

13.2 Failure of either Party to enforce the minimum insurance requirements listed above shall not relieve such Party of the responsibility for maintaining these coverages. Each Party shall furnish to the other Party the certificates of insurance reflecting policies carried and limits of coverage as required above, which shall state that thirty (30) days' notice shall be given prior to cancellation, non-renewal or any material change in any such insurance coverage. The liability policies of the Town shall name the Operator and its subsidiaries as additional insured parties. The liability policies for the Operator shall name the Town as additional insured parties.

13.3 Contractor(s) employed by the Town to work on the Fiber Optic Cable shall provide and maintain at all times during the provision of services to the Parties the same types of and amounts of insurance (with the exception of the amount of Commercial General Liability Insurance), which insurance shall be issued by companies approved by the Parties.

For Commercial General Liability Insurance, contractor(s) shall carry:

(1) Combined Single Limit: \$2,000,000 each occurrence; and

(2) Bodily Injury and Property Damage: \$2,000,000 general aggregate, \$1,000,000 products and completed operations aggregate.

The contractor(s) insurance shall be evidenced by certificates of insurance, which shall be delivered to the contracting party prior to commencement of the provision of services. The certificates of insurance shall show that the insurance is prepaid and in full force and effect and that such insurance shall not be canceled, non-renewed or materially changed during the term of this Agreement or during any extension thereof, without at least thirty (30) days written notice to the Parties. The maintenance of insurance by the contractor shall in no way limit or affect the extent of the contractor's liability.

ARTICLE XIV

CONDEMNATION

14.1 In the event any portion of the Operator Cable becomes the subject of a condemnation proceeding by any governmental agency or other party cloaked with the power of eminent domain for public purpose or use, then and in such event, it is agreed that the Operator shall be entitled to pursue an award of damages in such proceedings and shall be solely entitled to any Damages attributable to condemnation of the Operation Cable.

14.2 Upon its receipt of a formal notice of condemnation or taking other than from the Town, the Operator shall notify the Town immediately of any condemnation proceeding filed against

the Operator Cable, including the Town Fiber and the Additional Fibers. The Operator shall also notify the Town of any similar threatened condemnation proceeding, other than from the Town.

14.3 In the event of condemnation by a party other than the Town, it is expressly recognized and understood by the Town that relocation costs resulting from any such condemnation proceeding may not be reimbursed by the condemning authority and, if the Town requests the Operator to relocate the Town Fiber or the Additional Fibers, the Town shall pay its proportionate share of all costs associated with the relocation of the Town Fiber in excess of such costs which were reimbursed by the condemning authority.

14.4 It is understood that none of the foregoing shall apply in the event of a condemnation by the Town, and the Town shall maintain its obligations to among other matters set forth in the PFO, not adversely regulate or discriminate against the Operator, and facilitate the operation of the System as contemplated by the PFO.

ARTICLE XV

CONFIDENTIALITY

15.1 The Parties represent, certify, and warrant that they shall use their commercially reasonable efforts to ensure that any and all information and documents obtained from the other Party during the term of this Agreement and identified as being confidential information will be held in strict confidence and will not be used by their company, its employees, subcontractors, consultants or agents for any purpose other than its performance required by this Agreement.

15.2 In the event that the Town receives a public records request for documents or information that the Operator has designated as confidential and the Town reasonably determines that such documents or information are "public records" under Maine's Freedom of Access Act (1 M.R.S. §§ 400, *et seq.*) that are subject to disclosure, the Town shall notify the Operator that intends to disclose such documents or information and provide the Operator with not less than 10 calendar days to seek a protective order in Cumberland County Superior Court.

15.3 All documents, data, or information furnished by a Party is the sole property of that Party. Upon the expiration of this Agreement and any extensions thereof, those documents, data, or information shall be returned to its owner if readily available.

15.4 Neither the Town nor the Operator may make any news release, public announcement, denial or confirmation concerning all or any part of this Agreement or use the other's name in sales or advertising materials, or in any manner advertise or publish the fact that the companies have entered into this Agreement, or disclose any of the details of this Agreement to any third party, including the press, without the prior written consent of the Operator or the Town, respectively, except such disclosures required by law, or the rules and regulations of the relevant government agencies.

ARTICLE XVI

ABANDONMENT

Should the Town decide to abandon all or part of the Town Fiber or Additional Fibers, it may do so by informing the Operator in writing, such abandonment being made at no cost to either Party. The Town shall remove its equipment and electronics within thirty (30) days of such notification of abandonment by the Town, and if it fails to do so, the Operator may remove such at the Town's cost payable within thirty (30) days of receipt of the invoice. At the time of abandonment, the Town shall have no further rights with respect to its IRU. Such abandonment shall not reduce or otherwise affect the abandoning Party's obligations hereunder.

ARTICLE XVII

DEFAULT

17.1 Upon discovery of default, the other Party shall give the defaulting Party written notice of such default and the defaulting Party shall have thirty (30) days to cure such default after written receipt of such notice; provided, however, that where a default cannot be reasonably cured within the thirty (30) day period, if the defaulting Party shall promptly proceed to cure the default with due diligence, the time for curing the default shall be extended for a period of up to ninety (90) days from the date of receipt of the default notice.

17.2 Upon the failure by the defaulting Party to timely cure any default after notice thereof from the non-defaulting Party, the non-defaulting Party may take any action it determines, in its discretion, to be necessary to correct the default, and/or pursue any legal remedies it may have under applicable law or principles of equity relating to the breach, including, at the Operator's option, no longer offering any Additional Fiber to the Town.

17.3 An event of default shall also be deemed to have occurred if either Party becomes insolvent, or institutes or has instituted against it bankruptcy proceedings which are not dismissed within ninety (90) days of filing, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, and the non-defaulting Party may immediately terminate this Agreement.

ARTICLE XVIII

NOTICES

18.1 Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed as follows:

If to the Operator:

SEBAGO FIBER & WIFI LLC

824 Roosevelt Trail, #282
Windham, Maine 04062
Email:
andrew.davis@sebagofiber.net

If to the Town:

Town of Casco
Attn: Town Manager
635 Meadow Road
Casco, ME 04015
award@cascomaine.org

18.2 Unless otherwise provided herein, notices shall be sent by electronic delivery and certified U.S. Mail, return receipt requested, or by commercial overnight delivery service which provides acknowledgement of delivery, and shall be deemed delivered: if sent by U.S. Mail, five (5) days after deposit; if sent by commercial overnight delivery service, upon verification of receipt.

18.3 Except as provided in this Article, the Town shall not assign this Agreement to any other party without the prior written consent of the Operator.

18.4 Except as provided in this Article, the Operator shall not assign this Agreement to any other party without the prior written consent of the Town; provided, however, that without such consent, but with prior written notice to the Town, the Operator shall have the right to assign, sublet or otherwise transfer this Agreement, in whole or in part, to any parent, subsidiary, or affiliate of the Operator or to any person, firm or corporation which shall control, be under the control of or be under common control with the Operator, or any corporation or entity into which the Operator, or a subsidiary of the Operator, may be merged or consolidated or which purchases all or substantially all of the assets of the Operator, or a subsidiary of the Operator.

18.5 Subject to the provisions of this Article, each of the Parties' respective rights and obligations hereunder shall be binding upon and shall inure to the benefit of the Parties hereto and each of their respective permitted successors and assigns.

18.6 Nothing in this Agreement shall prevent or be construed to prevent the Operator from selling or otherwise disposing of any portion of the Operator Cable or other property of the Operator used for the Town's Fiber Optic Cable but only to the extent that such disposal does not adversely affect the Town's use of the Town Fiber and Additional Fibers; provided, however, in connection with a transaction in which the Operator sells all or substantially all of its assets, the Operator shall exercise commercially reasonable efforts to cause the purchaser to assume the commercial relationship as set forth in this Agreement.

ARTICLE XIX

GOVERNING LAW

This Agreement shall be interpreted and construed in accordance with the laws of the State of Maine, without regard to its conflict of laws principles.

ARTICLE XX

INDEPENDENT CONTRACTOR

The performance by the Operator and/or the Town of all duties and obligations under this Agreement shall be as independent contractors and not as agents of the other Party, and no persons employed or utilized by a performing Party shall be considered the employees or agents of the other. Neither Party shall have the authority to enter into any agreement purporting to bind the other without its specific written authorization. The Parties agree that this Agreement does not create a partnership between, or a joint venture of the Parties.

ARTICLE XXI

DISPUTE RESOLUTION

21.1 It is the intent of the Operator and the Town that any disputes which may arise between them, or between the employees of each of them, be resolved as quickly as possible. Quick resolution may, in certain circumstances, involve immediate decisions made by the Parties' designated representatives. When such resolution is not possible, and depending upon the nature of the dispute, the Parties hereto agree to resolve such disputes in accordance with the provisions of this Article. The obligation herein to arbitrate shall not be binding upon any party with respect to requests for preliminary injunctions, temporally restraining orders, specific performance or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual dispute.

21.2 Any claims or disputes arising under the terms and provisions of this Agreement, or any claims or disputes which the Parties' representatives are unable to resolve within the seventy-two (72) hour time period shall continue to be resolved between the Parties' representatives if mutually agreeable, or may be presented by the claimant in writing to the other Party within thirty (30) days after the circumstances which gave rise to the claim or dispute took place or become known to the claimant, or within thirty (30) days after the Parties' representatives fail to achieve resolution, whichever is later. The written notice shall contain a concise statement of the claim or issue in dispute, together with relevant facts and data to support the claim.

21.3 Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the then current Construction Industry Mediation Rules of AAA. The Parties shall endeavor to select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the Parties are unable to agree to such a selection, each of the Parties will select an arbitrator and the arbitrators in turn shall select a third arbitrator.

The arbitrator(s) shall not have the authority, power or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement, or to award punitive damages. The arbitrator shall have the power to issue mandatory orders and restraining orders in connection with the arbitration. The award rendered by the arbitrator shall be final and binding on the Parties and judgment may be entered thereon in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law.

21.4 During the continuance of any arbitration proceeding, each of the Parties shall continue to perform their respective obligations under this Agreement.

ARTICLE XXII

LIENS; TAXES

22.1 The Town shall not grant or permit any mechanics', or materialmen's lien, or other encumbrance on the Town Fiber or the Additional Fibers, and in the event of any such lien or encumbrance, the Town shall promptly cause such lien or encumbrance to be discharged and released of record (by payment, posting of bond, court deposit or other means) without cost to the Operator and shall indemnify the Operator against all costs and expenses (including attorney's fees) incurred in discharging and releasing such lien or encumbrance; provided, however, that if any such lien or encumbrance is not so discharged and released within thirty (30) days after written notice by the Operator to the Town, then the Operator may pay or secure the release or discharge thereof at the expense of the Town. The Operator shall reimburse the Town for such payments within thirty (30) days of invoice by the Town.

22.2 The Town agrees and acknowledges that it has no right to use any of the Fibers, other than Town Fiber, included in the Operator Cable or otherwise incorporated in the Operator's system, or any system of any affiliate of the Operator, and that the Town shall keep any and all of the Operator's system, free from any liens, rights or claims of any third party attributable to the Town.

22.3 The Parties shall cooperate to minimize adverse tax consequences and may mutually amend this Agreement to improve their respective tax positions.

ARTICLE XXIII

MISCELLANEOUS

23.1 The headings of the Articles in this Agreement are strictly for convenience and shall not in any way be construed as amplifying or limiting any of the terms, provisions, or conditions of this Agreement.

23.2 No provision of this Agreement shall be interpreted to require any unlawful action by either Party. If any section or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that section or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from

this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event such a section or clause is an essential element of the Agreement, the Parties shall promptly negotiate a replacement section or clause that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

23.3 This Agreement may be amended only by a written instrument executed by the both Parties.

23.4 No failure to exercise and no delay in exercising, on the part of either Party hereto, any right, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein. Any waiver by either Party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless and until agreed to in writing by both Parties.

23.5 In the event of a conflict between the provisions of this Agreement and those of the PFO the provisions of this Agreement shall prevail, and the PFO will be corrected accordingly. If there is a conflict or difference between this Agreement and other Exhibits, contracts, or instruments executed in connection with this project, this Agreement shall prevail.

23.6 This Agreement has been fully negotiated between and jointly drafted by the Parties.

23.7 All actions, activities, consents, approvals, and other undertakings of the Parties in this Agreement shall be performed in a reasonable and timely manner.

23.8 Unless expressly defined herein, words having well known technical or trade meanings shall be so construed.

ARTICLE XXIV

COUNTERPARTS

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

ARTICLE XXV

ENTIRE AGREEMENT

This Agreement and the PFO, and any Exhibits referenced and attached hereto or to be attached hereto, constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersede any and all prior negotiations, understandings, and agreements with respect hereto, whether oral or written. Nothing contained in this Agreement shall be interpreted or result in limiting the rights or obligations set forth in the PFO.

SIGNATURES ON FOLLOWING PAGE

Executed under seal as of ____ day of _____ 2025.

TOWN OF CASCO

By its duly Authorized _____

SEBAGO FIBER & WIFI, LLC

By its duly authorized Manager
ANDREW DAVIS