

DEED OF VARIATION

CARIBBEAN UTILITIES COMPANY, LTD (1)

INFINITY BROADBAND, LTD (2)

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DEED OF VARIATION relating to the Master Pole Joint Use Agreement dated 22 November 2005

THIS DEED is made this 20th day of March 2012.

BETWEEN:

- (1) Caribbean Utilities Company, Ltd (the "Electric Utility"); and
 - (2) Infinity Broadband, Ltd (the "Communications Utility"),
- (collectively referred to as the "Parties").

WHEREAS:

- (A) The Parties entered into a Master Pole Joint Use Agreement dated 22 November 2005 (the "Agreement"), pursuant to which the Parties agreed certain terms related to their intention to share the distribution supporting structure for the attachment of each Party's aerial cables and associated equipment in relation to the provision and distribution of their respective services.
- (B) Articles XXV of the Agreement provides that the terms and conditions of the Agreement shall not be amended, changed or altered except in writing and with the approval by authorized representatives of both Parties.
- (C) The Parties now wish to vary and supplement the terms of the Agreement by entering into this Deed.
- (D) Unless otherwise defined in this Deed, all words and expressions defined in the Agreement shall have the same meaning in this Deed.

NOW THIS DEED WITNESSETH as follows:

1 VARIATION

The Parties agree that, with effect from the date of this Deed, the Agreement be varied as follows:

- (a) by amending the definition of Assigned Space in Article I. E. of the Agreement by deleting words "*See drawings in Appendix C.*" and replacing them with the words "*Further details of, and terms relating to, the Assigned Space are set out in Appendix C and the drawings attached thereto.*"
- (b) by amending the definition of Communication Space in Article I. N. of the Agreement by the addition of the following words at the end of the definition "*and as illustrated in Attachment A of Appendix C.*"
- (c) by amending Article IV.F. of the Agreement (*Effect of Failure to Exercise Access Rights*) by deleting the words "*...one hundred twenty (120)...*" and replacing them with the words "*...two hundred (200)...*";

(d) by amending Item 1. (*Typical Pole Configuration*), paragraph C. of Appendix C by the addition of the following words at the end "...in the Assigned Space as illustrated on the drawing in Attachment A."

(e) by adding a new paragraph E in Item 1. (*Typical Pole Configuration*) of Appendix C as follows:

"E. Attaching Utility shall install its Attachment at the top of the Assigned Space."

(f) by adding a new paragraph F in Item 2 (*Other Mutual Agreements*) of Appendix C as follows:

"F. The Communication Space allocated to the Communications Utility as illustrated in the drawing in Attachment A, on all Poles owned by the Electric Utility in Grand Cayman shall be reserved (the "Reserved Space") for Communication Utility's exclusive use until the earlier to occur of the following in respect of each Pole owned by Electric Utility:

- (i) a grant or refusal of a Permit to the Communications Utility (in accordance with the terms of this Agreement) in respect of the Reserved Space on each relevant Pole; and
- (ii) 31 December 2014,

((i) and (ii) together the "Build-Out Period").

In consideration of, and further to, the Reserved Space being reserved for the Communications Utility during the Build-Out Period, the Parties agree as follows:

1 the Communications Utility shall pay the following in relation to all Poles owned by the Electric Utility in Grand Cayman (i.e., approximately 15,000 Poles as at the date of this Agreement) :

- (i) of the Annual Attachment Fee for all the Poles which Communication Utility has not been granted a Permit for at the start of the relevant calendar quarter period in respect of the Reserved Space (the "**Quarterly Reserved Space Payment**"), such Quarterly Reserved Space Payment to be calculated and paid on a quarterly basis (i.e., of the Annual Attachment Fee = = Payment of Poles = a Quarterly Reserved Space Payment of for the relevant quarter period) (all such amounts shall be subject to adjustment on the adjustment of the Annual Attachment Fee in accordance with Item 4 of Appendix A);
- (ii) the first Quarterly Reserved Space Payment shall be paid immediately upon, or as soon as reasonably practicable following, the date of this Agreement; thereafter, the Quarterly Reserved Space Payment shall be made no later than the 5th business day after the beginning of the relevant calendar quarter;

(iii) any Poles that Communications Utility obtains a Permit for during the relevant quarter period will be charged at the full Annual Attachment Fee amount (i.e., per annum, as may be adjusted from time to time in accordance with Item 4 of Appendix A) payable in quarterly instalments, being (as may be adjusted on the adjustment of the Annual Attachment Fee) (the "Quarterly Pole Rental Fee") less any Quarterly Reserved Space Payment (if any) made in relation to such Poles in the relevant quarter period;

(iv) in each quarter period, the Quarterly Reserved Space Payment and the Quarterly Pole Rental Fee payable will be calculated as follows:

a. Quarterly Reserved Space Payment =

b. Quarterly Pole Rental Fee =

c. Total Payment to Electric Utility for each quarter =

Where:

x = all Poles owned by Electric Utility in Grand Cayman

y = all Poles attached to by Communications Utility;

(All such amounts shall be subject to adjustment on the adjustment of the Annual Attachment Fee in accordance with Item 4 of Appendix A.)

(v) at the end of each quarter period the Electric Utility will update and notify the Communications Utility of the current number of Poles it owns in Grand Cayman;

(vi) notwithstanding the foregoing, Communications Utility guarantees the following minimum total annual payments ("Total Minimum Annual Payments") to the Electric Utility

a. 2012:

b. 2013:

c. 2014:

and at the end of each calendar year above, Communications Utility shall calculate the total actual payment owed to the Electric Utility, by way of the aggregate of the Quarterly Reserved Space Payments and the Quarterly Pole Rental Fees for each relevant calendar year (the "Total Annual Payments") as compared to the relevant Total Minimum

Annual Payment above, and in the event that the Total Annual Payments are less than the Total Minimum Annual Payment owed Communications Utility shall calculate the difference and pay the same to the Electric Utility by January 31 in the following calendar year;

- (vii) *at the end of the Build-Out Period Communications Utility shall have no further obligation to pay the Reserved Space Payment in respect of any of the Electric Utility's Poles.*
- 2. *the Communications Utility shall ensure that, upon grant of a Permit in respect of a Pole, it will install cable(s) in connection with its Attachment which fall within the Electric Utility's permitted wind-load restrictions for the relevant Pole and the Electric Utility agrees that it will, as soon as reasonably practicable after the date of this Deed, provide the Communications Utility with details of the maximum wind load permitted for all of its Poles or a reasonable means with which the Communications Utility can compute the same; and*
- 3. *the Electric Utility agrees that it will, at Communications Utility's expense, use its best endeavours to move any transformers on any of the Poles which would otherwise restrict or impede Communications Utility's ability to attach its cable(s)."*

(g) by amending Article XIX. A by the addition of the following words at the end: "Electric Utility may assign or transfer its interest in this Agreement to an affiliate (being an entity that owns or controls, is owned or controlled by, or is under common ownership or control with, the Electric Utility) without Communication Utility's consent, provided that Communication Utility is given prior written notice of such assignment or transfer."

2 CONFIRMATION

The Parties agree and declare that the Agreement shall continue in full force and effect, subject only to the variations contained in this Deed.

3 COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which shall be deemed to be an original hereof but together shall constitute one and the same document.

4 WHOLE AGREEMENT

This Deed and the Agreement together constitute the entire agreement between the Parties in relation to the subject matter thereof.

5 GOVERNING LAW

This Deed is governed by and shall be construed in accordance with the laws of the Cayman Islands and the parties hereby submit for all purposes in connection with this Deed to the exclusive jurisdiction of the Cayman Islands courts.

IN WITNESS whereof the Parties have executed and delivered this document as a Deed on the date set out above.

Executed as a DEED by CARIBBEAN)
UTILITIES COMPANY, LTD., acting)
by a duly authorised signatory in the)
presence of a witness:



For Caribbean Utilities Company, Ltd.



Witness signature

ANDREW SMALL

Witness name
(please print in block capitals)

Executed as a DEED by INFINITY)
BROADBAND LTD., acting by a duly)
authorised signatory in the presence)
of a witness:



For Infinity Broadband Ltd.,



Witness signature

SCOT KASTAL

Witness name
(please print in block capitals)