

## **LEASE**

**THIS LEASE** is entered into as of \_\_\_\_\_, 2020, by and between the **THE TOWN OF CHRISTIANSBURG**, a municipal corporation of the Commonwealth of Virginia, (“Landlord”) and Fiber Technologies Solutions, LLC., doing business as **FIBER TECHNOLOGIES SOLUTIONS, LLC** (“Tenant”), upon the following terms and conditions.

**WHEREAS**, Landlord owns property located in the Town of Christiansburg, Virginia, containing approximately 2.976 acres and 48,840 square feet of enclosed office and warehouse space, located at 415 Cambria Street, NW, Christiansburg, Virginia 24073, and identified as Montgomery County Tax Map No. 466- A 1 (the "Property"); and

**WHEREAS**, Tenant has agreed to lease a portion of the Property upon the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of Ten Dollars (\$10.00), the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I – DEFINITIONS**

Unless the context otherwise requires, the following terms have the meanings specified herein:

1.1. **Premises**. “**Premises**” means (a) a portion of the Property containing approximately 10,000 square feet of warehouse space, and (b) a portion of the Property containing approximately 1,560 square feet of office space. Landlord expressly reserves the right to use the bathrooms located in the Premises for itself and its invitees. Certain common areas exist in relation to the Property and Premises, including, but not limited to, the parking lot, walkways, lobby, stairways and elevators (“Common Areas”). In addition to the Premises, Tenant, and its employees, customers and invitees, shall be entitled to reasonable non-exclusive use of the Common Areas.

1.2. **Term**. “**Term**” means the period from \_\_\_\_\_, 2020, (“**Commencement Date**”) to \_\_\_\_\_, 2021, unless sooner terminated as provided in this Lease. By written notice to Landlord at least thirty (30) days prior, the Term may be extended from month to month by Tenant for one (1) additional year.

1.3. **Rent**. “**Rent**” means Two Thousand, Five Hundred Dollars and No Cents (\$2,500.00) per month.

1.4. **Tenant’s Permitted Use**. “**Tenant’s Permitted Use**” means use of the warehouse space for storage of its inventory and equipment and use of the office space for administrative purposes; and other specific uses sought and as allowed in writing by Landlord.

1.5. Landlord's Address for Notices. "***Landlord's Address for Notices***" means:

The Town of Christiansburg  
Mr. Randy Wingfield, Town Manager  
100 E Main Street  
Christiansburg, VA 24073

With a copy to: N. Reid Broughton, Esquire  
Sands Anderson PC  
P.O. Box 2009  
Christiansburg, Virginia 24068-2009  
540-260-9011 (telephone)  
540-260-0022 (facsimile)

1.6. Tenant's Address for Notices. "***Tenant's Address for Notices***" means:

FIBER TECHNOLOGIES SOLUTIONS, LLC  
2675 MALL OF GEORGIA BOULEVARD, SUITE 301  
BUFORD, GA 30519

## **ARTICLE 2 – LEASE OF PREMISES**

2.1. Lease of Premises. Landlord, for and in consideration of the Rent and the covenants, conditions and agreements hereinafter described to be kept and performed by Tenant, does hereby rent, demise and lease the Premises to Tenant, and Tenant leases the Premises from Landlord, upon the terms contained in this Lease.

2.2. Term. This Lease shall continue during the Term, unless terminated as provided herein.

2.3. Rent. During the Term, Tenant shall pay to Landlord the Rent, in advance on the first day of each calendar month, without notice, demand, abatement, deduction or offset, in lawful money of the United States at Landlord's Address for Notices or to such other person or at such other place as Landlord may designate from time to time by written notice given to Tenant.

2.4. Acceptance of Premises. Tenant agrees to accept the Premises in "as is" physical condition as of the Commencement Date without any agreements, representations, understandings or obligations on the part of Landlord to perform any alterations, repairs or improvements (or to provide any allowance for same); provided, however, that Landlord represents and warrants to Tenant that, as of the date of this Lease, all utilities, including electric, telephone, water and sewer, are available at the Premises.

## **ARTICLE 3 - USE OF PREMISES**

3.1 **Tenant's Permitted Use.** Tenant shall use the Premises only for Tenant's Permitted Use and shall not use or permit the Premises to be used for any other purpose. Tenant shall, at its sole cost and expense, obtain all governmental licenses and permits required to allow Tenant to conduct Tenant's Permitted Use.

3.2 **Compliance With Laws.** Tenant shall not use the Premises, or permit the Premises to be used in any manner that violates any applicable laws, ordinances, or regulations.

3.3 **Hazardous Substances.** The term "***Hazardous Substances***" means pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use or storage of which is restricted, prohibited, regulated or penalized by any law relating to pollution or protection of the environment (collectively "***Environmental Laws***"). Tenant agrees not to use, store, release, or dispose of any Hazardous Substance in the Premises in violation of applicable Environmental Laws. Tenant shall promptly remediate any violation of this requirement in strict accordance with all applicable Environmental Laws at Tenant's sole expense. Nothing herein prohibits Tenant's incidental storage and use of kitchen and cooking supplies, cleaning products in quantities as customarily found in like businesses, or materials required by and used in Tenant's business, so long as the same is in strict accordance with all Environmental Laws. Notwithstanding anything herein, nothing in this Lease shall obligate Tenant to remediate any release, spill, discharge, of any Hazardous Substances at the Premises or Property or to indemnify Landlord pursuant to the provisions of this Section, unless the release, spill or discharge resulted directly or indirectly from Tenant's use and occupancy of the Premises. If contamination or historic fill exists at the Premises or Property prior to the commencement of the date of the Lease, Landlord shall be responsible for all remediation costs associated with such contamination. For the avoidance of doubt, Tenant shall have no liability or indemnification obligations under this Lease for the migration of Hazardous Substances under the Premises or Property from adjacent properties not caused or contributed to by Tenant.

## **ARTICLE 4 – OPERATING EXPENSES**

4.1 **Utilities.** Tenant covenants to pay when due all charges during the Term for electricity serving the Property. Landlord shall pay for when due all charges for other utilities used in or for the benefit of the Property and the Premises.

4.2 **Taxes.** Tenant shall pay any taxes or assessments on or for its equipment and all other taxes associated with its use of the Premises.

4.3 **Services.** Landlord is not obligated to provide any services to the Premises except as otherwise specifically stated in this Lease, and is not liable for any stoppage of, or interruption in furnishing, any services to the Premises.

## **ARTICLE 5 – MAINTENANCE AND REPAIRS**

5.1 Landlord's Obligations. Landlord, at its sole cost, shall maintain, repair, replace and keep in good repair and condition the Property (including the exterior, walls, foundation, roof, plumbing, electrical, plumbing, mechanical, and HVAC systems), excluding any conditions caused in whole or in part by Tenant (which shall be solely the responsibility of Tenant). Lessor shall also be responsible to maintain and operate the Common Areas, including Common Area utilities, property management, Common Area air conditioning maintenance, pest control, grounds maintenance, snow removal, Common Area maintenance and repairs, supplies, and other Common Area costs and expenses.

5.2 Tenant's Obligations. Tenant, at its sole cost, shall maintain and keep in good repair and condition all of the interior, non-structural portions of the Premises (including, without limitation, the interior, doors, windows, and plate glass) except for those items that are expressly set forth as responsibilities of the Landlord, and shall be solely responsible for any conditions caused in whole or in part by Tenant. In no event shall Tenant have any responsibility for the replacement of any portion of the Premises, nor shall Tenant have responsibility to repair or replace the HVAC system, as part of Tenant's maintenance responsibilities.

## **ARTICLE 6 – ALTERATIONS, ADDITIONS, AND IMPROVEMENTS**

6.1 Landlord's Consent: Conditions. Tenant shall not make or permit to be made any alterations, additions, or improvements in or to the Premises ("Alterations") without the prior written consent of Landlord, which consent shall not be unreasonably delayed or withheld. All permitted Alterations shall be performed at Tenant's sole cost in compliance with plans and specifications approved by Landlord, all applicable laws, ordinances, rules, and regulations and the requirements of all carriers of insurance on the Premises. All work shall be performed in a diligent, first class manner.

6.2 Liens. Tenant shall pay when due all costs for work performed and materials supplied to the Premises. Tenant shall keep the Premises free from all liens, stop notices, and violation notices relating to the Alterations or any other work performed for, materials furnished to, or obligations incurred by or for, Tenant. Tenant shall protect, indemnify, hold harmless and defend Landlord, and the Premises of and from any and all loss, cost, damage, liability and expense, including reasonable attorneys' fees, arising out of or related to any such liens or notices.

6.3 Lease Termination. Upon expiration or earlier termination of this Lease, or any renewal or extension hereof, Tenant shall surrender the Premises to Landlord in the same condition as when received, subject to reasonable wear and tear. All alterations shall become a part of the Premises and shall become the property of Landlord, unless Landlord shall have, by written notice given to Tenant at the time Landlord consented to the alterations, required Tenant to remove some or all of Tenant's Alterations, in which event Tenant shall promptly remove the designated Alterations and shall promptly repair any resulting damage, all at Tenant's sole expense. Provided that Tenant shall not be in default

under this Lease, all business and trade fixtures, machinery and equipment, furniture, movable partitions and items of personal property owned by Tenant or installed by Tenant at its expense in the Premises shall be and remain the property of Tenant upon the expiration or earlier termination of this Lease. Tenant shall at its sole expense, remove all such items and repair any damage to the Premises caused by such removal. If Tenant fails to remove any such items or repair such damage promptly after the expiration or earlier termination of this Lease, Landlord may, but need not, do so, and Tenant shall pay Landlord the cost thereof upon demand.

## **ARTICLE 7 – INDEMNIFICATION AND INSURANCE**

7.1 Indemnification. Tenant agrees to protect, indemnify, hold harmless and defend Landlord, its partners, agents and employees, successors and assigns, from and against any and all loss, cost, damage, liability or expense (including but not limited to reasonable attorney's fees) arising out of the use or occupancy of the Premises by Tenant or the acts or omissions of Tenant or its agents, employees, contractors, clients, invitees or subtenants.

7.2 Property Insurance. Tenant shall procure and maintain, at its sole expense, "all-risk" property insurance in an amount not less than one hundred percent (100%) of the replacement cost covering Tenant's trade fixtures, equipment and other personal property from time to time situated in the Premises. Landlord shall maintain throughout the term of the Lease "All Risk" property insurance covering the Premises and Property at least as broad as the ISO Cause of Loss Special Form, insuring for full replacement value (but subject to reasonable deductibles) of the building and improvements, including the equipment, systems, and facilities serving same. Said policy shall not exclude flood coverage if the Premises is located in a flood zone. For avoidance of doubt, such insurance carried by Landlord shall include fire and hazard coverage.

7.3 Liability Insurance. Tenant shall procure and maintain, at its sole expense, commercial general liability insurance applying to the Tenant's use and occupancy of the Premises and the business operated by Tenant. Such insurance shall have a minimum combined single limit of liability of at least One Million Dollars and No Cents (\$1,000,000.00). Landlord shall also carry a policy of commercial general liability insurance on an occurrence basis (including coverage for death, personal injury and property damage), with minimum single limit coverage of at least One Million Dollars (\$1,000,000.00).

7.4 Additional Insured. All such policies shall include Landlord as an additional insured. Tenant shall provide evidence of insurance to Landlord upon request. No insurance policies under this Section shall be terminated without at least thirty (30) days prior written notice having been delivered to Landlord.

## **ARTICLE 8 – DAMAGE OR DESTRUCTION; CONDEMNATION**

8.1 Partial Damage or Destruction. In case of damage to or destruction of less than fifty percent (50%) of the Premises, Landlord shall, at its own expense, promptly repair and restore the Premises substantially to the condition which existed prior to such damage or destruction. The proceeds of any insurance covering such damage or destruction shall be made available to Landlord for such repair or replacement. Rent payable under this Lease shall be abated, by an amount equal proportional amount of the Premises determined to be untenantable, during any period of repair or replacement.

8.2 Total Loss. In the event of damage or destruction of fifty percent (50%) or more of the Premises (“**Total Loss**”), Landlord shall have no obligation to repair or reconstruct the Premises. In the event Landlord elects not to repair or reconstruct the Premises following a Total Loss, Landlord shall notify Tenant of its intent within thirty (30) days of the occurrence of the Total Loss and this Lease shall terminate, and Tenant shall assign all insurance proceeds relating to the Total Loss to the Landlord, with the exception of any such proceeds on account of trade fixtures, equipment, and other personal property owned by Tenant.

8.3 Condemnation. If the entire Premises, or so much of the Premises as to render the balance unusable by Tenant, shall be taken by condemnation, then this Lease shall terminate on the date that title or possession to the Premises is taken by the condemning authority, whichever is earlier. If this Lease does not terminate pursuant to the preceding sentence, this Lease shall then continue in full force and effect and there shall be an equitable adjustment in Rent based upon any reduction in the square footage of the Premises. The award for such taking shall be equitably divided between Landlord and Tenant at the time of the taking as their interests then appear.

## **ARTICLE 9 – DEFAULT AND REMEDIES**

9.1 Events of Default By Tenant. The occurrence of any of the following (without limitation) shall constitute a material breach of this Lease by Tenant.

- A. The failure by Tenant to pay any payment due hereunder within ten (10) days of the date due.
- B. The failure by Tenant to observe or perform any other provision of this Lease to be observed or performed by Tenant, if such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant unless Tenant begins to cure such failure within thirty (30) days after such notice and thereafter continues to use reasonable efforts to cure such failure.
- C. The making by Tenant of any general assignment for the benefit of creditors, the filing by or against Tenant of a petition under any federal or state bankruptcy or insolvency law, unless, in the case of a petition filed against Tenant, the same is dismissed within ninety (90) days after filing; or the attachment, confiscation or other seizure of substantially all of

Tenant's assets located at the Premises or Tenant's interest in this Lease or the Premises, if such is not discharged within ninety (90) days.

9.2 Landlord's Right to Terminate Upon Tenant Default. In the event of any material breach of this Lease by Tenant, Landlord shall have the right to terminate this Lease and recover possession of the Premises by giving written notice to Tenant of Landlord's election to terminate this Lease, in which event Landlord shall be entitled to receive from Tenant:

- A. The amount of any unpaid Rent due and payable at the time of such termination; plus
- B. The amount of Rent due and payable by Tenant under this Lease for the balance of the Term provided however, that Landlord shall use all reasonable efforts to minimize the loss of Tenant by finding a new tenant to offset the current Tenant's obligations; plus
- C. Any other sum of money owed by Tenant to Landlord under the terms of this Lease; plus
- D. Interest on the foregoing amounts from the time due until the time actually paid at the rate of nine percent (9%) per annum.

9.3 Right of Landlord to Perform. All covenants and agreements to be performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense. Landlord may, but shall not be obligated to, make any payment or perform any other act required to be made or performed by Tenant, without waiving or releasing Tenant of its obligations under this Lease. Any sums so paid by Landlord shall be payable to Landlord as additional rent on demand.

## **ARTICLE 10 – MISCELLANEOUS PROVISIONS**

10.1 Attorneys Fees. If either Landlord or Tenant shall commence any action or other proceeding against the other arising out of, or relating to, this Lease or the Premises, the prevailing party shall be entitled to recover from the non-prevailing party, in addition to any other relief, its reasonable attorneys' fees incurred therein.

10.2 Subordination This Lease, and the rights of Tenant hereunder, are and shall be subject and subordinate to the interests of (i) present and, subject to the conditions described hereinafter, future mortgages and deeds of trust encumbering all or any part of the Premises; (ii) all past and future advances made under any such mortgages or deeds of trust. Upon demand, Tenant shall execute, acknowledge and deliver any instruments reasonably requested by Landlord or any such Mortgagee to effect the purposes of this section; provided however, with respect to any mortgage or deed of trust recorded subsequent to the date of this Lease, such Mortgagee shall agree in a recordable instrument that this Lease shall not be divested by foreclosure or other default proceedings and the

tenancy of Tenant shall not be disturbed so long as Tenant is not in default under this Lease beyond applicable cure periods. Landlord shall hold Tenant harmless from any liability to or for any mortgage or deed of trust on the Premises and shall cause such mortgage or deed of trust to be removed as a lien on the Premises at the time of any conveyance of the Premises to Tenant. Notwithstanding anything in this Section to the contrary, Tenant's agreement to so subordinate this Lease shall be conditioned on the prior written agreement of the mortgagee, trustee, or other beneficiary, as the case may be, to unconditionally recognize Tenant's rights under this Lease and not disturb Tenant's possession of the Premises as long as Tenant shall not be in default under this Lease beyond any applicable notice and opportunity to cure period, per a written subordination, non-disturbance and attornment agreement in a form reasonably acceptable to Tenant ("SNDA").

10.3 Quiet Enjoyment. Provided that Tenant performs all of its obligations hereunder, Tenant shall have and peaceably enjoy the Premises during the Term free of claims by or through Landlord, subject to all of the terms and conditions contained in this Lease.

10.4 Estoppel Certificate. Tenant agrees upon not less than ten (10) days' prior written notice from Landlord to execute, acknowledge and deliver to Landlord an estoppel certificate certifying to any current or prospective mortgagee such facts (if true) and agreeing to such notice provisions and other matters as such mortgagee may require in connection with Landlord's financing.

10.5 Entry By Landlord. In addition to its reserved right to use the bathrooms located in the Premises, Landlord may enter the Premises at all reasonable times after 48 hours prior written notice to Tenant to: inspect the same; exhibit the same to prospective purchasers and mortgagees or, during the last 60 days of the Term, to prospective tenants; or for any other reasonable purpose; provided, however, that any work performed by Landlord shall be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible.

10.6 Notices. All notices shall be served personally or by registered or certified mail, postage prepaid, or commercial overnight delivery, addressed to Landlord at Landlord's Address for Notices or to Tenant at Tenant's Address for Notices, or addressed to such other address or addresses as either Landlord or Tenant may from time to time designate to the other in writing. Any notice shall be deemed to have been served at the time the same was posted.

10.7 Entire Agreement. This Lease contains all of the agreements and understandings relating to the leasing of the Premises and the obligations of Landlord and Tenant in connection with such leasing. Landlord has not made, and Tenant is not relying upon, any warranties, or representations, promises or statements made by Landlord or any agent of Landlord, except as expressly set forth herein. This Lease supersedes any and all prior agreements and understandings between Landlord and Tenant and alone expresses the agreement of the parties with regard to its subject matter.

10.8 Amendments. This Lease shall not be amended, changed or modified in any way unless in writing executed by Landlord and Tenant. Landlord shall not have waived or released any of its rights hereunder unless explicitly in a writing executed by Landlord.

10.9 Successors and Assigns. Except for assignment to an affiliate, Tenant may not assign or sublet all or any part of this Lease without Landlord's consent, which consent will not be unreasonably withheld or delayed, and in making such determination, it shall be reasonable for Landlord to consider the reputation and industry experience of the assignee and its financial strength. Except as expressly provided herein, this Lease and the obligations of Landlord and Tenant contained herein shall bind and benefit the successors and permitted assigns of the parties hereto.

10.10 Governing Law. This Lease is governed by, and construed and performed in accordance with, the laws of the Commonwealth of Virginia without regard to any choice of law provision thereof.

10.11 Captions. All captions, headings, titles, numerical references and computer highlighting are for convenience only and shall have no effect on the interpretation of this Lease.

10.12 Number and Gender. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include the appropriate number and gender, as the context may require.

10.13 Time is of the Essence. Time is of the essence of this Lease and to the performance of all obligations hereunder.

10.14 Counterparts. This Lease may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

**TENANT:**

**FIBER TECHNOLOGIES SOLUTIONS LLC**

By: \_\_\_\_\_  
(Printed) \_\_\_\_\_  
(Title) \_\_\_\_\_

*LANDLORD:*

**TOWN OF CHRISTIANSBURG**

By: \_\_\_\_\_  
(Printed) \_\_\_\_\_  
(Title) \_\_\_\_\_