

Checklist for Building Owners Using Standard Telecommunications License Agreement

The Standard Telecommunications License Agreement establishes a general framework for the relationship between building owners ("Licensors") and telecommunications service providers ("Licensees"), but leaves many specific issues for the parties to negotiate. This checklist is intended to assist you in the use of the Agreement.

1. **Fill in the Blanks.** The Standard Telecommunications License Agreement has many blanks for you to complete for your specific transaction. These include the definitions of License Fees, the License Term, the Commencement Date (Transaction-Specific Terms and Conditions), notice requirements, insurance amounts, default deadlines, and other critical terms (General Terms and Conditions).¹ These also include exhibits identifying Communications Spaces and Pathways (Exhibit B), Equipment (Exhibit C), the Equipment Room Plan (Exhibit D), Rooftop Space (Exhibit E), Services (Exhibit F), Technical Specifications (Exhibit G), Licensee's Financial and Technical Capacity (Exhibit H), Licensee's Work Plan (Exhibit I), and CDS Fee (Exhibit K). **BEFORE EXECUTING THE STANDARD LICENSE AGREEMENT, BUILDING OWNERS SHOULD ENSURE THAT EACH OF THESE "OPEN" ITEMS HAS BEEN CLOSED, AND THAT THE AGREEMENT IS COMPLETE. PLEASE ALSO NOTE THAT THE AGREEMENT PROVIDES THAT, IF THE PARTIES FAIL TO COMPLETE EXHIBITS B, C, D, E AND F IN WHOLE OR IN PART BY THE TIME THE AGREEMENT IS TO BE SIGNED, THE CONTENTS OF THOSE EXHIBITS MAY BE DETERMINED BY LICENSOR IN ITS SOLE DISCRETION. SEE GENERAL TERMS AND CONDITIONS, EXHIBIT "A" DEFINITIONS.**

2. **Due Diligence Period.** Section 1.14 of the Transaction-Specific Terms and Conditions contemplates the establishment of a "Due Diligence Period" running from the Effective Date through the Commencement Date, during which the Licensee may determine the suitability of the Building and Premises for their intended use. Building owners should note that Section 2(e) of the General Terms and Conditions establishes no such mechanism, and states that the Licensor (the building owner) makes no warranty as to suitability of the Building and Premises, it being assumed that the Licensee has investigated the Building and completed any due diligence studies prior to execution, and accepts the Building and Premises "as is." **BUILDING OWNERS AND TELECOMMUNICATIONS SERVICE PROVIDERS MUST DECIDE WHICH OF THESE TWO APPROACHES THEY WILL FOLLOW. IN ADDITION, SHOULD THE PARTIES DECIDE TO INCLUDE THE "DUE DILIGENCE" PROVISIONS, BUILDING OWNERS SHOULD MAKE SURE THAT LICENSEES PROVIDE THEM WITH THE REQUIRED NOTICE OF ENTRY AND INSURANCE CERTIFICATES, AS SPECIFIED IN SECTION 1.14 OF THE TRANSACTION-SPECIFIC TERMS AND CONDITIONS.**

¹ See attached table.

3. **Colocation; Hub Facilities.** Pursuant to Section 2(h) of the General Terms and Conditions, absent Licensor's prior written consent, Licensee is expressly prohibited from using its Equipment to provide Services to parties other than the tenants of the Building, program or control the operations of any other equipment of the Licensee outside the Building, or provide co-location or interconnection services to third parties using the Premises or Equipment. **BUILDING OWNERS SHOULD REQUIRE SEPARATE AGREEMENTS FOR ANY CO-LOCATION OR HUBBING ARRANGEMENTS LICENSEES SEEK. BUILDING OWNERS SHOULD ALSO PERIODICALLY SURVEY THEIR TENANTS AND CHECK TELEPHONE CLOSETS, ROOFTOP SPACES, AND OTHER TELECOMMUNICATIONS SPACES IN THEIR BUILDINGS REGULARLY TO CONFIRM THAT THE ABOVE PROHIBITIONS HAVE NOT BEEN VIOLATED.**
4. **Relocation Requests – Notice.** Pursuant to the General Terms and Conditions of the License Agreement, Licensors must give prior notice to Licensees in connection with Equipment relocation requests (Sections 2(c) and 2(d)). **BUILDING OWNERS SHOULD ENSURE THAT ALL RELOCATION REQUESTS COMPLY WITH THIS REQUIREMENT.**
5. **Interference.** Section 3(c) of the General Terms and Conditions requires the Licensor to direct any Future Licensee to take all steps necessary to correct and eliminate interference to Licensee's operations. **AS A PREVENTATIVE MEASURE, BUILDING OWNERS SHOULD URGE LICENSEES AND FUTURE LICENSEES TO CONSULT WITH EACH OTHER AS EARLY AS POSSIBLE TO COORDINATE ALL FREQUENCY AND EMISSIONS ISSUES.**
6. **Tenant Subscription Agreements.** Section 4 of the General Terms and Conditions requires Licensees to include in their tenant subscription agreements provisions designed to insulate building owners from liability in the event of a service malfunction. **BUILDING OWNERS SHOULD MAKE SURE THAT TENANT SUBSCRIPTION AGREEMENTS CONTAIN SUCH PROVISIONS.**
7. **Licensee's Financial and Technical Capacity.** Section 5 of the General Terms and Conditions requires Licensees to demonstrate and maintain their financial and technical qualifications, but does not define the criteria by which these will be judged. **PARTIES SHOULD REACH CONSENSUS ON THESE CRITERIA BY COMPLETING EXHIBIT H OF THE LICENSE AGREEMENT.**
8. **Rooftop Survey.** To ensure Licensee's ongoing compliance with applicable FCC and OSHA requirements, Section 6(b) of the General Terms and Conditions provides for an annual Rooftop Survey to be undertaken by the building owner, with the costs reimbursed, on a pro rata basis, by Licensees. **BUILDING OWNERS SHOULD ENSURE THAT SUCH SURVEYS OCCUR ON A PERIODIC BASIS.**
9. **Work Plans.** Section 7(a) provides for the submission by Licensee of Work Plans, in the form specified in Exhibit I, to be approved by Licensor, but prohibits Licensor from disapproving any Work Plan on the basis of work depicted in Exhibits A, B, C

or D. Alternatively, pursuant to Section 7(d), the parties may execute a Work Plan Rider (Schedule C), which contemplates Licensor's inferred approval of any Work Plan to which it has not responded within a set number of days. Licensor's failure to respond to Licensee's Work Plan will be deemed an approval by Licensor of that Work Plan. **PRIOR TO EXECUTING THE LICENSE AGREEMENT, BUILDING OWNERS SHOULD MAKE SURE THAT EXHIBITS A, B, C, D AND I HAVE BEEN COMPLETED, AND THAT THE AGREEMENT CORRECTLY REFLECTS WHETHER THE PARTIES HAVE ELECTED TO ADOPT THE INFERRED APPROVAL APPROACH IN SCHEDULE C. IF THE PARTIES HAVE ELECTED TO EXECUTE SCHEDULE C, APPLICABLE BLANKS IN THAT SCHEDULE SHOULD BE FILLED IN AND THE BUILDING OWNER SHOULD ADOPT AN INTERNAL SYSTEM, INCLUDING THE DESIGNATION OF TECHNICAL CONTACTS, FOR ENSURING THAT IT RESPONDS TO SUBMITTED WORK PLANS WITHIN THE SPECIFIED TIME FRAMES.**

10. **Rooftop Inspection.** Section 8(b) of the General Terms and Conditions contemplates that the Licensee, at its sole expense and risk, will undertake a physical inspection of the Rooftop Space at least yearly, and provide the building owner with a written certification of such inspections within a set time frame. **BUILDING OWNERS SHOULD ESTABLISH PROCEDURES TO ENSURE THAT SUCH INSPECTIONS AND CERTIFICATIONS OCCUR AS REQUIRED.**
11. **Building Access.** Sections 8(c) and 9 provide for Licensee's entry to the Building for the performance of maintenance, repair and other functions in accordance with Licensor's security procedures, and with the obligation of Licensee to provide Licensor with a written report of all actions taken by Licensee during such visit. **BUILDING OWNERS SHOULD ESTABLISH SECURITY AND OTHER PROCEDURES GOVERNING SUCH MATTERS AND COMMUNICATE THEM CLEARLY TO LICENSEES.**
12. **Removal of Equipment.** Section 10(a) of the General Terms and Conditions permits Licensor to retain, after expiration of the Agreement, all of Licensee's Connecting Equipment. **IN ORDER TO PROTECT THEIR RIGHTS UNDER THIS PROVISION, BUILDING OWNERS SHOULD MAKE SURE THAT THE TERM "CONNECTING EQUIPMENT" IS CORRECTLY AND FULLY DEFINED, AND THAT THEY HAVE ESTABLISHED PROCEDURES TO FACILITATE THE RETENTION OF SUCH EQUIPMENT IF DESIRED.**
13. **Cable Distribution System.** Section 11 of the General Terms and Conditions provides for the installation of a central telecommunications cable distribution system ("CDS") and the negotiation of a CDS fee in accordance with Exhibit K. **BUILDING OWNERS SHOULD NEGOTIATE WITH LICENSEES A SUITABLE CDS ARRANGEMENT THROUGH THE FINALIZATION OF EXHIBIT K. BUILDING OWNERS DO HAVE THE OPTION OF ENTERING INTO THE LICENSE AGREEMENT WITHOUT EXHIBIT K, BUT WITH AN INDICATION THAT EXHIBIT K WILL BE ADDED LATER IF AND WHEN THE OWNER DETERMINES TO INSTALL A CDS.**

14. **Insurance.** Please note that the Agreement contains two alternative insurance provisions – Section 12 and Schedule D. **EXECUTED AGREEMENTS SHOULD MAKE CLEAR WHICH INSURANCE PROVISIONS THE PARTIES HAVE CHOSEN TO GOVERN THEIR RELATIONSHIP.**
15. **Default Deadlines.** Certain Events of Default set forth in Section 16 of the General Terms and Conditions are triggered by Licensee's action, or inaction, within certain specified time periods, which are left to the parties to negotiate. **BUILDING OWNERS SHOULD MAKE SURE THAT EXECUTED AGREEMENTS INCLUDE ALL REQUIRED DEFAULT DEADLINES.**
16. **Failure to Provide Service, Commence Construction, Complete Installation.** Pursuant to Sections 16(a)(4)(D), (E), (F) and (G) of the General Terms and Conditions it is an Event of Default if Licensee fails to provide Services to at least one Tenant for a specified period of time; if Licensee fails to commence construction of Equipment within a specified number of days of the Commencement Date; if Licensee fails to complete installation of Equipment within a specified period; or if Licensee fails to commence the provision of Services to Tenants within a specified time period. **TO PROTECT THEIR RIGHTS UNDER THESE PROVISIONS, BUILDING OWNERS SHOULD ESTABLISH INTERNAL PROCEDURES INCLUDING PERIODIC INSPECTION OF TELEPHONE CLOSETS, ROOFTOP SPACES AND COMMUNICATIONS SPACES TO ASCERTAIN WHETHER LICENSEES HAVE INSTALLED EQUIPMENT AND ARE PROVIDING SERVICES TO TENANTS, AS WELL AS PERIODIC SURVEYS OF BUILDING TENANTS TO ASCERTAIN WHO THEIR CARRIERS ARE, AND WHETHER THEY ARE GENERALLY SATISFIED WITH THE QUALITY OF THE TELECOMMUNICATIONS SERVICES THEY RECEIVE.**
17. **Confidential Information.** Section 38(c) of the General Terms and Conditions, in which the term "Confidential Information" is to be defined, is intentionally incomplete to allow the parties to negotiate a mutually acceptable definition. **PRIOR TO EXECUTION, THE PARTIES SHOULD COMPLETE THIS SECTION BY INSERTING AN AGREED-UPON DEFINITION.**
18. **Canvassing and Soliciting to Tenants.** The License Agreement is intentionally silent as to any limitations, beyond those that might otherwise be set forth in rules and regulations for the Building, relating to Licensee solicitation of Building tenants. **BUILDING OWNERS SHOULD ESTABLISH INTERNAL PROCEDURES AND PERHAPS INCLUDE SPECIAL PROVISIONS IN BUILDING RULES AND REGULATIONS IF LIMITATIONS ON CANVASSING AND SOLICITING TENANTS IS DESIRED.**

**CHECKLIST OF SECTIONS OF THE LICENSE AGREEMENT CONTAINING
ITEMS TO BE COMPLETED BY THE PARTIES**

Transaction-Specific Terms and Conditions

Section 1.1	<input type="checkbox"/>
Section 1.2	<input type="checkbox"/>
Section 1.3	<input type="checkbox"/>
Section 1.4	<input type="checkbox"/>
Section 1.5	<input type="checkbox"/>
Section 1.6	<input type="checkbox"/>
Section 1.7	<input type="checkbox"/>
Section 1.8	<input type="checkbox"/>
Section 1.9	<input type="checkbox"/>
Section 1.10	<input type="checkbox"/>
Section 1.11	<input type="checkbox"/>
Section 1.15	<input type="checkbox"/>

General Terms and Conditions

Section 2(c)	<input type="checkbox"/>
Section 2(d)	<input type="checkbox"/>
Section 3(b)	<input type="checkbox"/>
Section 5	<input type="checkbox"/>
Section 7(a)	<input type="checkbox"/>
Section 7(e)	<input type="checkbox"/>
Section 7(l)	<input type="checkbox"/>
Section 8(b)	<input type="checkbox"/>
Section 8(c)	<input type="checkbox"/>
Section 9(b)	<input type="checkbox"/>
Section 9(c)	<input type="checkbox"/>
Section 10(a)	<input type="checkbox"/>
Section 10(b)	<input type="checkbox"/>
Section 11(b)(4)	<input type="checkbox"/>
Section 11(c)	<input type="checkbox"/>
Section 11(d)	<input type="checkbox"/>
Section 12(a)	<input type="checkbox"/>
Section 15	<input type="checkbox"/>
Section 16(a)(1)	<input type="checkbox"/>
Section 16(a)(2)	<input type="checkbox"/>
Section 16(a)(3)	<input type="checkbox"/>
Section 16(a)(4)(D)	<input type="checkbox"/>
Section 16(a)(4)(K)	<input type="checkbox"/>
Section 16(a)(4)(L)	<input type="checkbox"/>
Section 16(a)(5)	<input type="checkbox"/>
Section 16(b)(1)	<input type="checkbox"/>
Section 16(c)	<input type="checkbox"/>
Section 16(d)	<input type="checkbox"/>

Section 18.....	<input type="checkbox"/>
Section 19.....	<input type="checkbox"/>
Section 20(b).....	<input type="checkbox"/>
Section 20(c).....	<input type="checkbox"/>
Section 21.....	<input type="checkbox"/>
Section 25(b).....	<input type="checkbox"/>
Section 34.....	<input type="checkbox"/>
Exhibit A.....	<input type="checkbox"/>
Commencement Date	<input type="checkbox"/>
Equipment Room.....	<input type="checkbox"/>
Other Fees	<input type="checkbox"/>
Rooftop Space	<input type="checkbox"/>

Exhibit B: Communications Spaces and Pathways.....	<input type="checkbox"/>
Exhibit C: Equipment	<input type="checkbox"/>
Exhibit D: Equipment Room Plan.....	<input type="checkbox"/>
Exhibit E: Rooftop Space.....	<input type="checkbox"/>
Exhibit F: Services	<input type="checkbox"/>
Exhibit G: Technical Specifications	<input type="checkbox"/>
Exhibit H: Licensee's Financial and Technical Capacity	<input type="checkbox"/>
Exhibit I: Work Plan	<input type="checkbox"/>
Exhibit J: Access Request Form	<input type="checkbox"/>
Exhibit K: CDS Fee	<input type="checkbox"/>
Exhibit M: Building Rules and Regulations.....	<input type="checkbox"/>
Schedule B: Emergency Generator Rider.....	<input type="checkbox"/>
Schedule C: Work Plan Rider	<input type="checkbox"/>
Schedule D: Insurance Rider	<input type="checkbox"/>