

**TELECOMMUNICATIONS LICENSE AGREEMENT  
(MULTI-TENANT OFFICE BUILDING)**

TRANSACTION-SPECIFIC TERMS AND CONDITIONS

This Telecommunications License Agreement (together with all Exhibits or other attachments hereto, this "**Agreement**") is made as of the Effective Date by and between Licensor and Licensee. Licensee desires access to and use of portions of Licensor's Building for the purpose of providing the Services to Tenants. In consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**Article 1—Term Sheet.** The parties agree that the following terms have the precise meanings ascribed to them below whenever used in this Agreement and that each party shall perform as required hereunder. Defined terms used herein include the plural as well as the singular as the context requires. Any defined terms set forth below that are not applicable to a particular transaction should be stricken.

**1.1 "Effective Date":** \_\_\_\_\_

**1.2 "Licensor":** \_\_\_\_\_

a(n) \_\_\_\_\_

Notice Address: \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

e-mail: \_\_\_\_\_

**1.3 "Licensee":** \_\_\_\_\_

a(n) \_\_\_\_\_

Notice Address: \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

email: \_\_\_\_\_

**1.4 "Building":** The land and improvements located at and commonly known as

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**1.5 "Building Manager":** \_\_\_\_\_

- 1.6 "Initial Term":** \_\_\_\_\_  
months/years from and after the Effective Date.
- 1.7 "Commencement Date":** \_\_\_\_\_  
days after the Effective Date, or upon completion of installation of the Equipment, whichever event comes first, subject to termination under Section 2.2 below.
- 1.8 "Extension Term":** \_\_\_\_\_ additional \_\_\_\_ ( ) month/year period(s) after the expiration of the Initial Term.
- 1.9 "License Fees":** Licensee shall comply with the financial provisions and make the payments to Licensor set forth in Exhibit M, which exhibit may also address record keeping and additional requirements as negotiated by the parties.
- 1.10 "Annual Increase":** \_\_\_\_\_ percent (\_\_\_\_%)
- 1.11 "Default Rate":** \_\_\_\_\_ percent (\_\_\_\_%), but under no circumstances higher than the legal rate of interest.

**Article 2—Transaction Specific Terms.**

**2.1 Installment Payments:** [STRIKE OR MODIFY AS APPLICABLE] Throughout the Term, from and after the Commencement Date, Licensee must pay Licensor the License Fees in equal monthly installments on the \_\_\_\_\_ day of each calendar month of the Term (and a prorated amount for any partial calendar months). The License Fees increase annually during the Term and any Extension Term, effective as of each anniversary of the Commencement Date, by an amount equal to: (a) the Annual Increase; multiplied by (b) the License Fees for the prior calendar year (including the accumulation of prior Annual Increases). Licensee must pay the License Fees to Licensor in advance without demand, offset, abatement, diminution or reduction (except as may be expressly provided herein). If any payment of the License Fees becomes more than \_\_\_\_ ( ) days overdue, then the amount overdue will accrue interest at the Default Rate until paid.

**2.2 Due Diligence Period:** [STRIKE IF INAPPLICABLE] From the Effective Date through the Commencement Date (the "**Due Diligence Period**"), Licensee and its agents and other representatives may enter the Building and Premises at all reasonable times, and upon reasonable prior notice to Licensor, to perform such inspections and to do those things that are reasonably necessary to determine the suitability of the Building and Premises for the Services and Licensee's Equipment, all at Licensee's sole expense. Licensee must promptly repair any damage caused by any such inspection and restore the portion of the Building and Premises damaged by Licensee to their condition prior to such inspection. If the Building or the Premises are not suitable for the Services in Licensee's good faith opinion, then Licensee may terminate this Agreement by sending written notice of termination to Licensor at any time prior to the expiration of the Due Diligence Period. If Licensee so terminates this Agreement prior to the expiration of the Due Diligence Period, then neither Licensor nor Licensee will have any further obligation or liability to the other under this Agreement (except those which expressly survive any such termination). If Licensee does not so terminate this Agreement prior to the expiration of the Due Diligence Period, then Licensee will be deemed to have waived the right to terminate this Agreement pursuant to this Section 2.2, and to have accepted the condition of the Premises and Building in their "AS IS" condition as of the Effective Date, except as expressly provided herein. Licensee is solely responsible for determining

all aspects as to the suitability of the Building and Premises for the Services. Licensee will indemnify the Licensor Parties and hold them harmless from all Claims arising from any activities on the Premises by Licensee and its agents and other representatives during the Due Diligence Period. This indemnification and Licensee's repair and restoration obligations set forth above will survive any termination of this Agreement.

**2.3 Term:** This Agreement remains effective for a period of time equal to the Initial Term plus any properly exercised Extension Term, if any, unless sooner terminated pursuant to an express provision hereof (such period of time being referred to as the "**Term**"). Any Extension Term indicated in **Section 1.8** above will be properly exercised only by delivery of written notice to Licensor, at least \_\_\_\_\_ ( ) days prior to the expiration of the then-existing Term, of Licensee's election to extend the Term for the applicable Extension Term. Licensee will be deemed to have waived the right to extend the Term for any Extension Term if there is an uncured Event of Default at the time of Licensee's exercise of the election to extend the Term. Licensee's written notice to Licensor of Licensee's election to extend the Term shall include copies of Licensee's current financial statement and such other evidence of the financial capacity of Licensee to continue to perform hereunder as Licensor may reasonably require. In the event that Licensor reasonably determines, taking into account all factors relevant to the obligations Licensee will undertake during the Extension Term, that Licensee lacks the financial capacity to continue to perform hereunder Licensor may require Licensee to deliver adequate security to or on behalf of Licensor, or Licensor may refuse to agree to the Extension Term. If the Term is not extended, and so long as there is no uncured Licensee Event of Default under this Agreement, then all provisions, terms and conditions of this Agreement shall remain in full force and effect for the sole purpose of allowing Licensee to continue to provide the Services to Tenants for a period of time that is the lesser of the remaining term of any agreement between Licensee and a Tenant or \_\_\_\_\_ ( ) months from the expiration of the Term.

**2.4 Other Terms and Conditions:** The attached Telecommunications License Agreement General Terms and Conditions, and Riders, Schedules and Exhibits thereto, are a part of this Agreement.

**2.5 Counterparts:** This Agreement may be executed in counterparts and each executed counterpart will be construed to be an original.

**[Intentionally Blank]**

**TELECOMMUNICATIONS LICENSE AGREEMENT  
(MULTI-TENANT OFFICE BUILDING)**

SIGNATURE PAGE

**IN WITNESS WHEREOF**, Licensor and Licensee have caused this Agreement to be signed by their authorized representatives, in multiple original counterparts, as of the day and year first above written.

**LICENSOR:**

**LICENSEE:**

\_\_\_\_\_

\_\_\_\_\_

a(n)\_\_\_\_\_

a(n)\_\_\_\_\_

By:\_\_\_\_\_

By:\_\_\_\_\_

Print Name:\_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

WAS1 #890560 v9

## General Terms and Conditions

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**TELECOMMUNICATIONS LICENSE AGREEMENT**  
**GENERAL TERMS AND CONDITIONS**

1. Definitions. All capitalized terms in this Agreement shall have the meaning ascribed to them in Exhibit A and in the Transaction-Specific Terms and Conditions, unless expressly defined elsewhere in this Agreement.

2. License Grant

(a) Subject to the terms and conditions of this Agreement, and any covenants, conditions and restrictions recorded against the Building, copies of which shall, upon Licensee's written request, be promptly provided to Licensee, at Licensee's cost and expense as to Licensor's reasonable expenses for producing such copies, including Licensor's internal costs and expenses, without representation or warranty and to the extent such copies are in Licensor's control or readily available to Licensor, and in consideration of the duties, covenants and obligations of Licensee hereunder, Licensor hereby grants to Licensee a non-exclusive license to install, operate, maintain and remove, at Licensee's sole expense and risk, the Equipment in the Equipment Room, on the Rooftop Space of the Building, and in the Communications Spaces and Pathways, all for the limited purpose of providing the Services to the Tenants (the "**Permitted Use**"); provided, however, that Licensee shall be responsible for obtaining, at its sole cost, all necessary consents to access any and all Tenants' premises. The Equipment Room, Rooftop Space and Communications Spaces and Pathways are hereinafter collectively referred to as the "**Premises**". Licensee shall have the exclusive right to use the Rooftop Space, and the portions of the Equipment Room and the Communications Spaces and Pathways actually occupied by Licensee's Equipment in accordance with this Agreement.

(b) The type, size and location of the Equipment located in or on the Building and the Premises shall be limited as set forth in the terms and conditions of this Agreement. Subject to Licensor's prior written approval, which approval shall not be unreasonably withheld, delayed or conditioned, Licensee shall have access to the Communications Spaces and Pathways, for the purpose of installing and maintaining Licensee's cabling and wiring included within the definition of Equipment hereunder and necessary to provide Services to or for the benefit of the Tenants.

(c) Licensor, upon \_\_\_\_ ( ) days notice to Licensee, may (i) require Licensee to permanently relocate any or all of the Equipment to another comparable space in or on the Building, or (ii) reduce the amount of Rooftop Space available to Licensee, if Licensee has notified or confirmed to Licensor, in writing, upon Licensor's written request, that it is not using and does not intend to use the portions of the Rooftop Space identified by Licensor or any other portions of the Rooftop Space; provided that such relocation or modification does not substantially change the operation of the Equipment, materially adversely affect Licensee's ability to provide Services to the Tenants or future Tenants, or materially degrade the quality of reception or transmission of the Equipment, and only if Licensor pays any actual, out-of-pocket costs or expenses paid by Licensee to third parties in connection with such relocation or modification. Licensor will permit Licensee to perform a standard cut-over procedure, if required by any relocation of Equipment, which will ensure that the relocated Equipment is operational for Services prior to discontinuing service from the old location. Licensor shall not be responsible for damage to the Equipment or for theft, misappropriation or loss thereof resulting from such relocation, except to the extent caused by Licensor's gross negligence or willful misconduct. In addition to Licensee's right to relocate its Equipment set forth in Section 3(c), if the Equipment is interfered with as a result of circumstances arising after the installation of the Equipment, Licensee shall have the right, at its sole cost and expense, to relocate all or a portion of the Equipment to comparable space in or on the Building to avoid such interference, provided that Licensor has determined, in Licensor's commercially reasonable judgment, that comparable adequate space is available and identified by Licensor in or on the Building.

(d) If, during the License Term, Licensor needs to perform maintenance work at the Building, repair or replace any portion of the Building that includes, but is not limited to the Premises

or modify or replace any existing systems in the Building ("Premises Work"), Licensee agrees to cooperate with Licensor to permit the performance of the Premises Work. Licensor agrees to provide at least \_\_\_\_\_ ( ) days notice to Licensee of its intention to perform Premises Work; except in the case of an Emergency Situation, in which case Licensor shall give as much notice as is reasonably possible under the circumstances. The Premises Work may require the relocation of Equipment or Licensee's installation of temporary equipment. Moreover, if a temporary relocation of Equipment is required to accommodate the Premises Work, the parties shall determine the most suitable alternative location that will not impede the Premises Work and that will minimize any adverse effect upon Licensee's ability to provide Services to or for the benefit of Tenants. Notwithstanding the foregoing, Licensee shall move the Equipment back to its original location after receipt of notice that the Premises Work is completed unless the parties agree to utilize the relocated area permanently. Licensee's obligation to pay for and bear the cost and expense of any temporary relocation of Equipment in connection with Premises Work shall be limited to (i) \_\_\_\_\_ percent (\_\_\_%) of the relocation cost for the first relocation of Equipment during the Term, and (ii) \_\_\_\_\_ percent (\_\_\_%) of the relocation cost for all subsequent relocations of Equipment during the Term. If any of the Premises Work is likely to interrupt or materially alter Licensee's provision of Services to any Tenants, then Licensor will, if requested in writing by Licensee, provide prior notice to the affected Tenants of the likely interruption.

(e) Licensor makes no warranty or representation that the Building or the Premises are suitable for Licensee's use, it being assumed that Licensee has investigated the feasibility of the Building and Premises for Licensee's business operations and use. Licensee has inspected the Premises and the Building and, except as otherwise expressly provided herein, accepts the same "AS IS" (or has assumed the risk for failure to investigate) and agrees that Licensor is under no obligation to perform any work or provide any materials to prepare the Premises or the Building for Licensee, but Licensor shall maintain the Building in a commercially reasonable manner. Licensor shall have no responsibility for, or obligation or liability with respect to: (i) the reliability or continued operation of the Equipment, provided that Licensor is in compliance with its non-interference obligations as set forth in Section 3 hereof; or (ii) the suitability, sufficiency or compatibility of heating, ventilation, air conditioning, plumbing, electrical, fire protection, life safety, security, public utility or other systems in the Building (whether as initially installed or as modified or replaced from time to time by Licensor in its sole discretion) for or with any components installed by Licensee pursuant to this Agreement or the use or operation thereof or the delivery of any Services by Licensee, except to the extent otherwise covered by Licensor's indemnification under Section 12(g) of this Agreement.

(f) Licensor and Licensee acknowledge and agree that the relationship between them is solely that of independent contractors, and nothing shall be construed to constitute the parties as employer and employee, partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

(g) Licensor reserves the right to lease and/or license other portions of the Building and/or the rooftop of the Building to others for telecommunications transmitting or receiving sites during the term of this Agreement. Licensor will use commercially reasonable efforts to ensure that any telecommunications equipment installed at the Building after the Commencement Date will be installed in a manner that is not reasonably expected to interfere with the operation of Licensee's Equipment. Prior to permitting the installation of telecommunications equipment at the Building following the Commencement Date, which Licensor has actual reason to believe will interfere with the operation of Licensee's Equipment, Licensor shall direct such subsequent user to submit plans and specifications for its equipment to Licensee. Licensee agrees to promptly review any plans submitted and to use commercially reasonable efforts to resolve any potential interference issues to the mutual satisfaction of both itself and the subsequent user. In the event that despite commercially reasonable efforts to resolve any potential interference issues to the mutual satisfaction of Licensee and the subsequent user such issues remain unresolved, Licensee's sole and exclusive remedies hereunder shall be to either (i) relocate Licensee's Equipment at the subsequent user's expense, to the extent

possible, provided that Licensor has determined, in Licensor's commercially reasonable judgment, that adequate space is available and identified by Licensor in or on the Building, or (ii) terminate this Agreement, with neither party having a claim against the other as a result of such termination or the potential or actual interference.

(h) Except as may be otherwise set forth herein, absent Licensor's prior written consent, Licensee is expressly prohibited from using the Equipment to (i) operate as a "hub" site or provide Services to a tenant, occupant or licensee of another building or to any other third party including, but not limited to, the general public, or (ii) program or control the operations of any other equipment of Licensee located other than at the Building.

(i) Licensee shall have the right to upgrade its Equipment and implement new technologies at the Premises to provide Services to Tenants, provided that (i) such actions by Licensee do not impair Licensor's rights hereunder, increase Licensee's rights to use space in the Building or result in any interference with other operations at the Building; and (ii) such actions by Licensee are undertaken in accordance with, and are governed by the terms of, this Agreement. In the event that Licensee's upgrading of Equipment or implementation of new technologies would involve an expansion of the Premises, then Licensee shall obtain Licensor's prior written approval of an amendment or modification to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed, but which approval may be conditioned upon an increase in the Licensee Fee to be paid hereunder.

(j) Licensee may provide co-location or interconnection services (sometimes called "line sharing" services) to third parties using the Premises or Equipment as necessary for Licensee to provide its Services to Tenants; provided, however, that such third parties shall have first entered into a license agreement with Licensor. Licensee acknowledges that Licensor has the right to contract directly with every provider of telecommunications and information services to and in the Building, and that any attempts by Licensee to provide co-location, interconnection or so-called "line sharing" services to third parties in violation of this Section 2(j) shall constitute an Event of Default hereunder.

(k) Upon at least \_\_\_\_\_ ( ) days prior written notice to Licensee, Licensor reserves the right to move the points of demarcation of inside wiring and cabling in the Building to the minimum point of entry as permitted by the FCC and other Governmental Agencies. Licensee shall make appropriate arrangements to continue its Services without interruption despite the movement of the points of demarcation.

### 3. Use

(a) Licensee shall not use the Premises for any purpose other than the Permitted Use.

(b) Licensee shall not use the Premises in any way that interferes with the use and enjoyment of the Building by (i) Licensor, (ii) Tenants, (iii) Existing Licensees; or (iv) Future Licensees operating under plans approved by Existing Licensees under Section 2(g) hereof, including to the extent Licensee installs equipment in or on the Building after such Future Licensee installs equipment in or on the Building. The operation of Licensee's Equipment shall not materially interfere with the maintenance or operation of the Building, including but not limited to the roof, MATV, CATV or other video systems, HVAC systems, electronically controlled elevator systems, computers, telephone systems, or any other system serving the Premises and/or its occupants, or the operation of any radio or telecommunication equipment installed by or on behalf of Licensor, or the operation of any radio or telecommunication equipment installed by or on behalf of Existing Licensees and Tenants prior to the Commencement Date, and Future Licensees operating under plans approved by Existing Licensees. Upon notice of any such interference, Licensee shall immediately cooperate with Licensor to identify the source of such interference and shall, within \_\_\_\_\_ ( ) hours/days, cease all operations (except for intermittent testing as approved by Licensor, which approval shall not be unreasonably withheld, conditioned or delayed) until the interference has been corrected to the reasonable

satisfaction of the Licensor, unless Licensee reasonably establishes prior to the expiration of such \_\_\_\_ hours/day period that such interference is not caused by Licensee's Equipment, in which case Licensee may operate its Equipment pursuant to the terms of this Agreement. Licensee shall be responsible for all costs associated with any tests deemed reasonably necessary to resolve any and all interference as set forth in this Agreement. If such interference has not been corrected within \_\_\_\_\_ ( ) days after notice to Licensee of its occurrence, Licensor or Licensee may terminate this Agreement upon \_\_\_\_\_ ( ) days written notice, or Licensor may (i) require Licensee to remove the specific items from the Equipment causing such interference, or (ii) eliminate the interference at Licensee's expense, provided such interference is actually caused by Licensee's Equipment. Licensee shall indemnify Licensor and hold Licensor harmless from all Claims arising from any interference caused by or resulting from Licensee's Equipment. Licensor shall place non-interference restrictions similar to those set forth above on Future Licensees, and shall use procedures similar to those set forth above for the resolution of claims of interference with Licensee's Equipment.

(c) If the equipment of any Future Licensee causes interference, including Line-of-Sight signal interference, with Licensee's Equipment, Licensee shall reasonably cooperate with such Future Licensee to resolve such interference in a mutually acceptable manner, provided that such equipment of the Future Licensee is installed and operating within the technical parameters specified by its manufacturer and the Future Licensee's FCC license. If any Future Licensee should cause interference, including Line-of-Sight signal interference, or cause irresolvable interference with the Licensee's Equipment, in addition to Licensee's right to relocate its Equipment as set forth in Section 2(c), and any other rights and remedies of Licensee, Licensee may enjoin any such interference without the involvement or participation of Licensor, and Licensee's sole remedy, with respect to Licensor, shall be to terminate this Agreement without further liability to Licensor. In no event shall Licensor have any liability or responsibility for any interference with Licensee's operations, except to the extent resulting from Licensor's gross negligence or intentional misconduct. To the extent that Licensee's operations are not within the parameters of its FCC license or are in violation of the terms of this Agreement, and such non-compliance is not caused by Licensor or a Future Licensee, Licensee's protections from interference herein shall not apply, and Licensee shall indemnify and defend Licensor from all Claims arising out of such unlicensed operations, or operations in violation of the terms of this Agreement.

(d) Notwithstanding the foregoing, if an Emergency Situation exists which Licensor reasonably determines to be attributable to the Equipment, upon written or verbal notice Licensee shall act diligently and expeditiously to remedy the Emergency Situation. Should Licensee fail to remedy the Emergency Situation or should Licensor reasonably determine that the response time by Licensee is not adequate given the nature of the Emergency Situation, Licensor may then act to remedy the Emergency Situation, including, if reasonably determined by Licensor to be necessary, interrupting the power supply to the Equipment, and Licensee shall have no recourse against Licensor as a result of such action, unless Licensor acted with gross negligence or willful misconduct. Licensor shall give Licensee notice of an interruption in the power supply as soon as possible after such interruption has occurred.

(e) Licensee shall not allow any excessive or objectionable levels of noise, as established by any Governmental Agency, or if none has been so established, as reasonably determined by Licensor, to be generated by the Equipment during normal operations. Unless Licensor gives written approval otherwise, all activities of Licensee at the Building, including, without limitation, construction and installation activities, which are deemed to be noisy by any Tenant or otherwise disruptive to the operations of the Building, as determined by Licensor in its reasonable discretion, shall be conducted outside of Normal Business Hours.

4. Signage. Licensee shall not place or maintain any sign in or on the Building without Licensor's prior consent, other than such Equipment signage as may be required under applicable law.

5. Licensee's Capacity. Licensee represents and warrants to Licensor that upon execution of this Agreement, Licensee is an experienced and qualified provider of the Services operating in compliance with Applicable Laws and Licensee has the financial and technical capacity to perform Licensee's obligations under this Agreement.

6. Compliance With Law

(a) Licensor shall comply with all Applicable Laws relating to the ownership or operation of the Building. Licensee agrees to comply with all Applicable Laws, Work Plans, Building Rules and Regulations and contractual obligations with respect to the installation, operation and maintenance of the Equipment, the Licensee's provision of Services, and the Building. Licensee shall obtain and keep in effect all required licenses, permits and other authorizations necessary to conduct Licensee's provision of Services within or on the Building (the "Permits") and deliver copies thereof to Licensor upon request. Upon request, Licensor agrees to cooperate with Licensee, at no cost to Licensor, in obtaining any required Permits. If compliance with this Section requires material modifications or alterations of any Equipment, no such modification or alteration shall be made without Licensor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) To the extent Licensee is operating radio frequency (RF) emitting equipment on the roof of or inside the Building, Licensee shall cooperate generally with Licensor and other carriers such that the Building's rooftop shall be and remain in compliance with all FCC and OSHA rules and regulations relating to guidelines for human exposure to radio frequency or electromagnetic emission levels, as may be issued from time to time, including but not limited to the rules and regulations adopted in FCC document OET 65 (which rules and regulations have also been adopted by OSHA). If Licensee believes that the operation of its Equipment in the Rooftop Space does not obligate Licensee to submit filings in accordance with FCC and OSHA rules and regulations, Licensee shall demonstrate, to Licensor's reasonable satisfaction, that Licensee's operation of its Equipment is so excluded. To the extent that Licensee's Equipment is not excluded, or if Licensor in its reasonable judgment believes that Licensee's equipment, either by itself or in conjunction with other equipment in or on the Building, may exceed permitted emission levels, Licensee shall (A) promptly upon Licensor's written request, deliver to Licensor a reasonably acceptable certification or survey report demonstrating that the Building's rooftop is in compliance with all applicable FCC and OSHA rules and regulations (a "**Rooftop Survey**"), and (B) to the extent Licensee's Equipment or the operation thereof directly or indirectly causes, and Licensee's Equipment is the sole cause of such non-compliance, the Building's rooftop (or any section thereof) to not be in compliance with such rules and regulations, promptly remedy any such non-compliance in accordance with Licensor's reasonable directions and at Licensee's sole cost and expense, otherwise, if Licensee's Equipment is not the sole cause of such non-compliance, Licensee shall pay its pro rata share of the cost (based upon the level of RF emissions from each telecommunications provider's equipment), together with other responsible parties, for remedying such non-compliance. In the event that Licensee (x) relocates or makes any change to the Equipment located in the Rooftop Space or (y) makes any change to any Equipment or operation thereof which directly or indirectly affects the operation of Licensee's Equipment located in the Rooftop Space, Licensor may, at its option, and so long as such relocation or alteration was not made at the request of Licensor, require that a new Rooftop Survey be conducted at Licensee's sole cost and expense by a firm approved by Licensor in its reasonable discretion (in addition to the annual Rooftop Survey described above), but if Licensee believes that the operation of its Equipment in the Rooftop Space does not obligate Licensee to submit filings in accordance with FCC and OSHA rules and regulations, Licensee shall demonstrate, to Licensor's reasonable satisfaction, that Licensee's operation of its Equipment is so excluded, in which case Licensee shall have no obligation to pay for any portion of the Rooftop Survey.

7. Construction

(a) All Equipment will be installed in the locations depicted in the drawings, and to the specifications and in accordance with the additional information attached hereto as Exhibits B, D and E (collectively, the "Work Plan"). If no such drawings, specifications or additional information are attached, or if the attached materials are reasonably determined by Licensor to be inadequate, then Licensee shall not install or modify any Equipment in or on the Building unless and until such work is depicted in a Work Plan, submitted to, and approved in writing by, Licensor (each such approved Work Plan, an "Approved Work Plan"), which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that cable installation, upgrades, modifications, routine maintenance and repairs in the Premises, which do not adversely affect equipment, cables, or other property of or at the Building, or of Tenants or other third parties, shall not require Licensor's prior approval of a Work Plan (although Licensee shall deliver to Licensor a revised Work Plan within \_\_\_\_\_ ( ) days after completion of such work to reflect any modifications to the previously effective Approved Work Plan necessitated by such maintenance and repairs). Licensor shall approve or reject the Work Plan within \_\_\_\_ ( ) days after submission stating in writing the specific objections to the proposed Work Plan. Licensor may subject its approval of any Work Plan to reasonable conditions including, but not limited to, commercially reasonable accommodations to protect the aesthetics of the Building, such as appropriate screening, at Licensee's expense, and, in connection with construction of Communications Spaces and Pathways in which coring is necessary, for Licensee to provide the Services on Licensee's agreement to core one or more core vertical paths (which may be greater than the size of the Communications Spaces and Pathways that Licensee may be entitled to use under this License). Upon Licensee's request, to the extent reasonably available, at no cost to Licensor and to the extent not considered by Licensor to be confidential or proprietary, Licensor shall provide Licensee with (i) copies of the Building's as-built drawings, (ii) information regarding the location of any known Hazardous Materials located in the Building and (iii) copies of schematic drawings of telephone and electrical systems in the Building. After Licensee has completed Licensee's initial installation under the Approved Work Plan, any alterations shall be subject to the terms and conditions of this Section 7(a), including the requirement that Licensee obtain an Approved Work Plan for all alterations.

(b) To the extent applicable, the terms and conditions of the installation, alteration, maintenance, improvement or repair of any generator to be used by Licensee shall be set forth in a separate rider to this Agreement, the form of which is attached hereto as Schedule B (the "Emergency Generator Rider").

(c) Licensor's failure to provide a written consent pursuant to this Section 7 shall under no circumstance be deemed to constitute an approval. Licensor's approval of any Work Plan or work performed pursuant thereto is not a representation that such installation of the Equipment is in compliance with all Applicable Laws or that it will not cause interference with other communications operations in the Building.

(d) If the parties execute the Work Plan Rider attached hereto as Schedule C, the terms of such Rider shall supersede the foregoing paragraphs (a)-(c).

(e) Licensee will notify Licensor at least \_\_\_\_\_ ( ) days prior to performing any inspections at the Building or prior to commencing Licensee's installation of Equipment, and Licensee shall perform all work at times approved by Licensor in its reasonable discretion. Within \_\_\_\_\_ ( ) days after the complete execution of this Agreement, and in any event prior to the commencement of due diligence at the Building or any installation or alteration work, Licensee will, at its own cost and expense, deliver to Licensor a certificate confirming that any insurance required under this Agreement has been obtained and is in full force and effect.

(f) Licensee understands and agrees that the structural integrity of the load bearing capability of the roof of the Building, the moisture resistance of the building membrane, and the ability of Licensor to use all parts of the roof of the Building are of critical importance to Licensor. Licensee,

therefore, agrees that the installation of the Equipment shall be performed in a manner that will ensure that these concerns are protected.

(g) All installation and other work to be performed by Licensee hereunder, including Licensee's use of the loading docks and similar areas to unload its Equipment prior to installation, will be done in such a manner as to minimize disruption of use of the Building by Licensor and Tenants and not to block access to or in any way obstruct, interfere with or hinder the use of the Building's loading docks, the sidewalks around the Building, or any entrance ways thereto, or interfere materially with, delay, or impose any additional expense upon Licensor in maintaining the Building. If such conditions shall occur, Licensee shall take immediate corrective action. Licensee agrees that installation and construction shall be performed in a safe, neat, professional and workmanlike manner, using generally accepted construction standards, consistent with such other reasonable requirements as may be imposed by Licensor.

(h) If Licensee cannot or elects not to use any existing interior wiring and cabling in the Building, or if Licensee requires additional wiring and cabling during the Term of this Agreement (which shall be subject to Section 7(a) or Schedule C, as applicable), Licensee may run its wiring and cabling in the Communications Spaces and Pathways, at its sole cost and expense, and shall maintain, repair and operate such wiring and cabling and any existing wiring and cabling used by Licensee, through the Building to access customers from Licensee's Equipment, and to provide Services. Licensee's wiring and cabling system (the "Cable System" or the "Riser System") shall be tie-wrapped or otherwise secured to ensure a neat and controlled installation, prior to connecting any of its customers to its Equipment. In no event shall Licensee's vertical Cable System exceed \_\_\_\_ inches ( ") in diameter.

(i) Licensee shall ensure that all Equipment is identified with permanently marked, weather proof labels, and that Licensee's cables are so marked in each telephone closet through which cables pass, each antenna bracket, at the transmission line building entry point, at the interior wall feed-through or any other transmission line exit point, and at any transmitter combiner, duplexer or multifeed receive port, with Licensee's name and the floor where each cable originates and terminates. Licensee shall, upon Licensor's written request, promptly provide Licensor a schematic diagram generally depicting Licensee's distribution system to all Tenants.

(j) Licensor shall have the right to approve all outside contractors performing any work relating to the installation, modification, maintenance or removal of the Equipment at the Building on behalf of Licensee, which approval shall not be unreasonably withheld, conditioned or delayed.

(k) Except as otherwise expressly provided herein, Licensor has no obligation to repair the Building even if the condition of the Building changes during the License Term. Licensor shall have the right to maintain, repair, alter, improve, add to, modify, reconstruct, replace or upgrade the Building, and to interrupt, curtail, halt, stop or suspend the operation of the Building's plumbing, heating, air conditioning, ventilation and electrical systems and any other Building services or utilities ("Licensor's Curtailment") whenever Licensor reasonably concludes that such Licensor's Curtailment is necessary for the completion of such maintenance, repair, alteration, improvement, addition, modification, reconstruction, replacement or upgrading of the Building. If Licensor reasonably concludes that in order to engage in a Licensor's Curtailment, there is no reasonable alternative, after consultation with Licensee, to having Licensee temporarily suspend its operations hereunder (a "Temporary Suspension"), Licensor shall so advise Licensee in writing not less than \_\_\_\_\_ ( ) days prior to the planned Licensor's Curtailment, and shall also provide Licensee with a non-binding estimate of the duration of the Temporary Suspension to be occasioned by such Licensor's Curtailment. If Licensor reasonably determines that suitable substitute space is available at the Building, Licensee may, at Licensee's sole expense, place temporary equipment at a mutually acceptable location at the Building in order to continue Licensee's operations during any period of Temporary Suspension, and at

the end of the Temporary Suspension, all temporary equipment shall be promptly removed by Licensee at its sole expense.

(l) After Licensee has completed installation under any Approved Work Plan and provided written notice of such to Licensor, Licensor or Licensor's designated representative shall have the right, but not the obligation, to inspect, along with a representative of Licensee, Licensee's installation without unreasonable delay and either (i) approve Licensee's installation or (ii) provide Licensee, in writing, with a "punch list" setting forth those items which are not in compliance with the Approved Work Plans and the terms and conditions of this Agreement. Licensee shall have a reasonable time, not to exceed \_\_\_\_\_ ( ) days, to remedy such items contained on the "punch list"; provided, however, that if completion of a "punch list" item reasonably requires additional time, then Licensee shall have such additional reasonable period of time, provided that Licensee commences to remedy the item within such time period and thereafter diligently prosecutes same to completion.

#### 8. Maintenance Obligations

(a) Licensee shall, at Licensee's expense, keep and maintain the Premises in commercially reasonable condition and repair during the License Term. Licensee shall have no obligation to maintain the Communications Spaces and Pathways, other than to the extent that the Communications Spaces and Pathways are exclusively occupied by Licensee's wires and cables under this Agreement. Licensor shall operate and maintain its cables in a manner so as not to damage the Communications Spaces and Pathways. Licensee agrees to maintain the Equipment in proper operating condition and within industry accepted safety standards. All installations and operations in connection with this Agreement by Licensee will adhere to reasonable technical standards developed for the Building by Licensor as set forth in Exhibit G. Such technical standards shall be fairly and consistently applied to, and enforced against, all Tenants and other Service Providers operating equipment in or on the Building, subject to the terms and conditions of existing agreements with Tenants, Service Providers and others. Licensor may reasonably amend the Technical Standards from time to time, provided that such amendment (i) is provided to Licensee at least \_\_\_\_\_ ( ) days prior to the effective date thereof, (ii) does not result in substantial additional cost or expense to Licensee, or (iii) does not materially adversely affect the operation of Licensee's Equipment. In the event Licensor's amendment of the Technical Standards does result in substantial additional cost or expense to Licensee, or adversely affects the operation of Licensee's Equipment, Licensor shall have no liability, and Licensee's sole remedy shall be to terminate this Agreement. Licensor assumes no responsibility for the licensing, operation or maintenance of the Equipment.

(b) All penetrations into any Building surfaces shall be sealed so as to prevent any water leakage. Licensor reserves the right to require Licensee to use a roofing contractor specified by Licensor to perform any work which may involve penetrations into the roof of the Building or may otherwise render the roof warranty void, provided, however, that Licensor shall exercise its right to specify a roofing contractor only after Licensor has made a commercially reasonable determination that none of Licensee's specified contractors are satisfactory to Licensor. If Licensee utilizes rooftop space, Licensee, at its sole expense and risk, shall ensure that a physical inspection of the Rooftop Space occurs at intervals of no more than \_\_\_\_\_ ( ) months and that this inspection includes a physical inspection of Equipment to ensure that the installation is sound and a review and correction of any loose bolts, fittings or other appurtenances. Licensee shall provide a written confirmation of such inspections to Licensor not more than \_\_\_\_\_ ( ) days following each such inspection. In the absence of such a confirmation, Licensor shall have the right (but not the obligation), if the inspection is not performed within \_\_\_\_\_ ( ) days after notice to Licensee, to conduct or arrange for such an inspection and corrective action and to charge Licensee for such costs.

(c) If Licensor reasonably determines that the Premises is not being maintained in the condition required by this Agreement, and without limiting Licensor's other rights and remedies under this Agreement, Licensor shall have the right, if Licensee fails to remedy the condition(s) identified by

Licensor to the reasonable satisfaction of Licensor within \_\_\_\_\_ ( ) business days of receipt of notice thereof, or immediately in the event of an Emergency Situation, to take such action, at Licensee's expense, as Licensor reasonably deems necessary to restore the Premises to the condition required by this Agreement. In the event of an Emergency Situation, Licensor shall give to Licensee as much advance notice as reasonably possible of its intent to enter the Premises and, within \_\_\_\_\_ ( ) days following such entry, shall provide to Licensee a written report detailing the nature of such Emergency Situation and the corrective actions taken. Licensee shall pay to Licensor, on demand, Licensor's reasonable costs and expenses incurred pursuant to this Section 8 and as a result of Licensee's violation of the terms of this Agreement.

(d) Licensee shall, at its sole cost and expense, repair any portion of the Building (including the surface of the Building) that is damaged by the installation, repair, removal, operation or replacement of the Equipment and caused by Licensee or any of its agents, representatives, employees, contractors, subcontractors or invitees. If Licensee fails to repair or refinish any such damage, within \_\_\_ ( ) days after notice thereof from Licensor, Licensor may, in its sole discretion, repair or refinish such damage and Licensee shall promptly reimburse Licensor for all costs and expenses incurred in such repair or refinishing.

#### 9. Access

(a) Licensee's authorized representatives shall have access to the Premises at all times, for the purposes of installing, maintaining, operating, upgrading and repairing the Equipment, and Licensor further agrees to give Licensee ingress and egress to the Premises, subject to the terms of this Agreement, at all times during the term of this Agreement, including non-exclusive use of an elevator. It is agreed, however, that Licensee shall comply with Licensor's security procedures for the Building, attached hereto as Exhibit N, and as in effect from time to time. Such security procedures shall be fairly and consistently applied to, and are enforced against, all Service Providers operating equipment in or on the Building, and only authorized engineers, employees or properly authorized contractors, subcontractors and agents of Licensee, other authorized regulatory inspectors or persons under their direct supervision and control will be permitted to enter the Premises, and only upon compliance with the conditions set forth in this Agreement. Licensor shall provide Licensee with a copy of any amendments to the security procedures at least \_\_\_\_ ( ) days prior to the effective date of such amendment to the security procedures.

(b) Except in the event of an Emergency Situation or as required by any Governmental Agency in accordance with Section 9(e) below, Licensee agrees to give at least \_\_\_\_\_ ( ) hours verbal or written notice to Licensor of its intent to enter the Premises outside Business Hours. At the time that such notice is given, Licensee shall inform Licensor of the reasons for entry, and the expected duration of the work to be performed. Licensee shall provide such information verbally and, when feasible, will provide such information written substantially in the form attached hereto as **Exhibit I**. In the event of an Emergency Situation, Licensee shall give to Licensor as much advance notice as reasonably possible of its intent to enter the Premises and, within \_\_\_\_\_ ( ) days after Licensor's request following such entry, shall provide to Licensor a written report detailing the nature of such Emergency Situation and the corrective actions taken.

(c) Licensee shall not enter any area other than the Premises without the consent (which shall not be unreasonably withheld, conditioned or delayed) of Licensor (or with respect to Tenant Areas, the consent of such Tenant), provided that Licensee may access the Premises in compliance with Section 9(a) above. In addition, except in the case of an Emergency Situation, Licensee shall not enter or attempt access to any of the Building's air, electrical, mechanical or telecommunications risers, ducts, closets, conduits, duct work, rooms or other horizontal or vertical spaces in the Building (other than to the extent that the same are included within the Premises), without notifying Licensor in writing at least \_\_\_\_\_ ( ) business days in advance. In the case of an Emergency Situation, Licensee may enter or seek access to such areas provided it uses its reasonable

efforts to give Licensor at least \_\_\_\_ ( ) hours prior notice and provided that, if practicable, a Building security guard or engineer unlock, and accompany Licensee's employees into such areas (and Licensor will use its reasonable efforts to make such access available to Licensee on an expedited basis). Licensee also shall furnish Licensor, within \_\_\_\_\_ ( ) business days thereafter, a written report explaining all repairs and procedures which were conducted during any Emergency Situation in sufficient detail to permit Licensor's engineers to evaluate same. If Licensor's engineers reasonably believe that any such repairs made by or on behalf of Licensee to the Building need to be modified, Licensee shall make such necessary repairs at its own expense.

(d) Licensor and its representatives reserve the right to enter the Premises for the purpose of inspecting the Premises and the Equipment. Licensor shall use diligent and good faith efforts to ensure that Licensor's entry into the Premises is performed in a manner so as not to (i) materially interfere with Licensee's use of the Premises, (ii) materially interfere with the operation of Licensee's Equipment, or (iii) handle or damage Licensee's Equipment. If any such entry is reasonably likely to disturb the rights granted to Licensee hereunder, then Licensor must give Licensee \_\_\_\_\_ ( ) days advance notice (except in Emergency Situations) if reasonably possible before entry and use reasonable efforts to minimize any interference with Licensee's operations or Equipment. Notwithstanding the foregoing, Licensor shall incur no liability to Licensee for Licensor's entry in accordance with this Section 9(d), nor shall such entry constitute an abridgement of or interference with Licensee's rights or a termination of this Agreement, or entitle any abatement of fees therefor. Licensor's entry shall be commercially reasonable in duration and scope.

(e) Licensor and Licensee each recognize that access to the Equipment and the Premises by any Governmental Agency having jurisdiction and authority over the provision of Services or utilization of spectrum must be available upon request of such Governmental Agency, including, without limitation, the FCC.

#### 10. Removal of the Equipment Upon Termination

(a) Upon expiration or earlier termination of this Agreement (the "Termination Date"), Licensee shall, at Licensee's sole cost and expense, without liens under Section 18 below, remove all Equipment and Licensee's personal property from the Building. Any property not so removed within \_\_\_\_ ( ) days after the Termination Date may, at Licensor's sole option (i) be removed and disposed of by Licensor at Licensee's Expense, provided that Licensor provides Licensee with written notice that Licensor intends to dispose of such Equipment at Licensee's expense or (ii) become the property of Licensor without compensation to Licensee. Further, Licensee agrees, at its sole cost and expense, to repair or refinish all damage caused by the operation or removal of Licensee's Equipment, except damage caused by ordinary wear and tear. If Licensee fails to repair or refinish any such damage within \_\_\_\_ ( ) days after written notice to do so from Licensor, Licensor may, in its sole discretion, repair or refinish such damage and Licensee shall reimburse Licensor for all costs and expenses incurred in such repair or refinishing. Notwithstanding the foregoing, and subject to the rights of Licensee's equipment lenders, on the Termination Date, Licensee's Connecting Equipment shall, at Licensor's option and upon written notice to Licensee, within \_\_\_\_ ( ) days after the Termination Date and without further documentation, become the property of Licensor and remain in the Building, provided that Licensor pays Licensee the fair market value of such Connecting Equipment if the Connecting Equipment has been installed at the Building for less than \_\_\_\_\_ ( ) years, or, without payment to Licensee if the Connecting Equipment has been installed for \_\_\_\_\_ ( ) years or more. If Licensor elects to retain some or all of Licensee's Connecting Equipment, and if requested by Licensor, Licensee shall execute a bill of sale or other document to effect such transfer of ownership, at no additional cost or consideration from Owner to Licensee, within \_\_\_\_\_ ( ) days after receiving such bill of sale or other document from Licensor.

(b) Notwithstanding the foregoing, Licensor agrees that if Licensee requests permission to maintain the Equipment at the Building after the termination of this Agreement,

Licensor shall not unreasonably withhold its consent thereto, provided Licensee continues to pay the License Fees then in effect, but in no event shall Licensee be entitled to maintain the Equipment at the Building for more than \_\_\_\_\_ ( ) days after the expiration or termination of this Agreement without the prior written consent of Licensor, which may be withheld or granted in Licensor's sole and absolute discretion.

(c) If Licensee fails to remove the Equipment or the Connecting Equipment if Licensor does not elect to have the Connecting Equipment remain in the Building, and vacate the Premises within the applicable time periods set forth in this Section 10, Licensee shall indemnify and hold harmless Licensor against and from any and all Claims arising from such failure asserted by third parties proximately caused by delay in obtaining possession of the Premises by Licensor or by any other licensee to whom Licensor may have licensed all or any part of the Building effective upon the expiration or termination of this Agreement. This indemnification shall survive any termination of this Agreement, but Licensor's monetary damages shall be limited to actual damages only, Licensor hereby waiving any right to assert a claim for consequential or punitive damages against Licensee.

(d) Upon the expiration or earlier termination of this Agreement, Licensee agrees to use its reasonable best efforts to arrange for the conversion of all Tenant customers to service from another telecommunications Service Provider and for telephone number portability, with little or no disruption of service.

11. Cable Distribution System. Licensor reserves the right to install, operate and require all Service Providers, including Licensee, to use a central telecommunications cable distribution system ("CDS") in the Building pursuant to the terms of the Cable Distribution System Rider attached hereto as Exhibit J. The parties hereto agree that, in the event Licensor decides to install a CDS, the terms of Exhibit J shall govern their respective rights and obligations relating to the CDS. Except as specifically amended in Exhibit J, all of the terms and conditions of this Agreement shall remain in full force and effect.

## 12. Insurance, Release and Indemnity

(a) Throughout the term of this Agreement, Licensee, at its sole cost and expense, shall keep in full force and effect: (i) worker's compensation insurance with minimum limits in accordance with all applicable state and federal statutes, and employer's liability insurance with limits not less than \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) bodily injury for each accident and \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) bodily injury by disease for each employee; (ii) commercial general liability insurance insuring all operations by or on behalf of Licensee, on an occurrence basis against claims for both bodily injury (including death) and property damage, including blanket contractual coverage for both oral and written contracts, products and completed operations coverage, broad form property damage, severability of interests, and advertising and personal injury coverage, with limits of not less than \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) per occurrence and \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) in the aggregate; (iii) commercial automobile liability insurance including coverage for bodily injury (including death) and property damage arising out of the use of any auto (including owned, hired and nonowned autos) with a combined single limit not less than \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00); (iv) "All Risk" or "Cause of Loss Special Form" property insurance for damage to property including coverage for vandalism, malicious mischief and sprinkler leakage, for all of Licensee's telecommunication and other equipment, systems and facilities located on the Premises or elsewhere at the building, in an amount equal to 100% of the replacement value thereof, with the proceeds of such insurance, so long as this Agreement remains in effect, being used to repair and/or replace the telecommunication and other equipment, systems and facilities so insured; and (v) technology and telecommunications errors and omissions coverage with a retroactive date prior to or coinciding with the commencement of this Agreement and limits of not less than \_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) per occurrence and in the aggregate. On the Effective Date and during the term of this Agreement,

Licensor, at its sole cost and expense, shall keep in full force and effect fire and extended coverage insurance on the Building in commercially reasonable amounts.

(b) Licensee's insurance shall contain provisions providing that such insurance shall be primary insurance for all Claims arising from the Equipment, Services and work by Licensee or its contractors, agents or employees, with any other insurance maintained by Licensor being excess and non-contributing with the insurance of Licensee required hereunder, and providing coverage for the contractual liability of Licensee to indemnify Licensor pursuant to Section 12(f) below. All general liability and automobile liability insurance policies shall be endorsed to include Licensor, the manager of the Building (the "**Building Manager**"), any Licensor mortgagee and any other parties reasonably designated in writing by Licensor from time to time as additional insureds (collectively the "**Indemnitees**") and shall provide that Licensor, Building Manager and Indemnitees will receive at least thirty (30) days prior written notice of any cancellation or material change in such insurance policy, ten (10) days prior written notice if cancellation is due to non-payment of premiums. Licensee shall, prior to the installation of the Equipment, furnish to Licensor or Building Manager certificates of insurance and additional insured endorsements confirming that the insurance coverage as specified herein is in full force and effect, and Licensee shall, fifteen (15) days prior to the expiration of any insurance required herein, provide Licensor or Building Manager with certificates of insurance and additional insured endorsements evidencing the replacement or renewal of such insurance.

(c) Licensee's insurance shall be in amounts, forms and with deductibles as described in Section 12(a) of this Agreement. All policies shall be written by insurers licensed, and in good standing to do business within the jurisdiction where the Building is located.

(d) Licensee's contractors must comply with the insurance requirements defined in this Section and must deliver to Licensor, prior to commencing any testing, installation, repair, or maintenance work on the Premises, certificates of insurance and additional insured endorsements or a policy evidencing that the above-referenced insurances are maintained including, but not limited to, naming Licensor, Indemnitees and Building Manager as additional insureds.

(e) Licensee hereby releases Licensor, Building Manager, Indemnitees and their respective agents, employees, officers, directors, shareholders, members and partners (collectively the "**Releasees**") from, and shall not hold Releasees liable for, any liability for personal injury or damage to property or persons in or about the Premises from any cause, unless caused by the gross negligence or willful misconduct of said Releasees, but nevertheless, subject to Licensee's insurance being primary insurance in accordance with Section 12(b) above.

(f) Except to the extent caused by the gross negligence or willful misconduct of said Releasees, and subject to the limitations set forth in Section 16(d) of this Agreement, Licensee agrees to indemnify, defend and hold Releasees harmless from and against all Claims which may be imposed upon or incurred by or asserted against Releasees occurring during the License Term, or during any period of time prior to the Commencement Date hereof or after the expiration date hereof when Licensee may have been given access to or possession of all or any part of the Premises arising from:

(1) the installation, use, maintenance, repair or removal of the Equipment, the provision of Services, or Licensee's breach of this Agreement;

(2) any authorized or unauthorized work or act done in, on or about the Premises or any part thereof at the direction of Licensee, its agents, contractors, subcontractors, servants, employees, licensees or invitees;

(3) any negligence or other wrongful act or omission on the part of Licensee or any of its agents, contractors, subcontractors, servants, employees, subtenants, licensees or invitees; and

(4) any failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Agreement on its part to be performed or complied with.

(g) Licensor agrees to indemnify, defend and hold Licensee harmless from and against all Claims which may be imposed upon or incurred by or asserted against Licensee in proportion to and to the extent of Licensor's material breach of the terms of this Agreement or Licensor's gross negligence or willful misconduct, subject to the limitations set forth in Section 16(d) of this Agreement. Notwithstanding any other provision in this Agreement, all references in this Agreement to Licensor's responsibility for Licensor's "gross negligence" or "willful misconduct" or similar phrases, shall be deemed a reference to this Section 12(g) and shall be controlled by the limitations in this Section 12(g).

(h) Insurance effected or procured by either party, or either party's failure to secure and maintain any insurance required herein, will not reduce or limit their contractual obligation to indemnify and defend the other party as specified in Sections 12(e) and (f) of this Agreement.

(i) This Section shall survive the expiration or earlier termination of this Agreement.

(j) If the parties execute the Insurance Rider attached hereto as **Schedule D**, the terms of such Rider shall supersede this Section.

13. Waiver of Subrogation Rights. [MODIFY OR DELETE FOR LICENSORS THAT ARE SELF-INSURED.] To the extent allowable under the laws and regulations governing the writing of insurance within the jurisdiction in which the Building is located, Licensor and Licensee shall each release the other and their respective agents and employees from all liability to each other, or anyone claiming through or under them, by way of subrogation or otherwise, for any loss or damage to property caused by or resulting from risks insured against under this Agreement, pursuant to insurance policies carried by the parties which are in force at the time of the loss or damage. Licensor and Licensee will each request its insurance carrier to include in policies provided pursuant to this Agreement an endorsement recognizing this waiver of subrogation. The waiver of subrogation endorsement need not be obtained if it incurs an additional cost for the affected policy, unless, following written notice, the other party elects to pay that additional cost to obtain the waiver of subrogation endorsement. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

14. Subordination. This Agreement and all rights of Licensee hereunder are and shall continue to be subject to any ground lease, mortgage, deed of trust or other lien ("Interest") presently existing or hereafter arising upon the Building or the land upon which the Building is located and to any renewals, modifications, consolidation, refinancing and extensions thereof, but Licensee agrees that any such Interest holder shall have the right at any time to subject such Interest to this Agreement on such terms and subject to such conditions as such Interest holder may deem appropriate in its discretion. This provision is hereby declared to be self-operative and no further instrument shall be required to effectuate the foregoing, but in confirmation of this provision, Licensee shall execute, within \_\_\_\_\_ ( ) days after request at no cost and expense to Licensee, any certificate that Licensor may reasonably require acknowledging this provision. Notwithstanding the foregoing, the Interest holder shall have the right to recognize and preserve this Agreement in the event of any foreclosure sale or possessory action, and in such case, this Agreement shall continue in full force and effect at the option of the Interest holder and Licensee shall acknowledge such party and shall execute, acknowledge and deliver any instrument that has for its purpose and effect the confirmation of the foregoing.

15. Estoppel Certificate. Licensee shall, at any time and from time to time, upon not less than \_\_\_\_\_ ( ) business days' prior written notice from Licensor, execute, acknowledge and deliver to Licensor or to such third party as Licensor may direct, a statement in writing certifying

the following information, (but not limited to the following information if further information is reasonably requested): (a) that this Agreement is unmodified and in full force and effect (or, if modified, is in full force and effect); (b) the dates to which the License Fees and other charges are paid in advance, if any; (c) acknowledging that there are not, to Licensee's knowledge, any uncured defaults on the part of Licensor hereunder, and no events or conditions then in existence which, to Licensee's knowledge, with the passage of time or giving of notice or both, would constitute a default on the part of Licensor hereunder, or specifying such defaults, events or conditions, if any are claimed. It is expressly understood and agreed that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Building. Licensee's failure to deliver such statement after \_\_\_\_\_ ( ) business days notice shall constitute an admission by Licensee that all statements contained therein are true and correct. Licensor may thereafter execute and deliver such certificate on Licensee's behalf and such certificate shall be binding on Licensee.

#### 16. Event of Default

(a) It shall be an "Event of Default" if any one or more of the following events shall occur:

(1) Licensee shall default in the payment when due of any License Fees or other sum of money specified hereunder to be paid by Licensee, and Licensee does not remedy such default within \_\_\_\_\_ ( ) days after written notice thereof from Licensor (provided, however, that Licensor shall not be required to provide such notice with respect to more than \_\_\_\_\_ ( ) payments required during any calendar year during the term hereof);

(2) Other than with respect to interference, which is governed by Section 3(b) above, Licensee shall default in the performance of any other of the terms, conditions or covenants contained in this Agreement to be performed or observed by Licensee, and Licensee does not remedy such default within \_\_\_\_\_ ( ) days after written notice thereof is given to Licensee; provided, however, that if such default cannot be reasonably cured within \_\_\_\_\_ ( ) days, Licensee shall commence and diligently pursue the remedy of such default within \_\_\_\_\_ ( ) days, and cure such default within \_\_\_\_\_ ( ) days after the initial notice of such default;

(3) Licensee shall install or fail to remove any Hazardous Materials installed in the Building in violation of this Agreement by or on behalf of Licensee within \_\_\_\_\_ ( ) days after written notice of such condition by Licensor to Licensee, or shall fail to commence the removal of any Hazardous Materials installed in the Building in violation of this Agreement by or on behalf of Licensee within \_\_\_\_\_ ( ) hours of written notice of such condition by Licensor to Licensee;

(4) Upon the occurrence of any of the following:

(A) if any representation or warranty made by Licensee upon execution of this Agreement or during the term of this Agreement shall be untrue in any material respect; or

(B) if Licensee assigns, sublicenses, mortgages or pledges this Agreement in violation of Section 22 hereof; or

(C) if any general assignment shall be made by Licensee (or any assignee, sublicensee or guarantor of Licensee) for the benefit of creditors; or

(D) if Licensee's interest shall be taken on execution or by other process of law, and the same is not dismissed within \_\_\_\_\_ ( ) days thereafter; or

(E) if a petition is filed by Licensee (or any assignee, sublicensee or guarantor of Licensee) for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of any bankruptcy act then in force and effect; or

(F) if an involuntary petition under the provisions of any bankruptcy act is filed against Licensee (or any assignee, sublicensee or guarantor of Licensee) and such involuntary petition is not dismissed within \_\_\_\_\_ ( ) days thereafter; or

(G) if a receiver, trustee or assignee shall be petitioned for and not contested by Licensee for the whole or any part of Licensee's (or such assignee's, or guarantor's) property, or if a receiver, trustee or assignee shall be appointed over Licensee's (or such other person's) objection and not be removed within \_\_\_\_\_ ( ) days thereafter.

(5) Subject to the additional provisions set forth in this subsection (5), if Licensee is not providing Services and has no contracts to provide Services to at least \_\_\_ ( ) Tenant(s) (i) within \_\_\_\_\_ ( ) weeks/months after the Commencement Date, or (ii) after having satisfied the requirement of the immediately preceding subsection (5)(i), is not providing Services to at least \_\_\_ ( ) Tenant(s) at any other time during the Term for a continuous period of \_\_\_\_\_ ( ) weeks/months, then Licensor shall have the right to license the Premises to another Service Provider. If Licensor licenses the Premises to another Service Provider after Licensee has installed its Equipment, then Licensee shall, at its sole cost and expense, and within \_\_\_\_\_ ( ) days after written notice from Licensor ("**Licensor's Removal Notice**"), remove from the Building or the Premises all or any portion of the Equipment as identified in Licensor's Removal Notice (the "Removed Equipment"). If Licensor has licensed the Premises to another Service Provider and this Agreement has not been terminated as hereinafter provided, Licensor and Licensee shall use diligent and commercially reasonable efforts to find alternative space in and on the Building to accommodate Licensee's Removed Equipment (or similar equipment reasonably acceptable to Licensor), subject to available space and the terms and conditions of this Agreement, upon notice by Licensee ("**Licensee's Re-Entry Notice**") that it has contracted to provide Services to at least \_\_\_ ( ) Tenant(s) within \_\_\_\_\_ ( ) weeks after the date of Licensor's Removal Notice. Licensee's failure to complete installation or reinstallation of its Equipment in the Building and to provide Services to at least \_\_\_ ( ) Tenant(s) within \_\_\_\_\_ ( ) days/weeks after the date of Licensee's Re-Entry Notice, shall be an Event of Default under this subsection (5) of this Agreement. If Licensee is in default under this Agreement solely by being in default under this subsection (5), then either Licensee or Licensor may terminate this Agreement upon written notice to the other and Licensee shall have no further right to cure such default and no further right to maintain Equipment in the Building, but Licensee shall not be liable to Licensor for money damages or penalties for such default or termination.

(b) Upon the occurrence of an Event of Default, other than an Event of Default under Section 16(a)(5), Licensor shall have and may pursue all rights and remedies permitted by applicable law, including but not limited to the following:

(1) upon \_\_\_\_\_ ( ) days' notice to Licensee, declare to be immediately due and payable, on account of the License Fees and other charges herein reserved for the balance of the term of this Agreement (taken without regard to any early termination of such term on account of an Event of Default or other right to terminate this Agreement), a sum equal to all License Fees and other charges, payments, costs and expenses due from Licensee to Licensor and in arrears at the time of the Event of Default, plus interest at the Default Rate on all sums past due;

(2) whether or not Licensor has elected to recover the sum set forth in (1) above, terminate this Agreement on at least \_\_\_\_\_ ( ) days' notice to Licensee and, on the date specified in such notice, this Agreement shall terminate and the parties shall thereby be released in

accordance with the terms of this Agreement. Licensee shall thereupon quit and surrender possession of the Premises to Licensor in the condition elsewhere herein required in which event Licensee shall remain liable to Licensor as herein provided;

(3) upon \_\_\_\_ ( ) days notice, suspend the supply of electrical power to the Equipment until the default is cured by Licensee, and Licensor shall have no liability to Licensee, and Licensee shall have no right to an abatement of License Fees for such suspension and Licensee hereby waives all claims for damages against Licensor resulting from such suspension of services; provided that Licensor shall restore such power supply immediately after Licensee remedies any such default;

(4) seek and obtain equitable relief by way of injunction or otherwise; or

(5) pursue any and all monetary damages available to Licensor.

(c) If Licensor shall fail to keep or perform any of the terms, conditions or covenants contained in this Agreement to be performed or observed by Licensor, and Licensor does not remedy such failure within \_\_\_\_\_ ( ) days after written notice thereof is received by Licensor, provided, however, that if such default cannot be reasonably cured within \_\_\_\_\_ ( ) days, Licensor shall commence and diligently pursue the remedy of such default within \_\_\_\_\_ ( ) days, and cure such default within \_\_\_\_\_ ( ) days, Licensee shall have and shall be entitled to exercise any and all rights and remedies permitted by applicable law, including but not limited to terminating this Agreement; provided, however, that Licensee may not terminate this Agreement without an additional \_\_\_\_\_ ( ) days prior written notice to Licensor.

(d) Notwithstanding anything in this Agreement to the contrary, each of Licensee and Licensor hereby waives any claim, whether directly or through a claim under any indemnity provision set forth herein, that they may have against the other party with respect to any consequential damage including, but not limited to, loss of business income and opportunity; provided, however, that this clause shall not apply to either party's obligation for indemnification of third party claims against the other party.

(e) Licensee may terminate this Agreement upon not less than \_\_\_\_ ( ) days prior written notice to Licensor if, through no fault of Licensee, any necessary license, permit or zoning approval is not obtained, expires or is withdrawn.

(f) Licensee may terminate this Agreement upon not less than \_\_\_\_ ( ) days prior written notice to Licensor if, through no fault of Licensee, Licensee's ability to provide Services in the Building is materially interfered with by the obstruction of line of sight to or from any of Licensee's antennas, other than as covered by the provisions of Section 2(g) of this Agreement. If Licensee exercises the right to terminate this Agreement pursuant to this Section 16(f), Licensee shall pay to Licensor, at the time of the exercise of such right to terminate, a termination fee in the amount of \_\_\_\_\_. Licensee's right to terminate this Agreement pursuant to this Section 16(f) may be exercised only through a notice of termination, made in good faith, and supported by reasonable written evidence submitted to Licensor, conforming to generally accepted industry standards, that confirms (i) the existence of such material interference, (ii) that such material interference cannot be resolved through Licensee's reasonable efforts, (iii) that Licensee cannot relocate its Equipment in a manner that is consistent with the relocation requirements of Section 2(c) of this Agreement, and (iv) that Licensee has no reasonable alternative but to terminate this Agreement in accordance with this Section 16(f). If Licensee elects to exercise the right to terminate this Agreement under this Section 16(f), then neither Licensor nor Licensee shall have a claim against the other as a result of such termination or the potential or actual interference.

17. Utilities. [ALTERNATIVE "A". Licensee shall be responsible, at its sole cost and expense, for contracting for and procuring of all electrical services, if any, which are necessary for the Equipment.] [ALTERNATIVE "B". Licensor shall permit Licensee, at Licensee's sole cost and

expense, to connect to and use the Building's electrical utility system. In addition to the License Fee charged herein, Licensee shall pay to Licensor an amount equal to \$\_\_\_\_\_ per month to cover the cost of Licensee's electrical consumption. If Licensor reasonably demonstrates that the cost of Licensee's electrical consumption exceeds \$\_\_\_\_\_ per month, then Licensee shall promptly pay such excess cost to Licensor and the amount to be paid monthly shall be adjusted to reflect such actual cost. If Licensee cannot provide reasonable evidence of the estimated cost of its Equipment's electrical consumption, then Licensor may require Licensee to install a submeter to measure Licensee's electrical consumption, or to otherwise contract for and procure its electrical services.] Licensor shall have no obligation whatsoever to provide such services to Licensee and Licensor shall have no obligation whatsoever for any disruption of or reduction in such services. If applicable, Licensee shall pay the costs associated with installation of a separate electrical panel and meter for the Equipment in the Equipment Room and Licensee shall be responsible for the electrical and any HVAC costs attributable to such Equipment. Licensor shall use reasonable efforts to notify Licensee in advance of any planned utility outages which may interfere with Licensee's use of the Equipment, but, subject to Section 12(g) hereof, in no event will Licensor be liable to Licensee for any damages, direct or indirect, resulting from any loss of power. Unless otherwise agreed by the parties, Licensee shall at all times be responsible for the provision of its own emergency or "backup" power, and any such "backup" power system installed by Licensee shall be the sole responsibility of Licensee.

18. Mechanics Liens. Licensee shall not file any mechanic's, laborer's or materialman's lien, or suffer or permit any such lien to be filed against the Premises, including the Building or any part thereof by reason of work, labor, services, or materials requested and/or supplies claimed to have been requested by or on behalf of Licensee; and if such lien shall at any time be so filed, within \_\_\_\_\_ ( ) days after Licensor provides notice of the filing thereof to Licensee, Licensee shall cause it to be canceled and discharged of record. To the extent Licensee fails to remove any mechanic's, laborer's or materialman's lien filed against the Premises, including the Building or any part thereof within the time period set forth above, then Licensor may arrange bond or pay the amount of such claim upon which the lien is based and Licensee shall thereafter be liable to Licensor for the amount so paid, and any costs incurred by Licensor by reason of such lien, immediately upon demand, plus interest at the rate of \_\_\_\_\_. The provisions of this Section shall survive the termination of this Agreement.

19. Casualty. In case of damage to the entire Building or the Premises or those portions of the Building or the Premises which are essential to the operation of the Equipment, by fire or other casualty, Licensor may (but shall have no obligation to), at its expense, and subject to the availability of insurance proceeds, and the claim of any Interest holder, cause the damage to be repaired to a condition as nearly as practicable to that existing prior to the damage, with reasonable speed and diligence, subject to delays which may arise by reason of adjustment of loss under insurance policies, governmental regulations, and for delays beyond the control of Licensor, including an event of "force majeure". Licensor shall not be obligated to repair, restore, or rebuild any of Licensee's personal property, including but not limited to the Equipment. Licensor shall not be liable for any inconvenience or annoyance to Licensee, or injury to Licensee's business resulting in any way from such damage or the repair thereof, except to the extent and for the time that Licensee is materially impeded from providing its Services to Tenants in the Building, in which case the License Fees shall equitably abate. If the damage shall involve the Building generally and shall be so extensive that Licensor shall decide, at its sole discretion, not to repair or rebuild the Building, this Agreement shall, at the option of Licensor or Licensee, exercisable by written notice from either party to the other, be terminated as of the date of the terminating party's notice of termination to the other party, and the License Fees (taking into account any abatement as aforesaid) shall be adjusted to the termination date and Licensee shall thereupon promptly vacate the Premises. In addition, Licensee shall be permitted to terminate this Agreement if the Premises have been rendered unusable for Licensee's intended purpose, if Licensor has determined to cause the damage to be

repaired, and (i) Licensor's estimated period for completion of the repair and restoration of the Building exceeds \_\_\_\_\_ ( ) days (Licensor shall deliver such estimate to Licensee within \_\_\_\_\_ ( ) days after the casualty), or (ii) Licensor does not complete such restoration within \_\_\_\_\_ ( ) days from the date of such casualty (by giving Licensor \_\_\_\_\_ ( ) days notice at the expiration of such \_\_\_\_\_ ( ) day period), or (iii) if after diligent and commercially reasonable efforts, Licensor and Licensee are unable to identify suitable alternative space in and/or on the Building for the installation and operation of Licensee's Equipment; provided, however, that if Licensee is providing Services to at least one Tenant, no termination pursuant to this Section 19 shall become effective unless and until each such Tenant has vacated the Building or terminated the Services, whichever shall occur first.

## 20. Condemnation

(a) If all or substantially all of the Building or Premises are taken for any public or quasi-public use under any applicable laws or by right of eminent domain, or are sold to the condemning authority in lieu of condemnation, or by deed in lieu of condemnation, then this Agreement will terminate as of the date when the condemning authority takes physical possession of or title to the Building or Premises, and any prepaid fees shall be apportioned as of said date and reimbursed to Licensee.

(b) If only part of the Building or Premises is thus taken or sold, and if after such partial taking (i) in Licensor's reasonable judgment, alteration or reconstruction is not economically justified, or (ii) after diligent and commercially reasonable efforts, Licensor and Licensee are unable to identify suitable alternative space in and/or on the Building for the installation and operation of Licensee's Equipment, then Licensor (whether or not the Premises are affected) may terminate this Agreement by giving written notice to Licensee within \_\_\_\_\_ ( ) days after the taking.

(c) If the Premises is taken pursuant to this Section 20, and Licensor is unable to provide Licensee with comparable replacement Premises in the Building, Licensee may terminate this Agreement if in Licensee's reasonable judgment the Premises cannot be operated by Licensee in an economically viable or technically feasible fashion because of such partial taking. Such termination by Licensee must be exercised by written notice to Licensor given not later than \_\_\_\_\_ ( ) days after Licensee is notified of the taking.

(d) Termination by Licensor or Licensee will be effective as of the date when physical possession of the applicable portion of the Building or Premises is taken by the condemning authority.

(e) If neither Licensor nor Licensee elects to terminate this Agreement upon a partial taking of a portion of the Building or the Premises, the License Fees payable under this Agreement will be diminished by an amount equitably allocable to the portion of the Building or the Premises which was so taken or sold, taking into reasonable account the effect of the taking or condemnation on Licensee's operations, including the delivery of Services. If this Agreement is not terminated upon a partial taking of the Building or Premises, Licensor will, at Licensor's sole expense, promptly restore and reconstruct the Premises to substantially their former condition to the extent the same is feasible. However, Licensor will not be required to spend for such restoration or reconstruction an amount in excess of the net amount received by Licensor as compensation or damages for the part of the Building or Premises so taken.

(f) As between the parties to this Agreement, Licensor will be entitled to receive, and Licensee assigns to Licensor, all of the compensation awarded upon taking of any part or all of the Building or Premises, including any award for the value of the unexpired term. However, Licensee may assert a claim in a separate proceeding against the condemning authority for any damages resulting from the taking of Licensee's trade fixtures or personal property, or for moving expenses, business relocation expenses or damages to Licensee's business incurred as a result of such condemnation.

21. Notices. All notices, demands, requests and other communications hereunder shall be in writing and shall be sent by hand delivery or mailed, via certified mail, prepaid, return receipt requested, facsimile (with transmission confirmation) or sent by overnight courier (which provides confirmation of delivery), to the following addresses:

If to Licensor, to:

With a copy to:

If to Licensee, to:

With a copy to:

Notice shall be deemed received when they are delivered or delivery is refused. Either of the respective addresses may be changed by notice in writing and sent to the other party as set forth above. Notwithstanding the foregoing, when either party provides to the other party notice of its intent to access the Building or the Premises, such notice may be given by facsimile, email or verbally, with subsequent written confirmation.

22. Assignment by Licensee

(a) Upon notification to Licensor, Licensee shall have the limited right to assign this Agreement and its other rights hereunder (including, without limitation, its right to renew) to any entity that provides financing to Licensee on a secured basis, or any person or business entity which succeeds to all or substantially all of Licensee's stock, assets or business operations by merger or sale or is an Affiliate of Licensee (as such term is defined herein) without the prior consent of Licensor, provided that such Affiliate's financial condition, creditworthiness and operational ability following the contemplated assignment or transfer are sufficient to permit Licensee to satisfy its obligations under this Agreement, as reasonably determined by Licensor. Licensor's participation in any matters relating to an entity providing financing to Licensee shall be at no cost to Licensor, and Licensee shall promptly reimburse Licensor for any such costs incurred by Licensor, including legal fees to negotiate consents, waivers and other instruments, if any, with Licensee's lenders.

(b) Except as provided above, Licensee may not otherwise assign, transfer (by operation of law, merger, consolidation, recapitalization, change of control or otherwise), mortgage, lease, sublease or sublicense, pledge, hypothecate, or encumber this Agreement or any rights hereunder without the prior written consent of Licensor, which consent shall not be unreasonably withheld, conditioned or delayed. Any purported assignment not in accordance with the terms hereof shall at Licensor's option, to be exercised at any time after Licensor becomes aware of any such purported assignment, be void, and may, after notice thereof to Licensee, at Licensor's option be treated as an Event of Default hereunder. Licensee shall have no right to sublicense or sublet (including the license contained herein) all or any part of the Premises. Licensee's assignment of this Agreement shall not release Licensee of its obligations hereunder.

(c) In the event of any permitted assignment or transfer of this Agreement by Licensee, Licensee shall provide adequate documentation, as reasonably determined by Licensor, to evidence such assignment or transfer and the written commitment of the assignee or transferee to comply with and be bound by the terms of this Agreement.

23. Assignment by Licensor. Licensor may assign or transfer, in whole or in part, its rights and obligations under this Agreement at any time without the consent of Licensee. Any assignment or transfer by Licensor shall release Licensor of its obligations hereunder to the extent such obligations are assumed (by operation of law or otherwise) by the assignee or transferee. Licensee agrees to look solely to such successor in interest of Licensor for the performance of such assumed obligations.

24. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective permitted successors, personal representatives, transferees and assigns. The obligations of Licensor under this Agreement shall no longer be binding upon Licensor if Licensor sells, assigns or otherwise transfers its interest in the Building as owner or lessee (or upon any subsequent licensor after the sale, assignment or transfer by such subsequent licensor).

25. Hazardous Materials

(a) Licensee agrees that its conduct within the Premises shall at all times be in compliance with all applicable environmental laws and that Licensee shall not use, generate, store or dispose of any Hazardous Materials (as such term is defined herein) on, under, about or within the Building; except for those materials that are necessary and directly related to Licensee's Permitted Use of the Premises (including its back up power system), in which case, Licensee's use, storage and disposal of such Hazardous Materials shall be in compliance with all applicable environmental laws and the highest standards prevailing in the industry. Without limiting the foregoing, prior to the Commencement Date and throughout the term of this Agreement, Licensee agrees to disclose to Licensor all Hazardous Materials used or to be located in the Premises by Licensee. Notwithstanding anything contained herein to the contrary, Licensee shall not have any liability to Licensor under this Section resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated at, in, on, under or in connection with the Premises prior to the Commencement Date of this License, except to the extent Licensee has actual knowledge of the presence of such Hazardous Materials and exacerbates their condition. Licensee shall defend, indemnify and hold harmless Licensor, and shall defend, indemnify and hold harmless Licensor's direct or indirect partners, officers, affiliates, agents, members, shareholders, beneficiaries and principals and their respective directors, trustees, officers and employees (collectively, the "Licensor's Parties"), against any and all Claims arising from any breach of any representation, warranty or agreement contained in this Section. This Section shall survive the expiration or earlier termination of this Agreement.

(b) If Licensee discovers, uncovers, disturbs or otherwise reveals any existing Hazardous Materials within the Building, Licensee shall immediately stop any work in progress and report such findings to Licensor within twenty-four (24) hours. Licensee shall not conduct any further work in the reported area without Licensor's written approval. In the event Licensor takes no corrective action, Licensee shall have two (2) options upon discovery of Hazardous Materials and cessation of work as described above: (i) reroute its planned access route to avoid such hazardous material area; or (ii) terminate this Agreement upon not less than \_\_\_\_\_ ( ) days prior written notice to Licensor. In the event Licensor commences corrective action, Licensee shall reschedule its installation work to a period after Licensor has completed corrective action in regard to such Hazardous Materials; provided, however, that Licensee may terminate this Agreement upon written notice to Licensor if such corrective action has not been commenced and diligently pursued within \_\_\_\_\_ ( ) days after Licensor's receipt of notice of Licensee's discovery of the Hazardous Materials, or if such corrective action has not been completed within \_\_\_\_\_ ( ) days after

commencing such action. Except for Licensee's failure to comply with this Section 25, Licensee is hereby released and indemnified from any responsibility for managing, monitoring or abating, and shall not be deemed to have ownership of Hazardous Materials, including asbestos, pre-existing within the Building, or brought on the Premises, into the Building, on, in or under the land upon which the Building is located, by any other current or former Tenant or by Licensor. Licensee shall not be released nor indemnified for any responsibility arising from Licensee's disturbance of any Hazardous Materials, the location of which was disclosed to Licensee in writing.

26. Non-Recourse. In no event shall Licensor be liable to Licensee either for (i) any loss or damage that may be occasioned by or through the acts or omissions of any third parties (other than Licensor's employees, agents, contractors and affiliates) or (ii) any consequential damages. None of the Licensor's Parties shall be personally liable for the performance of Licensor's obligations under this Agreement. Licensee shall look solely to Licensor to enforce Licensor's obligations hereunder and shall not seek any damages against any of the Licensor's Parties. Notwithstanding anything contained in this Agreement to the contrary, Licensee acknowledges and agrees that Licensee shall look solely to the estate and interest of Licensor, its successors and assigns, in the Building (including net proceeds of sale and net insurance proceeds actually received by Licensor's Parties with respect to the Building), for the collection of any judgment recovered against, or liability of, Licensor by reason of Licensor's breach of this Agreement or otherwise, and no other property or assets of Licensor or any of Licensor's Parties shall be subject to levy, execution or other enforcement procedures for the satisfaction of Licensee's remedies under this Agreement.

27. Rules and Regulations. Licensee agrees to comply with all Rules and Regulations and any construction rules and regulations, as adopted and altered by Licensor from time to time, and will cause its agents, employees, contractors, invitees and visitors to do so, provided that such Rules and Regulations and such construction rules and regulations are uniformly and non-discriminatorily enforced among all Service Providers in the Building. Licensor shall provide such Rules and Regulations to Licensee prior to the Commencement Date, if not attached hereto. Licensee shall not be bound by any changes in the Rules and Regulations until after it has received written notice of such changes. No revision of the Rules and Regulations shall materially adversely affect Licensee's rights under this Agreement or increase the License Fees payable under this Agreement. The current rules and regulations applicable to Licensee's in the Building are attached hereto as **Exhibit L** and made a part hereof.

28. Non-Waiver. Failure of either party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its rights hereunder shall not waive such rights, but such party shall have the right to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or in equity provided that the failure to perform has not been remedied at the time a party enforces its rights hereunder.

29. Taxes. Licensee accepts and assumes full and exclusive liability for, and shall hold Licensor harmless from, the payment of all taxes, monies and other expenses arising from the conduct of Licensee's business in the Building, including, without limitation, taxes attributable to the ownership and operation of the Equipment, contributions required under state and federal law providing for state and federal payroll taxes or contributions for unemployment insurance or old age pensions, or annuities which are measured by wages, salaries or other remuneration paid by Licensee to its employees for any and all activities in connection with this Agreement. Notwithstanding the foregoing, Licensee shall not be responsible for any taxes imposed on the income of the Licensor derived from the Building or otherwise, or upon the land upon which the Building is situated. Licensee will be responsible for the payment of all applicable federal, state and

local taxes imposed on Licensor as a direct result of the exercise, directly or indirectly, of Licensee's rights under this Agreement, including Licensee's operations and sales within the Building.

30. License Only. This Agreement creates a license only and Licensee acknowledges that Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Building or Premises by virtue of this Agreement or Licensee's use of the Premises pursuant hereto. In connection with the foregoing, the parties further acknowledge that in no event shall the relationship between Licensor and Licensee be deemed to be a so called landlord-tenant relationship and that in no event shall either party be entitled to avail itself of any rights afforded to landlords or tenants respectively under the laws of the jurisdiction in which the Building is located. Except for Licensor's rights to retain the inside wiring under this Agreement, Licensor shall have no rights or interest in any of the Equipment or other property of Licensee, and Licensor expressly waives any statutory rights granted a landlord with respect to the property of a tenant. In the event of any sale, assignment or transfer of the Building or Licensor's interest therein, Licensor's obligations under this Agreement shall thereafter be automatically binding upon the grantee, assignee or other transferee of such interest, and any such grantee, assignee or transferee, by accepting such interest, shall be deemed to have assumed Licensor's obligations hereunder and be entitled to receive Licensor's benefits hereunder. A lease of the entire Building shall be deemed a transfer within the meaning of the foregoing sentence. This Agreement is not and does not grant an easement.

31. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Building is located.

32. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations and other agreements. There are no representations or understandings not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

33. Survival. Any obligation of the parties related to monies owed prior to termination, other obligations accruing prior to termination and expressly surviving termination, as well as those provisions relating to limitations on liability, indemnification and actions, shall survive the expiration or earlier termination of this Agreement.

34. Force Majeure. Whenever a period of time is herein prescribed for the taking of any action by Licensor or Licensee, Licensor or Licensee shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials (not caused by the party seeking the benefit of this section), war, governmental laws, regulations or restrictions, or any other cause whatsoever beyond the control of Licensor or Licensee, but in no event for more than \_\_\_\_\_ ( ) days regardless of the cause. The provisions of this Section shall not apply to the payment of fees or the payments of other monies to be paid by Licensor or Licensee under this Agreement. In order to be entitled to an excuse for any delay or failure to perform under this Agreement pursuant to this Section, the party claiming such excuse shall promptly give written notice to the other party hereto of any event or occurrence which it believes falls within the contemplation of this Section. Notwithstanding the foregoing, Licensor and Licensee shall each take commercially reasonable precautions to (i) avoid reasonably foreseeable force majeure events, and (ii) mitigate the adverse affects of other force majeure events.

35. Severability. If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be declared to be invalid or unenforceable under applicable law by a court or agency having jurisdiction over the subject matter, said part shall be ineffective to the extent of such invalidity only, and the remaining

terms and conditions shall be interpreted in such a manner so as to give the greatest possible effect of the original intent and purpose of the Agreement.

36. No Third Party Beneficiaries. Nothing herein expressed or implied is intended to confer on any person, other than the parties hereto or their respective permitted assigns, successors, heirs and legal representatives, and the Licensor's Parties, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

37. Publicity. Neither party shall issue or release, or allow any of its Affiliates to issue or release, any advertisement, brochure, press release, public announcement or other similar public communication which makes reference to the other party or its Affiliates or any of their respective trademarks, trade names or logos, without such other party's written consent, except as required by Applicable Laws taking into account the business of the issuer.

In addition, except as permitted in writing by Licensor in its reasonable discretion, no advertisement, brochure, press release, public announcement or other similar public communication by Licensee shall:

(a) make any reference to or use the name of the Building or of any other property owned or managed by Licensor or any of its Affiliates; provided that this provision shall not apply to materials distributed in the Building or otherwise directed to the Tenants.

(b) state or imply that Licensor or any of its Affiliates endorses or recommends Licensee's products or Services;

(c) state or imply that Licensee has any exclusive right to provide such products or Services at the Building;

(d) use any picture or likeness of the Building or any other properties owned or managed by Licensor or its Affiliates (unless the Building or such other properties are captured in a "skyline", "panoramic" or other similar photograph or video footage of a cluster of buildings); or

(e) be materially inaccurate or misleading or adversely affect the reputation of the Building or Licensor or its Affiliates.

38. Confidentiality

(a) Neither party hereto will, without the prior written consent of the other party disclose any Confidential Information to any person or entity other than the trustees, directors, officers, employees, current or potential investors, and agents of such party and its Affiliates who reasonably need to have access to the Confidential Information (provided the disclosing party shall be responsible for any violation by such party of the confidentiality provisions hereof). The obligations of a recipient party with respect to Confidential Information shall remain in effect except to the extent that: (i) such Confidential Information becomes generally available to the public other than as a result of unauthorized disclosure by the recipient or persons to whom such recipient has made the information available; (ii) the recipient can demonstrate that such Confidential Information was received by such recipient on a non-confidential basis, prior to receipt from the other party, from a third party lawfully possessing and lawfully entitled to disclose such information; or (iii) such Confidential Information is required to be released pursuant to a court order or an administrative proceeding (provided that the party required to release such information shall provide the other party with reasonable prior notice in order to permit such other party to obtain confidential treatment or other appropriate relief) or is required to be disclosed by federal and state securities laws and regulations.

(b) Confidential Information shall remain the property of the disclosing party and, if requested by the disclosing party, shall be destroyed or returned to the disclosing party upon satisfaction or completion of the performance obligations under this Agreement with respect to which such Confidential Information was disclosed. Each recipient party agrees to safeguard Confidential Information utilizing the same degree of care utilized by such recipient party in protecting its own confidential information. In addition to any other remedies which each party providing Confidential Information may have at law or in equity, such party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance and to prevent a breach or threatened breach of the provisions of this Section 38.

(c) For purposes of this Agreement, the term "Confidential Information" shall mean the following information disclosed by a party to the other party under or in contemplation of this Agreement, which: *[MODIFY OR EXPAND AS APPLICABLE.]*

(1) If in tangible form or other media that can be converted to readable form, is clearly marked as proprietary, confidential or private when disclosed; or

(2) If oral or visual, is identified as proprietary, confidential or private on disclosure and is summarized in a writing so marked and delivered to the receiving party within ten (10) days following such disclosure.

(d) Either party shall have the right to correct any inadvertent failure to designate information as Confidential Information by written notification as soon as practical but in any event not later than \_\_\_ ( ) days after such error is determined. The receiving party shall from that time forward treat such information as Confidential Information.

39. Licensee REIT Representations, Warranties and Covenants. If Licensor or its direct or indirect parent companies are a real estate investment trust ("REIT"), by its execution of this Agreement, the representations, warranties and covenants set forth in Exhibit K shall be deemed to be incorporated into this Agreement by this reference.

#### 40. Miscellaneous

(a) The descriptive heading of the several paragraphs of this Agreement are inserted for convenience and ease of reference only and do not constitute part of this Agreement.

(b) The pronouns of any gender shall include the other gender, and either the singular or the plural shall include the other.

(c) All rights and remedies of the parties under this Agreement shall be cumulative and none shall exclude any other rights or remedies allowed under present or future law.

(d) This Agreement may be executed in counterparts and each executed counterpart shall be construed to be an original.

(e) Licensor acknowledges that Licensee has an obligation to provide continuous Services to its customers under state and federal law, and Licensor hereby agrees to cooperate with Licensee in good faith in Licensee's efforts to meet such obligations, but Licensor shall not be required to incur any costs or expend any funds as part of Licensor's good faith efforts. In no instance shall any aspect of this Agreement operate to constitute an unauthorized assignment or transfer of control of spectrum licenses issued by the FCC and held by Licensee and any affiliate of Licensee.

(f) Each of the parties hereto covenants and warrants to the other that (i) it has the requisite authority to execute this Agreement; (ii) it has the power to grant the rights hereunder; and (iii) the execution and performance of this Agreement by Licensor or Licensee, respectively, will not violate any laws, ordinances, covenants or the provisions of any mortgage, license or other agreement

binding upon such party or if such violation may exist, it has obtained consent or a waiver from the affected party.

## **EXHIBIT A**

### **DEFINITIONS**

"Affiliate" shall mean: (1) a corporation or other business entity which owns fifty percent (50%) or more of the outstanding common stock or ownership interests of Licensee, or (2) a corporation or other business entity which has fifty percent (50%) or more of its common stock or ownership interests owned by Licensee, or (3) a partnership which owns fifty percent (50%) or more of the common stock or ownership interest of Licensee, or (4) a partnership which has fifty percent (50%) or more of its interest in partnership profits owned by Licensee, or (5) an entity which is the surviving entity in a merger, reorganization, consolidation or sale of all or substantially all of Licensee's assets, or (6) a corporation or other business entity which has fifty percent (50%) or more of its common stock or ownership interests owned by another entity which owns fifty percent (50%) or more of the common stock or ownership interests of Licensee.

"Amortization Period" shall have the meaning set forth in Exhibit J.

"Applicable Laws" shall mean all applicable laws, ordinances, codes, rules and regulations of any Government Agency having jurisdiction, including, without limitation, the FCC, the EPA, the OSHA and the Federal Aviation Administration.

"Approved Work Plan" shall have the meaning set forth in Section 7(a).

"Best Rating" shall have the meaning set forth in Section 12(c).

"Building Service Provider" shall have the meaning set forth in Section 2(i).

"CDS" shall have the meaning set forth in Exhibit J.

"CDS Fee" shall have the meaning set forth in Exhibit J.

"CDS Provider" shall have the meaning set forth in Exhibit J.

"Claims" shall mean any and all expenses, costs, damages, loss, claims or other expenses or liabilities, including reasonable attorneys fees and court cost, incurred by an indemnified party under the Agreement.

"Commencement Date" shall have the meaning set forth in Section 1.7 of the Transaction Specific Terms and Conditions.

"Communications Spaces and Pathways" shall mean the pathways, shafts, risers, raceways, conduits, telephone closets, service areas, utility connections, entries into and through the Building, and the Building's interior telecommunications wiring and cabling to the extent available and owned or under the control of Licensor, which are necessary for Licensee to provide Services to Tenants. The initial vertical Communications Spaces and Pathways are specified in Exhibit B. If the parties fail to complete Exhibit B in whole or in part, then prior to the Commencement Date, Licensee will deliver to Licensor drawings identifying the location of the Communications Spaces and Pathways pursuant to Section 7 of this Agreement.

"Completion Date" shall have the meaning set forth in Exhibit J.

"Confidential Information" shall have the meaning set forth in Section 38(c).

"Connecting Equipment" shall mean those portions of Licensee's cables, conduits, inner ducts and other connecting hardware connecting Licensee's interior equipment to its antenna(s) or through which Licensee provides Services to Tenants.

"Due Diligence Period" shall have the meaning set forth in Section 2.2 of the Transaction Specific Terms and Conditions.

"EPA" shall mean the U.S. Environmental Protection Agency, and any successor agency having similar or related authority and jurisdiction.

"Emergency Situation" shall mean a situation in which (a) an immediate threat is posed to (i) the health and safety of Tenants or any occupant or visitor to the Building; or (ii) the structural integrity of the Building, or (b) there is a disruption or outage in Services to Tenants.

"Equipment" shall mean Licensee's telecommunications equipment, including wiring, cabling, antennas, cabinets, electronic or optronic equipment, radios, poles, dishes, masts and other equipment used in connection with the provision of Services and as described in Exhibit C.

"Equipment Room" shall mean approximately \_\_\_\_ square feet of floor space in the Building in the location specified in Exhibit D. If the parties fail to complete Exhibit D in whole or in part, then prior to installation of the Equipment in the Building, Licensee will deliver to Licensor drawings identifying the location of the Equipment Room pursuant to Section 7 of this Agreement.

"Existing Licensee" shall mean any Service Provider duly authorized to provide Services under Applicable Laws, and who, before the Commencement Date, has equipment operating in the Building or on the Rooftop pursuant to an agreement with Licensor.

"Extension Term" shall have the meaning set forth in Section 1.8 of the Transaction Specific Terms and Conditions.

"FCC" shall mean the U.S. Federal Communications Commission, and any successor agency having similar or related authority and jurisdiction.

"Future Licensee" shall mean any telecommunications Service Provider duly authorized to provide Services under Applicable Laws or any other user of rooftop space or the Communications Spaces and Pathways who, following the Commencement Date, enters into an agreement with Licensor.

"Governmental Agency" shall mean any agency, board, bureau, legislative body, court, commission, department, instrumentality or administration of the United States government, any foreign government, any state government or any local or other governmental body of a state, territory or possession of the United States or the District of Columbia.

"Hazardous Materials" shall mean hazardous or radioactive material, polychlorinated biphenyls, friable asbestos or other hazardous or medical waste substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, or by any other federal, state or local law, statute, rule, regulation or order concerning environmental matters, or any matter which would trigger any employee or community "right-to-know" requirements adopted by any such body, or for which any such body has adopted any requirements for the preparation or distribution of a material safety data sheet.

"Initial Term" shall have the meaning set forth in Section 1.6 of the Transaction Specific Terms and Conditions.

"Interest" shall have the meaning set forth in Section 14.

"License Fee" shall have the meaning set forth in Section 1.9 of the Transaction Specific Terms and Conditions.

"License Term" shall mean the Initial Term and the Extension Term, as applicable.

"Licensor's Parties" shall have the meaning set forth in Section 25(a).

"Licensee Parties" shall have the meaning set forth in Section 26.

"Line-of-Sight" shall mean the clear, open-air direct transmission path between the Equipment and equipment located at another site as of the Commencement Date.

"MDF" shall have the meaning set forth in Exhibit J.

"MPOE" shall have the meaning set forth in Exhibit J.

"Normal Business Hours" shall mean those hours during which the Building is regularly open to Tenants and the public, unless the Rules and Regulations otherwise provide.

"OSHA" shall mean the U.S. Occupational Safety and Health Administration, and any successor agency having similar or related authority or jurisdiction.

"Permits" shall have the meaning set forth in Section 6(a).

"Permitted Use" shall have the meaning set forth in Section 2(a) and shall include the right of the Licensee to utilize its Equipment to provide the Services pursuant to authority granted to Licensee through specific licenses issued or granted by the Federal Communications Commission or other relevant Governmental Agencies and at all times in compliance with all Applicable Laws and this Agreement.

"Premises" shall have the meaning set forth in Section 2(a). If the parties fail to identify any of the elements of the Premises as an Exhibit, then prior to the Commencement Date, Licensee will deliver to Licensor drawings identifying the location of the Premises pursuant to Section 7 of this Agreement.

"Premises Work" shall have the meaning set forth in Section 2(d).

"Reasonably determines", "commercially reasonable", "reasonable" and similar words and phrases when relating to the conduct or actions of Licensor shall mean and refer to a reasonable commercial building owner or manager acting diligently and in good faith, but not possessing intimate, detailed or specialized knowledge or information about the composition or operation of Licensee's Equipment or Licensee's contractual relationships with parties other than Licensor.

"Rooftop Space" shall mean approximately \_\_\_ square feet of space on the surface of the rooftop, or certain wall space (on the penthouse or other structure) on the rooftop of the Building in the location specified in Exhibit E. If the parties fail to complete Exhibit E in whole or in part, then prior to the Commencement Date, Licensee will deliver to Licensor drawings identifying the location of and attach a diagram as an exhibit of the Rooftop Space pursuant to Section 7 of this Agreement.

"Rules and Regulations" shall mean the rules and regulations applicable to the Building, and attached hereto as Exhibit L. In the event of any conflict between Rules and Regulations and

this Agreement, this Agreement shall prevail. Licensor may, upon prior written notice to Licensee, reasonably amend the Rules and Regulations from time to time, provided that such amendment does not (a) result in any material additional cost or expense to Licensee, (b) adversely affect the Licensee's rights hereunder, or the operation of the Licensee's Equipment, and (c) discriminate among any Service Provider.

"Service Provider" shall mean any provider offering or providing one or more of the Services set forth in Exhibit F.

"Services" shall mean the telecommunications and information services described in Exhibit F, as the same may be amended from time to time, subject to Licensor's consent, not to be unreasonably withheld, conditioned or delayed.

"Tenant" shall mean any tenant, subtenant, or occupant within the Building other than Licensee, any Existing Licensee and any Future Licensee.

"Tenant Area" shall mean the premises or area leased, licensed or occupied by a Tenant pursuant to an agreement with Licensor or another Tenant.

"Termination Date" shall have the meaning set forth in Section 10(a).

**EXHIBIT B**

**COMMUNICATIONS SPACES AND PATHWAYS**

[See attached diagram per Section 2(a) and Exhibit "A".]

**EXHIBIT C**

**EQUIPMENT**

[See attached diagram per Section 2(a) and Exhibit "A".]

**EXHIBIT D**

**EQUIPMENT ROOM PLAN**

[See attached diagram per Section 2(a) and Exhibit "A".]

**EXHIBIT E**

**ROOFTOP SPACE**

[See attached diagram per Section 2(a) and Exhibit "A".]

**EXHIBIT F**  
**SERVICES**

**EXHIBIT G**

**TECHNICAL STANDARDS**

**EXHIBIT H**  
**WORK PLAN**

**EXHIBIT I**

**ACCESS REQUEST FORM**

**<BUILDING OWNER COMPANY>**

- a) Mr. or Ms. \_\_\_\_\_, of \_\_\_\_\_(company), requests permission to access the telecommunications equipment within the Building of \_\_\_\_\_on (date), at approximately \_\_\_\_am/pm.
  
- b) For the purpose of \_\_\_\_\_(detail below if necessary).
  
- c) Will new or additional equipment be located within the telephone closets? (yes)/\_\_\_\_\_(no). Please describe any new/additional equipment being placed in the telephone closet on floor(s).
  
- d) The expected duration of this visit is \_\_\_\_\_(hours/days).

Licensee  
(Name of Company)

By: \_\_\_\_\_(Authorized Agent)  
Name:  
Title:

**EXHIBIT J**

**CABLE DISTRIBUTION SYSTEM RIDER**

This CABLE DISTRIBUTION SYSTEM RIDER ("CDS Rider") is made part of that certain Telecommunications License Agreement (the "Agreement") dated \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a(n) \_\_\_\_\_ ("Licensor"), and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Licensee").

Capitalized Terms. Any capitalized terms used but not defined in this CDS Rider shall have the meaning given them in the Agreement.

- I. Licensor reserves the right to install and operate, or allow a third party to install and/or operate, and the right to require all Service Providers, including Licensee, to use a central telecommunications cable distribution system ("CDS") in the Building pursuant to the terms of this CDS Rider. The CDS may include a main demarcation frame ("**MDF**") for use by all Service Providers in order to reach tenant demarcation points in the Building. The MDF shall serve as the minimum point of entry ("**MPOE**") demarcation point for Service Providers, including Licensee. The MDF shall also serve as the origination point of the CDS. The tenant demarcation block on each floor of the Building will serve as the terminating point of the CDS on that floor.
- II. Licensor shall charge all Service Providers (including Licensee) reasonable, non-discriminatory fees for each CDS cable-pair used and related activities (the "**CDS Fees**") in accordance with **Exhibit J1**, which is attached hereto and incorporated herein as it may be amended from time to time. If Licensor installs a CDS, it may, in its sole discretion, appoint a third party as its agent to own and/or manage the CDS.
- III. Each of the following provisions shall become operative if Licensor installs a CDS:
  - A. To the extent permitted under Licensee's loan agreements or other financing arrangements, Licensor may, but is not obligated to, purchase from Licensee those portions of Licensee's cables, conduits, inner ducts and other connecting hardware ("**Connecting Equipment**") that Licensor determines are necessary to incorporate into the CDS, except that portion of the Connecting Equipment (i) connecting Licensee's interior equipment to its antennas, and (ii) connecting the Equipment to the CDS (collectively, the "Excluded Equipment"). The purchase price of the Connecting Equipment shall be an amount equal to the then "as is" fair market value as agreed to by the parties, or as determined by a third party reasonably acceptable to both parties who is experienced in the valuation of such equipment. Except for the Excluded Equipment, Licensee shall, at Licensor's option and expense, remove any remaining Connecting Equipment that is not purchased by Licensor.
  - B. Licensee shall, at Licensee's expense, and with reasonable prior notice from Licensor, relocate its existing services and demarcation facilities to the CDS. Prior to Licensee's relocation to the CDS, and on an annual basis after Licensee's relocation to the CDS, Licensor shall notify all of the Tenants in the Building that all Service Providers, including Licensee, will be required to use the CDS and that the CDS is owned and/or controlled by Licensor.
  - C. Licensee shall utilize the CDS for providing all Service to Licensee's customers once Licensor notifies Licensee that the MDF is ready for use.

- D. Licensor shall allow Licensee a reasonable amount of time (not to exceed \_\_\_\_\_ ( ) days for proper planning, engineering and cut-over in this regard. Cut-over to the MDF will be accomplished at times other than normal business hours, unless previously approved by Licensor.
- IV. Notwithstanding any provision herein to the contrary, if Licensor does not purchase, pursuant to Subsection III.A above, the Connecting Equipment which is used by Licensee to provide Services to Tenants, then Licensee shall have the right to continue to use the Connecting Equipment for a period ending at the earlier to occur of (A) \_\_\_ ( ) years after the date of installation of the Excluded Equipment, or (B) the expiration or termination of the Term of the Agreement, to provide Services to its existing customers in the Building as of the date of the activation of the CDS, but Licensee shall use the CDS immediately to provide Services to any new customers of Licensee in the Building on or after the date of activation of the CDS.
- V. In the event that any of Licensee's Services to Tenants are not capable of being delivered to a Tenant by means of the CDS, Licensee shall have the right to utilize the Communications Spaces and Pathways and provide Services to Tenants in the Building in the same manner as such Services would have been provided, but for the CDS; provided, however, that all other Services shall be delivered to Tenants by means of the CDS in accordance with this Rider.
- VI. The CDS will be available to all Service Providers and Tenants for the provision and receipt of Services on a non-discriminatory, first-come, first-served basis, consistent with reasonable rules that Licensor may issue for use.
- VII. In the event of interruption of Licensee's Services to Tenants or other material, adverse effects to Licensee's Services to Tenants caused by malfunction, damage or destruction of the CDS, Licensor shall (or shall enforce the third party CDS provider's obligations to): (i) repair or replace the CDS as necessary to eliminate the cause of the malfunction or interruption within \_\_\_ ( ) hour(s)/day(s) after the malfunction or interruption, the cost of which shall be borne by Licensor, unless the problem was caused directly or indirectly by Licensee, its agents, representatives, employees or invitees, and (ii) within \_\_\_ ( ) hour(s)/day(s) after becoming aware of the malfunction or interruption, notify all Tenants to which Licensee is providing Services that any interruption in their Service is a result of such malfunction or interruption of the CDS. In limitation of the foregoing, Licensor's obligation to repair or replace the CDS shall apply only to the extent necessary to reach premises in the Building that are then used by Licensee's customers in the Building after the malfunction, damage or destruction or that, if damaged or destroyed, will be again used by Licensee's customer's in the Building upon the completion of restoration or repair thereof.
- VIII. In no event shall Licensee have any right to make any claim against Licensor whatsoever for any damages, whether direct, indirect, special, incidental, consequential, exemplary or punitive, in connection or arising from the CDS, unless caused by gross negligence or willful misconduct of Licensor.
- IX. In the event of malfunction or, damage to, or destruction of, the CDS, Licensee's remedies shall be limited to the following, which may be jointly or severally exercised by Licensee; (i) a claim for specific performance of Licensor's obligation to repair or replace the CDS, (ii) the right to terminate this Agreement; and (iii) the right to run its own cables in the Communications Spaces and Pathways but only if and to the extent such malfunction, damage or destruction of the CDS materially interrupts or materially interferes with

Licensee's ability to provide Services to its customers in the Building for \_\_\_ ( ) consecutive calendar days or for \_\_\_\_\_ business days during any twelve (12) month period. The License Fees and CDS Fee paid by Licensee under the Agreement shall equitably abate (to the degree related to the defect) from the date of such malfunction, damage or destruction until the date upon which Licensor completes its repair or replacement of the CDS, to the extent that Licensor is required to do so by this Agreement, or to the date upon which Licensee runs its own cables in the Communications Spaces and Pathways as provided in clause (iii) above and is again able to provide Services to Tenants in the Building ("**Completion Date**"). The abated amount, to the extent already paid, shall be refunded to Licensee within \_\_\_\_\_ ( ) days of the Completion Date. Licensor shall promptly provide to Licensee the phone number(s) for the person or persons responsible for the operation and maintenance of the CDS. Upon completion of Licensor's restoration or repair of the CDS, Licensee shall, within \_\_\_\_\_ ( ) business days, return and re-connect its Equipment to the CDS.

- X. Notwithstanding the foregoing, if Licensor installs a CDS, Licensee may, in its sole option and within \_\_\_\_\_ ( ) days after being notified that Licensee is required to relocate a portion of its Equipment to the CDS, terminate the Agreement upon written notice to Licensor.

IN WITNESS WHEREOF, Licensor and Licensee have executed this CDS Rider in multiple original counterparts as of the day and year first above written.

LICENSOR:

*[INSERT LICENSOR NAME]*

By: \_\_\_\_\_  
Name:  
Title:

LICENSEE:

*[INSERT LICENSEE NAME]*

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT J-1**

**CDS FEES**

## **EXHIBIT K**

### **REIT PROVISIONS**

Licensee's REIT Representations, Warranties and Covenants. Licensors direct or indirect parent (a [STATE] real estate investment trust) is a real estate investment trust ("REIT"). In connection with certain REIT source of income laws and regulations ("REIT Rules") applicable to Licensor, Licensee represents, covenants and warrants to Licensor as of the date hereof and continuing for the Term:

1. Licensee will make reasonable efforts to cooperate with Licensor to ensure that Licensor does not fail to qualify as a REIT or otherwise incur non-qualifying income for reasons relating to the terms of, or services provided under, this Agreement. In particular, Licensee will not offer or provide, without Licensor's prior written consent, any telecommunications or other services which, according to Licensor's interpretation of the REIT Rules, are deemed to generate "non-qualifying income" for purposes of Section 856(c)(2) of the Internal Revenue Code ("Impermissible Services");
2. As a general guideline, Impermissible Services include services which have been customized through specific efforts of employees of Licensee in order to fit a Tenant's particular needs (however, services are not considered Impermissible Services to the extent that Licensee may offer its customers, including Tenants, a menu of some or all of the Services it provides to Tenants that are generally available to customers of Licensee, and such customers, including Tenants, can choose such Services they wish to receive from that menu). In addition, Impermissible Services include any telecommunications or other service at the Building other than (i) telephone and other communications, (ii) e-mail, (iii) video communications, (iv) electronic research, (v) internet access, and (vi) communications networking;
3. Upon Licensor's request, Licensee will inform Licensor of the types of services that Licensee is providing and based on Licensor's interpretation of the REIT Rules as they may be modified from time to time, Licensee agrees to estimate the percentage of its revenues that is reasonably attributable to Impermissible Services. Licensor has transferred or will transfer to a taxable REIT subsidiary designated by Licensor ("TRS") the rights to provide and receive income from Impermissible Services in the Building. Upon Licensor's written request, Licensee agrees to bifurcate its payment of the License Fee as follows: one check shall be made payable to TRS for the portion of the License Fee that is attributable to Impermissible Services, and a second check shall be made payable to Licensor for the remaining portion of the License Fee. Both checks shall be sent to Licensor at the address stated in this Agreement. On an annual basis, within thirty (30) days after Licensor's request, Licensee will review its records and provide Licensor with a current estimate to accurately reflect the percentage of its revenue for the prior year, and for the coming year, that is attributable to Impermissible Services, which revised estimates shall be accompanied by (or promptly followed) by such additional information or documentation as Licensor shall reasonably request, provided that Licensee shall have no obligation to provide additional information or documentation that it reasonably considers to be confidential information. Following receipt of Licensee's revised estimates, Licensor and TRS will be responsible for making any necessary adjustments in the allocation of their respective revenue from License Fees for the previous year. Licensee will continue to send two checks each month allocating a portion of the License Fee to TRS and the remainder to Licensor in accordance with the revised estimates for the current year, as provided above.

**EXHIBIT L**

**RULES AND REGULATIONS**

**EXHIBIT M**

**LICENSE FEES AND OTHER FINANCIAL PROVISIONS**

**EXHIBIT N**

**BUILDING SECURITY PROCEDURES**

**Schedule A**

## **Schedule B**

### **Emergency Generator Rider**

All capitalized terms herein shall have the meaning ascribed to them in Exhibit A to the Agreement, unless expressly defined elsewhere in the Agreement or herein.

Licensee, subject to Licensor's review and approval of Licensee's plans therefor, shall have the right to install a \_\_\_ kilowatt supplemental generator (for purposes of this Schedule B, the "Generator") to provide emergency additional electrical capacity to the Equipment during the License Term. The Generator shall be placed at the location outlined on Schedule A attached to this Schedule B (for purposes of this Schedule B, the "Generator Area"). Notwithstanding the foregoing, Licensee's right to install the Generator shall be subject to Licensor's approval of the manner in which the Generator is installed and the manner in which any cables are run to and from the Generator to the Equipment and the measures that will be taken to eliminate any vibrations or sound disturbances from the operation of the Generator, including, without limitation, any necessary 2 hour rated enclosures or sound insulation. Licensor shall have the right to require a reasonably acceptable enclosure to hide or disguise the existence of the Generator and to minimize any adverse effect that the installation of the Generator may have on the appearance of the Building and Property. Licensee shall be solely responsible for obtaining all necessary governmental and regulatory approvals and for the cost of installing, operating, maintaining and removing the Generator. Licensee shall not install or operate the Generator until Licensee has obtained and submitted to Licensor copies of all required Permits necessary for the installation and operation of the Generator. In addition to, and without limiting Licensee's obligations under the Agreement, Licensee shall comply with all applicable environmental and fire prevention Laws pertaining to Licensee's use of the Generator Area. Licensee shall also be responsible for the cost of all utilities consumed in the operation of the Generator. Notwithstanding anything herein to the contrary, if Licensee permanently removes the Generator from the Generator Area for reasons other than the repair and replacement of the Generator, Licensee's right to install and maintain the Generator and to use the Generator Area shall be null and void.

Licensee shall be responsible for assuring that the installation, maintenance, operation and removal of the Generator shall in no way damage any portion of the Building or Property. To the maximum extent permitted by applicable law, the Generator and all appurtenances of Licensee in the Generator Area shall be at the sole risk of Licensee, and Licensor shall have no liability to Licensee if the Generator or any appurtenances are damaged for any reason, except to the extent caused by the negligence or willful misconduct of Licensor or its agents. Licensee agrees to be responsible for any damage caused to the Building or Property in connection with the installation, maintenance, operation or removal of the Generator and, in accordance with the terms of Section 12 of the Agreement, to indemnify, defend and hold Licensor and the other Indemnities harmless from all Claims, except to the extent caused by the negligence or willful misconduct of Licensor or its agents, including, without limitation, reasonable architects' and attorneys' fees (if and to the extent permitted by applicable law), which may be imposed upon, incurred by, or asserted against Licensor or any of the other Indemnities in connection with the installation, maintenance, operation or removal of the Generator, including, without limitation, any environmental and Hazardous Materials claims. In addition to, and without limiting Licensee's obligations under the License, Licensee covenants and agrees that the installation and use of the Generator and appurtenances shall not adversely affect the insurance coverage for the Building. If for any reason, the installation or use of the Generator and/or the appurtenances shall result in an increase in the amount of the premiums for such coverage, as documented by Licensor to the reasonable satisfaction of Licensee, then Licensee shall be liable for the full amount of any such increase.

Licensee shall be responsible for the installation, operation, cleanliness, maintenance and removal of the Generator and the appurtenances, all of which shall remain the personal property of Licensee, and shall be removed by Licensee at its own expense at the expiration or earlier termination of the License. Licensee shall repair any damage caused by such removal, including the patching of any holes to match, as closely as possible, the color surrounding the area where the Generator and appurtenances were attached. Such maintenance and operation shall be performed in a manner to avoid any unreasonable interference with any other licensees, Tenants or Licensor. Licensee shall take the Generator Area "as is" in the condition in which the Generator Area is in as of the Commencement Date, without any obligation on the part of Licensor to prepare or construct the Generator Area for Licensee's use or occupancy. Without limiting the foregoing, Licensor makes no warranties or representations to Licensee as to the suitability of the Generator Area for the installation and operation of the Generator. Licensee shall have no right to make any material changes, alterations, additions, decorations or other improvements to the Generator Area without Licensor's prior written consent. Licensee agrees to maintain the Generator, including without limitation, any enclosure installed around the Generator in good condition and repair. Licensee shall be responsible for performing any maintenance and improvements to any enclosure surrounding the Generator so as to keep such enclosure in good condition.

Licensor shall have the right to approve, in its reasonable discretion, Work Plans for improvements or alterations with respect to any Generator.

Licensee shall not engage, or cause or permit the engagement of, any contractor or subcontractor to perform installations, replacements, repairs or alterations to the Generator without the prior written approval of Licensor, which approval shall not be unreasonably withheld or delayed; *provided, however*, that Licensor may, in its sole discretion, designate a contractor or subcontractor to be engaged to perform any of the above-described work to any Generator, which contractor or subcontractor Licensee shall use for all such work to any Generator that is necessitated by Licensee's use of such Generators.

Licensee, upon prior notice to Licensor and subject to the Rules and Regulations, shall have access to the Generator and its surrounding area for the purpose of installing, repairing, maintaining and removing said Generator.

Licensee shall only test the Generator before or after Normal Business Hours and at a time mutually agreed to in writing by Licensor and Licensee in advance. Licensee shall be permitted to use the Generator Area solely for the maintenance and operation of the Generator, and the Generator and Generator Area are solely for the benefit of Licensee. All electricity generated by the Generator may only be consumed by Licensee in the Building.

Licensor shall have no obligation to provide any services, including, without limitation, electric current, to the Generator Area.

Licensee shall have the right to sublet the Generator Area or to assign its interest hereunder under the same terms and conditions as a sublet or an assignment of the Agreement.

Notwithstanding anything to the contrary contained herein, if at any time during the Term Licensor determines in its reasonable discretion, that the Generator and/or any appurtenances interfere with the operations of the Building or the operations of any of the Tenants, then Licensee shall, upon \_\_\_\_\_ ( ) days prior notice from Licensor, cease any further operation of the Generator. From and after such notice by Licensor, Licensee shall have no further right to operate the Generator unless and until Licensee shall have redesigned and modified the Generator, and/or installations in a manner approved by Licensor, *provided however*, that Licensor's approval of such

redesign and modification shall constitute the mere permission to operate the Generator, which permission shall in no event be construed to abrogate or diminish Licensor's rights or Licensee's obligations under the License.

During the Term, Licensee shall pay Licensor, as additional License Fees in the manner described in \_\_\_\_\_ the Agreement, the sum of \$\_\_\_\_\_ per \_\_\_\_\_, plus applicable tax thereon if any, for the Generator Area licensed by Licensee hereunder.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Emergency Generator Rider in multiple original counterparts as of the day and year first above written.

LICENSOR:  
*[INSERT LICENSOR NAME]*

By: \_\_\_\_\_  
Name:  
Title:

LICENSEE:  
*[INSERT LICENSEE NAME]*

By: \_\_\_\_\_  
Name:  
Title:

**Schedule C**

**Work Plan Rider**

**THIS WORK PLAN RIDER** (this "**Rider**") is made part of that certain Telecommunications License Agreement (the "**Agreement**") dated \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a(n) \_\_\_\_\_ ("**Licensor**"), and \_\_\_\_\_, a(n) \_\_\_\_\_ ("**Licensee**"). This Rider and the Agreement shall be referred to collectively herein as the "License."

Capitalized Terms. Any capitalized terms used but not defined in this Rider shall have the meaning given them in the Agreement.

Prior to commencing any work or installing or allowing any Equipment to be installed in or on the Premises as required by Section 7(a) of the Agreement, Licensee, at its sole cost and expense, shall submit to Licensor, for Licensor's written approval, drawings (which includes any amendments to or revisions thereof) of the planned installation, including details of the size and location of Equipment, in accordance with Section 7(a) of the Agreement (the "Work Plan").

Licensee shall submit to Licensor its drawings with a notice, in BOLD type, on the first page of the Work Plan stating that: "THIS IS A REQUEST FOR YOUR APPROVAL. YOUR FAILURE TO RESPOND MAY CONSTITUTE APPROVAL OF THIS REQUEST." Licensor shall have \_\_\_\_\_ ( ) days from the date Licensor receives Licensee's request to reasonably approve, deny or request modifications or additions to the Work Plan. If Licensor reasonably disapproves Licensee's Work Plan, including modifying the Work Plan or requesting additional information, Licensee may revise its Work Plan to respond to Licensor's reasonable objections and resubmit the revised Work Plan, including any additional information Licensor may have requested, to Licensor within \_\_\_\_\_ ( ) days after Licensee receives Licensor's response. Licensor then has \_\_\_\_\_ ( ) days from the date Licensor receives Licensee's response to reasonably approve or disapprove the Work Plan. Licensor and Licensee may continue the foregoing response and resubmission mechanism until Licensee's Work Plan have been approved or reasonably finally disapproved by Licensor or until Licensee issues a notice to Licensor that Licensee shall not resubmit its Work Plan, in which case this Agreement shall be deemed terminated on the day Licensor issues Licensor's notice of final disapproval or on the date Licensor receives a termination notice from Licensee. Licensor's failure to respond to Licensee's initial request for approval or any subsequent request for approval as to resubmitted Work Plan within \_\_\_\_\_ ( ) days after such request, shall constitute Licensor's approval of such request.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Work Plan Rider in multiple original counterparts as of the day and year first above written.

LICENSOR:

[INSERT LICENSOR NAME]

[INSERT LICENSEE NAME]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

LICENSEE:

## **Schedule D**

### **Insurance Rider**

THIS INSURANCE RIDER (this "Rider") is made part of that certain Telecommunications License Agreement (the "Agreement") dated \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a(n) \_\_\_\_\_ ("Licensor"), and \_\_\_\_\_, a(n) \_\_\_\_\_ ("Licensee"). This Rider and the Agreement shall be referred to collectively herein as the "License."

Capitalized Terms. Any capitalized terms used but not defined in this Rider shall have the meaning given them in the Agreement.

Insurance Maintained by Licensor. Licensor shall maintain fire and extended coverage insurance on the Building in commercially reasonable amounts. Such insurance shall be maintained at the expense of Licensor and payments for losses thereunder shall be made solely to Licensor and/or the mortgagees of Licensor as their interests shall appear. Licensor's insurance policies shall contain waiver of subrogation.

Insurance Maintained by Licensee. Prior to the commencement of any work, Licensee shall obtain and maintain, with carriers which at all times during the term of this Agreement maintain an A.M. Best rating of A/VIII or Standard and Poor's Insurance Solvency Review of A or better, at its own expense, in amounts not less than those specified below, the following insurance:

In an amount equal to full replacement costs, all-risks property insurance (including, without limitation, sprinkler leakage and water damage) on all of its personal property, whether owned or leased, including removable trade fixtures and including the Equipment.

Workers' Compensation insurance in accordance with the laws of the state in which the Building is located.

Employers' liability insurance in an amount not less than [\$\_\_\_\_\_].

Commercial General Liability Insurance on an "occurrence basis" with a combined single limit per location of not less than [\$\_\_\_\_\_] per occurrence. The Commercial General Liability Insurance shall also include independent contractors coverage, broad form property damage endorsement, coverage for collapse, explosion and underground property damage, products liability and completed operations coverage for a two-year period following acceptance of the work, an endorsement naming Licensor, Building Manager and Indemnitees as additional insureds, and blanket contractual liability insurance covering all indemnity agreements. The Commercial General Liability Insurance shall also include provisions for cross-liability and severability of interests, and an endorsement providing that the insurance afforded under Licensee's policy is primary insurance as respects Licensor and that any other insurance maintained by Licensor is excess and non-contributing with the insurance required hereunder.

Business Automobile Liability Insurance covering owned, hired and non-owned vehicles with limits of \$\_\_\_\_\_ and a combined single limit of \$\_\_\_\_\_ for bodily injury liability and property damage liability.

Builder's Risk insurance during construction.

Excess liability (umbrella liability insurance) with limits of [\$\_\_\_\_\_].

All Risk Property Insurance covering all contractor's materials, equipment and supplies which are not paid for by Licensor and not intended to become a permanent part of the Building until completion and Final Acceptance (as described below) of the work by Licensor. Coverage is to be on a replacement cost basis and is to include the interests of Licensor, as its respective interests may appear.

All of Licensee's insurance required by this Agreement shall, without liability on the part of Licensor for premiums thereof, include the following: an endorsement providing Licensor, Indemnitees and Building Manager \_\_\_\_\_ ( ) days' prior notice of cancellation, non-renewal or material changes to the terms of coverage to each named insured; and waiver of subrogation rights by Licensee in favor of Licensor, Building Manager and Indemnitees. Licensee shall, at Licensor's request from time to time, provide Licensor with a current certificate of insurance evidencing Licensee's compliance with this Schedule D.

Any type of insurance or any increase of its limits of liability not described above which Licensee requires for its own protection, or on account of statute, shall be its own responsibility and at its own expense.

The carrying of the insurance described herein shall in no way be interpreted as relieving either party of any responsibility or liability under this Agreement.

Should Licensee engage a contractor or subcontractor, the same conditions applicable to Licensee under this Agreement shall apply to each contractor or subcontractor, including but in no way limited to the indemnity and insurance clauses.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Insurance Rider in multiple original counterparts as of the day and year first above written.

LICENSOR:

LICENSEE:

*[INSERT LICENSOR NAME]*

*[INSERT LICENSEE NAME]*

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Title:

Title: