RESOLUTION APPROVING AND AUTHORIZING CHAIRMAN TO SIGN WIRELESS NETWORK LEASE WITH ATC INDOOR DAS LLC FOR WIRELESS SERVICES AT WERNER PARK

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County Board previously approved a Stadium Lease and Use Agreement (Resolution 2009-058) as well as five amendments (Resolutions 2009-127; 2010-117; 2015-77; 2018-091; and 2018-184), collectively referred to as the “Agreement”; and,

WHEREAS, the Fourth Amendment to the Stadium Lease and Use Agreement (Resolution 2018-091) amended the Agreement for the purpose of providing the framework for the installation of a licensed communication network at Werner Park; and,

WHEREAS, the Sarpy County desires to enter into a wireless network lease agreement with ATC Indoor DAS LLC for wireless services at Werner Park in Sarpy County, Nebraska; and

WHEREAS, the Wireless Network Lease ATC Site #284519 provides such wireless services as contemplated under the Fourth Amendment to the Stadium Lease.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT this Board hereby approves and authorizes the Chairman of this Board to sign the Wireless Network Lease ATC Site #284519 with ATC Indoor DAS LLC.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 28th day of August, 2018.

Attest

Sarpy County Board Chairman

County Clerk

2018-254
THIS WIRELESS NETWORK LEASE ("Agreement") is made as of the last date of signature below ("Effective Date") between Sarpy County, Nebraska, a political subdivision of the State of Nebraska ("Landlord") and ATC INDOOR DAS LLC, a Delaware limited liability company ("Tenant").

RECITALS:

A. Landlord owns or has a long-term leasehold interest in the parcel or parcels of land and the buildings or other improvements thereon known as Werner Park, having a street address of 12356 Ballpark Way in Papillion, Sarpy County, Nebraska and described on Exhibit A to this Agreement ("Property");

B. Tenant is in the business of providing, and/or licensing to parties that provide, wireless services or communications under the jurisdiction of the Federal Communications Commission ("FCC") and National Telecommunications and Information Administration ("NTIA") (collectively, the radio spectrum within the jurisdiction of each agency, which includes both licensed and unlicensed frequencies, is referred to as "Wireless Services") over infrastructure owned or controlled by Tenant; and

C. Landlord desires Tenant to provide Wireless Services at the Property by means of a DAS (as defined in Section 1(a)); repeater system; remote radio heads; microcells, picocells, femtocells, or other “small cells”; rooftop or façade mounted antenna sites; or any other temporary or permanent infrastructure including buildings, structures or technology that assists in the provision of Wireless Services (collectively “Wireless Network”).

NOW THEREFORE, in consideration of the Consideration and Execution Fee (each defined below) and the mutual promises contained in this Agreement, the sufficiency of which are hereby acknowledged, the parties agree as follows:

1. LEASE OF PREMISES.

   (a) Definition of DAS. A “DAS” or “distributed antenna system” is a communications network consisting of antenna nodes placed throughout the Property and connected by coaxial, fiber optic, electrical, and other cabling leading to the Head End Space (as defined in Section 1(b)), as well as other supporting components including without limitation support poles, conduits, remote radio units, components racks, splice cases, utility components, and batteries and generators.

   (b) Head End Space Selection. Landlord and Tenant will reasonably cooperate with each other to identify a location for Tenant to construct an outdoor facility at the Property to house the main radio cabinets, utility and backhaul connections, and other “hub” or “head end” components of the Wireless Network (“Head End Space”). The parties may approve the location of the Head End Space at any time prior or subsequent to the Effective Date, and drawings showing the approved location will be attached to this Agreement as Exhibit B. If Tenant requires additional space to accommodate additional components, Landlord will negotiate an amendment to this lease for the additional space required. Upon the parties’ agreement on additional space, the parties will execute an amendment to this Agreement with a revised Exhibit B. If, after good faith negotiations, the parties cannot agree on a location for the Head End Space, a “last location offer” must be extended by each party to the other party. If no agreement on the location is reached after the “last location offer” is exchanged, then either party is permitted to terminate this agreement thirty (30) days after the rejection of that party’s “last location offer.”
(c) **Lease of Premises.** Subject to Landlord’s approval of the Head End Space location, and approval of the Plans as defined in and pursuant to Section 6(a), Landlord leases to Tenant the Head End Space and grants Tenant a non-exclusive easement on, in, over, and through the Property for the use of the following (collectively, the Head End Space and easements are the “Premises”):

(i) the vertical and horizontal risers, raceways, conduits, cable pathways, and interior ceiling and wall areas of any building;

(ii) the utility, telecommunications, and mechanical rooms or closets on each floor of any building;

(iii) the interior ceiling areas of any building;

(iv) any existing access and utility easements from a public way to the Head End Space (or if sufficient easements do not exist, Landlord will grant additional easements over the Property); and

(v) areas on building rooftops, parapet walls, or other exterior surfaces of the Property for the placement of antennas or other components necessary for the Wireless Network.

(d) **Consideration.** Within sixty (60) days of the Effective Date, Tenant will deliver to Landlord documentation confirming that Tenant has designated the site as marketable and is actively marketing (e.g. Tenant has uploaded and included the site information in Tenant’s marketing database and Tenant will provide Landlord with a marketing brochure) the site as consideration for the mutual execution of this Agreement (the “Consideration”).

2. **PERMITTED USES.**

(a) **Tenant’s Permitted Uses.** Subject to the exceptions in Section 2(b), Landlord grants Tenant the following rights at the Property (collectively “Permitted Uses”):

(i) the exclusive right to install, modify, and monitor a Wireless Network to provide any Wireless Services that require a license from the FCC or NTIA, which include, but are not limited to, cellular, paging, personal communication services (PCS), advanced wireless services (AWS), wireless communications service (WCS), citizens broadband radio service priority access license (CBRS-PAL); educational broadband service (EBS), point-to-point microwave, and 700 MHz Upper and Lower Band services;

(ii) the exclusive right to install, modify, and monitor a Wireless Network operating on the citizens broadband radio service general authorized access (CBRS-GAA) band;

(iii) the non-exclusive right to install, modify, and operate a Wireless Network to provide any Wireless Services operating on IEEE 802.11 standards or any successor standards (“WiFi”) or any other Wireless Services that do not require an FCC or NTIA license (collectively an “Unlicensed Wireless Network”);

(iv) the exclusive right to market an existing or proposed Wireless Network to parties that provide Wireless Services (each a “Wireless Provider”); and

(v) the exclusive right to enter into, modify, and maintain agreements with Wireless Providers for the use of the Wireless Network (each agreement is a “License” and each Wireless Provider that is a party to a License is a “Licensee”).
Landlord will not—and will not permit other parties—to use, occupy, or market the Property for any use similar to or competitive with any Permitted Use for which Tenant has exclusive rights. Landlord will refer to Tenant all inquiries from third parties for the use or occupancy of the Property for any use similar to any Permitted Use for which Tenant has exclusive rights.

(b) Exceptions to Exclusivity. Tenant’s rights for any exclusive Permitted Use are subject to the following:

(i) Landlord’s right to operate any existing or future wireless systems for internal, “back of house” purposes related to Landlord’s primary business, provided that the system may not be used by any third party (including without limitation any Licensee or other Wireless Provider) or in any manner competitive with any exclusive Permitted Use; and

(ii) the rights of any third party pursuant to a written agreement with Landlord executed prior to the Effective Date for the operation of a wireless system, provided that (A) Landlord will provide Tenant copies of each agreement on or before the Effective Date and (B) if the system competes with any exclusive Permitted Use, Landlord will not permit the wireless system to be expanded or the agreement to be extended; and

(iii) the rights of Landlord or its tenants to utilize and operate a wireless system for internal “back of house” purposes related to Landlord’s primary business as a baseball stadium, provided that the system may not be used by any Licensee or other Wireless Provider or in any manner competitive with any exclusive Permitted Use.

3. DUE DILIGENCE PERIOD AND TERM.

(a) Due Diligence Period. The due diligence period will commence on the Effective Date and continue for a period of twelve (12) months (“Due Diligence Period”). The Due Diligence Period will automatically terminate on the Term Commencement Date as defined below. During the Due Diligence Period, Tenant may perform all due diligence that is reasonably required to determine the suitability of the Property for the Permitted Uses, including but not limited to site walks, radiofrequency propagation studies, structural analyses, and environmental site assessments and sampling. These activities must be completed in a manner that does not interfere with normal operations of Landlord or any Tenants of Landlord. Within thirty (30) days after the Effective Date and at any time thereafter upon request by Tenant, Landlord will provide copies of documents related to the Property including, but not limited to: building, floor, and fire evacuation drawings; structural reports; and environmental reports. If, Tenant determines that the site is appropriate for the construction and installation of the Wireless Network, Tenant may notify Landlord that it intends to extend the Due Diligence Period for a one time additional twelve (12) month period upon payment of Two Thousand Five Hundred ($2,500.00) to Landlord in consideration for the extension of the Due Diligence Period. Tenant is required to give notice and payment for Tenant’s one time extension of the Due Diligence Period thirty (30) days prior to the last day of the Due Diligence Period.

(b) Initial Term. The initial term of this Agreement will be ten (10) years. The initial term will commence on the earlier of (i) the first day after the expiration of the Due Diligence Period or (ii) the first date of operation of the first Licensee on the Wireless Network (excluding testing periods) (“Term Commencement Date”). The Initial Term, together with any Renewal Terms, are sometimes collectively referred to herein as the “Term”).

(c) Renewal Term. The Term may be extended for one (1) renewal term of five (5) years (the “Renewal Term”), if and only if Landlord and Tenant reach agreement upon the terms and conditions thereof during the first ninety (90) days of the tenth year of the Initial Term (such 90-day period
hereinafter, the “Renewal Negotiation Period”) in accordance with this Section 3(c). During the Renewal Negotiation Period, Landlord and Tenant will negotiate in good faith to agree on mutually acceptable terms and conditions for the Renewal Term. In the event that Landlord and Tenant agree on mutually acceptable terms and conditions for the Renewal Term during the Renewal Negotiation Period, the parties will execute an amendment to this Agreement (or an amendment and restatement of this Agreement, as the case may be), setting forth such terms and conditions, and the Term will be extended for the Renewal Term. If Landlord and Tenant fail to reach agreement on mutually acceptable terms and conditions for the Renewal Term during the Renewal Negotiation Period, the Term will expire upon the expiration of the Initial Term.

(d) Holdover. In the event that Tenant remains in possession of the Premises beyond the termination or expiration of this Agreement, its occupancy will be deemed a month-to-month tenancy under the same terms of this Agreement, provided that Tenant’s occupancy will be terminable upon thirty (30) days’ written notice by either party. Within ninety (90) days following termination or expiration of the holdover, Tenant shall, consistent with Section 17, remove the Wireless Network from Property and restore the Premises to as good a condition as it was in prior to the installation of the Wireless Network, unless Landlord agrees to additional occupancy or extension in writing.

4. RENT.

(a) Fixed Rent. Tenant will pay Landlord fixed rent in the amount of One Thousand Five Hundred Dollars ($1,500.00) per month for the 2nd License and One Thousand Five Hundred Dollars ($1,500.00) per month for each additional License (“Fixed Rent”). Fixed Rent will be payable in arrears beginning on the fifteenth (15th) day of the month following the month in which Tenant first collects any fees under the 2nd or subsequent Licenses (“Rent Commencement Date”), and on the fifteenth (15th) day of every following month. Fixed Rent will escalate by three and one-half percent (3.5%) on each anniversary of the Rent Commencement Date. Fixed Rent payments more than twenty (20) days late will be assessed a late fee of one and one-half percent per month (1.5%). No Fixed Rent will be due for the 1st License. The order of Licenses will be based on the date of execution of the Licensee contract and adjusted in the event of termination or expiration of Licenses.

(b) One-Time Fees per License. Within sixty (60) days of full execution of a License, Tenant will pay Landlord a one-time fee for that License according to the table below (“Per License Fee”).

<table>
<thead>
<tr>
<th>Order of Licenses (by execution date of the Licensee contract)</th>
<th>Per License Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st License</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>2nd License and each additional License</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

(c) Execution Fee. Tenant will pay to Landlord the sum of Ten Thousand Dollars ($10,000.00) (“Execution Fee”) for the purpose of defraying fees incurred by Landlord in connection with the negotiation of this Agreement within thirty (30) days of the Effective Date, provided that such time period shall not commence until Landlord has provided Tenant with a completed W-9 form.

(d) Payments. Payments will be sent to Landlord’s Payment Address (as defined in Exhibit C). Landlord may change Landlord’s Payment Address at any time by providing written notice to Tenant at least thirty (30) days in advance of any payment due date.
5. **ACCESS.** All access is subject to the reasonable regulations in effect at the Property, of which Landlord will provide to Tenant in writing from time to time. During the Due Diligence Period and Term of this Agreement, the authorized personnel of Tenant, Licensees, and their contractors will have twenty-four (24) hour per day, seven (7) day per week access to the Property to conduct any activities consistent with the Permitted Uses or the allowed use under any License, including, without limitation, access to common areas and facilities of the Property such as parking spaces, restrooms, lobbies, elevators, escalators, and stairways. Such activities shall not interfere with the operations of the Landlord or any of the Landlord’s Tenants. Except in an emergency, Tenant will notify Landlord’s Access Contact (as defined in Exhibit C) eight (8) hours prior to requested access by phone or email. Tenant, Licensees, and their contractors will not be required to pay any fee to access the Property.

6. **PLAN APPROVAL AND INSTALLATION.**

   (a) **Landlord Plan Approval.** Prior to the installation or modification of the Wireless Network and the designation or expansion of the Head End Space, Tenant will submit plans for Landlord’s written approval (“Plans”) which must be approved or denied by Landlord’s representative authorized to approve or deny Plans (“Plan Approval Designee”) (as defined in Exhibit C). Plan approval is not required for (i) maintenance, repairs, or replacement of all or any component of the Wireless Network or (ii) the addition, modification, or reconfiguration of any components in the Head End Space. Landlord will review the Plans and provide its approval or denial within thirty (30) days after receipt, and any denial will be accompanied by specific written reasons. If Landlord does not approve the Plans, Tenant may resubmit amended Plans, which Landlord must approve or deny within twenty (20) days after receipt. The failure of Landlord to deny the Plans within the time required by this paragraph will be deemed an approval. Landlord will also notify Tenant in writing of any special conditions or requirements for the proposed installation. The term “Plans” will include all subsequent modifications approved by Landlord.

   (b) **Required Approvals.** Prior to installing the Wireless Network, Tenant will obtain and maintain in effect any applicable licenses, permits, authorizations, consents, and approvals required by any government agency for the Permitted Uses (collectively, the “Required Approvals”). Landlord will execute any applications or letters of authorization within twenty (20) days of a request; except any authorization requiring the County Board of Sarpy County approval will be executed within thirty (30) days. Landlord may not charge Tenant any fees to execute said documents and will cooperate with Tenant and Licensees to obtain any Required Approvals.

   (c) **Installation of Wireless Network.** The Wireless Network will be installed in a good and workmanlike manner in accordance with (i) the Plans; (ii) any Required Approvals; and (iii) any applicable laws, regulations, and directives of any government agency having jurisdiction over the Property (collectively, “Applicable Law”). Within twenty (20) days of Tenant’s completion of any installation or modification of the Wireless Network that requires Plan approval pursuant to Section 6(a), Landlord will notify Tenant in writing of any inconsistencies with the Plans or Landlord’s other written requirements. Landlord’s failure to timely notify Tenant of any inconsistencies will be deemed an acceptance of the installation as built. Tenant shall provide written notification of Tenant’s completion of any installation or modification that requires Plan approval pursuant to Section 6(a) of the Wireless Network. The twenty (20) days for Landlord’s notice referenced in this Section 6(c) shall commence on the date the Tenant’s notification of completion is received by the Landlord.

7. **MAINTENANCE AND RELOCATION.**

   (a) **Tenant Maintenance.** Tenant will repair and maintain in reasonable condition: (i) the non-structural portions of any space occupied exclusively by Tenant; (ii) the Wireless Network and any other components installed by Tenant; (iii) any structure penetrations caused by Tenant; and (iv) any
damage to Tenant’s equipment caused by errant baseballs or bats will be repaired by and at the expense of the Tenant. Tenant will repair any damage to the Property attributable to the actions of Tenant and Licensees and their agents and contractors. Maintenance and operation of the Wireless Network must not disturb the normal operations of Landlord or Landlord’s tenants. If repairs to the Property are not made in a timely or sufficient manner, Landlord will send written notice to Tenant of its intent to make the repairs to the Property or cause such repairs to be made. If Tenant fails to respond to such written notice within twenty (20) days of receipt of such notice, Landlord may make the repairs to the Property or cause such repairs to be made and Tenant shall reimburse Landlord for such repairs.

(b) Landlord Maintenance. Landlord will repair and maintain in reasonable condition all portions of the Property other than those that are the responsibility of Tenant as provided in Section 7(a). Landlord will repair any damage to the Premises and to the property of Tenant and Licensees attributable to the actions of Landlord and its agents and contractors.

(c) Relocation of Antennas and Fiber. Upon ninety (90) days’ prior written notice by Landlord, Tenant and Licensees will relocate antenna nodes, expansion hubs, or cabling and conduit in the plenums or raceways of the Property to alternative areas of the Property in order to accommodate Landlord’s repairs or renovations. Landlord may not require Tenant to relocate any other portion of the Wireless Network including without limitation components located in the Head End Space, support poles, remote radio units, component shelters, generators, or utility meters and connections. Any relocation is subject to the following conditions: (i) Landlord will issue a purchase order or similar promise to pay for the approximate cost of the relocation (including reinstallation costs); (ii) the relocation will not negatively impact or materially degrade the quality or quantity of coverage provided by the Wireless Network; (iii) the relocation will not materially increase the cost or expense of owning, operating, or maintaining the Wireless Network; and (iv) within thirty (30) days of receipt of an invoice from Tenant, Landlord will pay Tenant’s and any Licensee’s relocation costs and expenses.

(d) Expansion of Wireless Network. If Landlord intends to construct new buildings or perform additions to existing buildings at the Property, Landlord will provide written notice to Tenant of its plans as soon as possible (but in no event later than ninety (90) days prior to the date of the proposed construction or addition) to allow Tenant to determine the feasibility of coordinating the expansion of the Wireless Network with Landlord’s construction. If Tenant, in its sole and absolute discretion, decides to expand the Wireless Network in conjunction with Landlord’s construction activities, the parties will work in good faith to coordinate the installation of the Wireless Network with Landlord’s construction. Nothing in this paragraph obligates Tenant to expand the Wireless Network.

8. UTILITIES.

(a) Utilities Required. The parties acknowledge that utilities including, but not limited to, electricity, telephone service, and internet access are essential to the operation of the Wireless Network. Tenant and Licensees may obtain utility service from a provider of their choosing. Tenant shall obtain and pay for any additional utilities required that are in addition to the utilities that currently exist at the facility.

(b) Electricity Consumption and Metering. Tenant will obtain metered electrical service directly from the local utility.

(c) Electrical Service Outages and Interruptions. Landlord will schedule any planned utility outage outside of the Property’s normal business hours and will notify Tenant at least three (3) days in advance of any planned utility outages that may interfere with the operation of the Wireless Network. Landlord will reasonably cooperate with Tenant in obtaining alternate power during planned
utility outages and Landlord will use reasonable diligence to restore any interruption to electrical service. Tenant and Licensees may install backup generators upon the written consent of Landlord.

9. LIENS. Tenant will not permit any mechanic’s or materialman’s liens to be filed against the Property as a result of the Permitted Uses. Landlord waives any statutory liens on all components located on the Property owned by Tenant or Licensees. Tenant or Licensees may pledge or collaterally assign their interests in any components to a financing source as long as the collateral assignment or pledge does not result in a lien on the Property. So long as a lender timely cures a breach of this Agreement by Tenant pursuant to Section 16, Landlord will accept performance of the lender in curing the breach as that of the Tenant. Landlord will give written notice to lender (pursuant to the notice provisions in Section 21) of any Default (as defined in Section 16(a)) by Tenant.

10. CASUALTY AND CONDEMNATION.

(a) Casualty. In case of damage to any part of the Property essential to the Permitted Uses, Landlord will reasonably restore the Property to its previous condition unless: (i) the casualty is caused by a risk not covered by Landlord’s property insurance described in Section 14(b)(1); (ii) the holder of any mortgage, deed of trust, or security interest encumbering the Property does not permit the application of adequate insurance proceeds for restoration; or (iii) the damage affects a significant portion of the Property and renders the Property unusable for its intended purposes. Within thirty (30) days from the date of casualty, Landlord will provide written notice to Tenant of its intent to either repair the damage (which will include an estimated date of completion) or to terminate this Agreement for the reasons above. After a casualty impacting a part of the Property essential to the Permitted Uses, Tenant may terminate this Agreement in its sole and absolute discretion at any time until the date that is thirty (30) days after the date of substantial completion of Landlord’s restoration. In the event that either party terminates the Agreement pursuant to this section, the termination will be effective as of the date of casualty, any amount owed or paid to Landlord will be abated as of the date of casualty, and any prepaid amounts will be reimbursed to Tenant.

(b) Condemnation. If all or substantially all of the Property (meaning the remaining portion is not of sufficient size or condition to reasonably permit the continuation of the Permitted Uses) is taken by eminent domain or by deed in lieu of condemnation, then Tenant in its sole and absolute discretion may terminate this Agreement by providing written notice to Landlord at any time prior to the date that is thirty (30) days after the date of vesting of title resulting from the taking, which will be effective as of the date of the vesting of title. Any amount owed or paid to Landlord will be abated as of the date of taking and any prepaid amounts will be reimbursed to Tenant. Landlord and Tenant may pursue their own separate awards. In the event of any taking of less than substantially all of the Premises, this Agreement will continue and Landlord and Tenant may pursue their own separate awards.

11. INTERFERENCE.

(a) Tenant Interference. Tenant will not permit the Wireless Network to interfere with any existing FCC licensed wireless systems at the Property existing as of the Effective Date, provided that the systems function within normal operating parameters and comply with Applicable Law. All operations by Tenant and Licensees will comply with FCC regulations.

(b) Landlord and Occupant Interference. Subsequent to the Effective Date, Landlord will not and will not permit any user or occupant of the Property to install, operate, or modify any components or take any other action that causes interference with the operation of the Wireless Network or with the Permitted Uses (including, but not limited to, electromagnetic interference as well as any physical obstructions of antennas). Landlord will require future leases and other agreements with users and
occupants of the Property to contain substantially similar language prohibiting users and occupants from interfering with the Wireless Network or with the Permitted Uses.

(c) **Resolution of Interference.** If either party suspects that the other party is causing interference pursuant to this section, it will notify the other party’s Emergency Contact (as defined in Exhibit C) by phone or email followed by written notice to that party’s Notice Address pursuant to Section 21 and Exhibit C. Any party receiving notice of potential interference will use its best efforts to provide a first response to the notice within three (3) hours of receipt of the call or email, and will then take all reasonable actions as soon as practicable to eliminate the interference to the reasonable satisfaction of the other party.

12. **ASSIGNMENT, SUBCONTRACTING AND SUBLETTING.**

(a) **Tenant Assignment and Subcontracting.** Tenant may assign this Agreement in whole or in part and may subcontract to any Affiliate (as defined below) of Tenant or to any lender without the consent of Landlord. An “Affiliate” is any person or entity that: (i) directly or indirectly (through one or more subsidiaries) controls Tenant; (ii) is controlled directly or indirectly (through one or more subsidiaries) by Tenant; (iii) is under the common control directly or indirectly (through one or more subsidiaries) with Tenant by the same parent corporation or other entity; (iv) is the successor or surviving entity by a merger or consolidation; or (v) purchases all or substantially all of the assets of Tenant. The issuance or utilization of debt, equity, or derivative securities by Tenant or an Affiliate will not be deemed an assignment of this Agreement. Tenant may assign this Agreement to any other party other than described above upon the prior written consent of Landlord. Tenant shall provide notification to the Landlord of all assignments.

(b) **Tenant Subletting and Licensing.** Tenant may enter into, modify, or terminate any License without the prior written consent of Landlord. Tenant shall provide notification to the Landlord of the execution of any License within thirty (30) days from the date of full execution including the date of execution. Further, Tenant shall provide notification to the Landlord of the commencement date of any License within thirty (30) days after the commencement date. Tenant represents that all Licenses will contain a provision stating that the Licensees are bound and subordinate to all terms and conditions of this Agreement including without limitation access, liability, insurance, approvals, and use of facilities.

(c) **Landlord Assignment.** Landlord may convey any interest in the Property or assign this Agreement (in whole or in part) to any party other than a Competitor (as defined below) upon written notice to Tenant. Landlord may not without the prior written consent of Tenant, which may be withheld in Tenant’s sole and absolute discretion: (i) convey any interest (including but not limited to options, leases, licenses, or easements) in the Property to a Competitor (as defined below) or (ii) assign Landlord’s interest in the Agreement to a Competitor. A “Competitor” is any person or entity directly or indirectly engaged in: (x) owning, acquiring, operating, managing, investing in, or leasing infrastructure or real property interests involving the use of land or structures for Wireless Services or any purposes incidental thereto; (y) purchasing the rental stream from agreements with Wireless Providers; or (z) providing Wireless Services for commercial purposes.

(d) **Evidence of Ownership Change.** In the event of any conveyance of Landlord’s interest in the Property, Landlord will provide to Tenant within a reasonable time following the transfer the following: (i) sufficient evidence of transfer including but not limited to an assignment and assumption agreement, deed, and/or certificate of merger; (ii) IRS Form W-9 of the transferee; and (iii) the notice and payment address of the transferee, access contact, and emergency contact pursuant to Section 21 and Exhibit C. Tenant will have no liability to the transferee for any payments made to the transferor prior to the timely receipt of the information required by this paragraph, and may withhold any amounts due under this Agreement until all required information is received. In the event of any conveyance of
Tenant’s interest in the Property, Tenant will provide to Landlord within fifteen (15) days of the transfer the following: (i) sufficient evidence of transfer including but not limited to an assignment and assumption agreement, deed, and/or certificate of merger; (ii) IRS Form W-9 of the transferee; and (iii) the notice and payment address of the transferee, access contact, and emergency contact pursuant to Section 21 and Exhibit C.

13. TAXES AND ASSESSMENTS. Tenant will pay or cause to be paid any taxes, assessments, charges, or fees identifiable and directly attributable to the Wireless Network and the use of the Premises by Tenant or Licensees levied under any Applicable Law, including any increase in real property taxes chargeable to Landlord resulting from the installation of the Wireless Network. If Tenant is not billed directly by the taxing authority, Landlord will send an invoice for the amount due along with a copy of the tax bill and Tenant will pay the invoice within thirty (30) days of receipt. Tenant will have the right to file an appeal for any taxes for which it is responsible. Tenant will have no liability for any excess profit taxes, franchise taxes, gift taxes, capital stock applicable to Landlord's general or net income or chargeable to Landlord as a result of Landlord’s business. taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, or other taxes.

14. INSURANCE.

(a) Tenant's Insurance. Tenant will maintain the insurances policies listed below:

(i) workers’ compensation insurance at statutory limits and employer’s liability insurance with minimum limits of $500,000;

(ii) commercial general liability insurance providing occurrence form coverage for operations and for contractual liability for Tenant’s liability under this Agreement, with a minimum combined single limit for bodily injury and property damage of $1,000,000 per occurrence and $2,000,000 in the aggregate; and

(iii) excess liability (umbrella) insurance with a minimum limit of $5,000,000 per occurrence.

All policies will be written by an insurer rated at least A- by A.M. Best and authorized to do business in the state where the Property is located and will provide that the coverage will not be cancelled or materially, adversely changed below the limits above without written notice to Landlord. The commercial general liability and umbrella policies above will list Landlord as an additional insured. Tenant may procure the coverage required under this paragraph under one or more blanket policies of insurance covering the Premises and other locations of Tenant. Upon request of Landlord, Tenant will provide a certificate of insurance evidencing this coverage.

(b) Landlord's Insurance. Landlord will maintain the insurance policies listed below:

(i) All risk property insurance with coverage extended for the perils of flood and earthquake, in an amount equal to the full replacement cost of the Property valued at the time of loss;

(ii) commercial general liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per occurrence and $2,000,000 in the aggregate; and

(iii) excess liability (umbrella) insurance with a minimum limit of $4,000,000 per occurrence.
Landlord may procure the coverage required under this paragraph under one or more blanket policies of insurance covering the Premises and other locations of Landlord. Upon request of Tenant, Landlord will provide a certificate of insurance evidencing this coverage.

(c) Contractor and Licensee Insurance. Tenant will require all Licensees and contractors to produce a certificate of insurance for the policies described in Section 14(a), and will require all contractors to produce a certificate of insurance for builder’s risk insurance with a limit not less than 100% of the estimated value of the improvements being constructed by or on behalf of such contractor or subcontractor. All policies under this paragraph other than the worker’s compensation and employer’s liability policies will name Landlord as an additional insured. The insurance may be carried under one or more blanket policies covering the Premises and other locations of a Licensee. Notwithstanding the foregoing requirements, a Licensee may self-insure if it: (i) uses an independent third party administrator to manage all claims; (ii) maintains sufficient capital reserves; (iii) complies with Applicable Law including the timely making all necessary government filings; and (iv) its commercial general liability coverage is similar to the coverage contained in ISO Form CG 00 01.

(d) Release. Each party releases the other party and their respective shareholders, directors, members, managers, partners, officers, employees, and agents (collectively “Associates”) from any claims arising in its favor against the other party relating to personal injury or property damage at the Property from any cause except to the extent the injury or damage is the result of (i) the willful misconduct of the other party or its Associates or (ii) the negligence of the other party or its Associates, provided that the party and its Associates will be released from negligent acts or omissions to the extent that the injury or damage is recovered or recoverable under an insurance policy of the party suffering the injury or damage. Each party’s insurance policies will contain a waiver of subrogation by the insurer for claims arising from the negligent acts or omissions of the other party. Notwithstanding the foregoing, neither party waives any claim against the other party for a loss which is not covered by such party’s property insurance policy because such loss is less than $100,000.00 per claim or such other commercially reasonable amount specified as the property insurance deductible on the certificate of insurance for the then-current policy year. In the event that a party suffers a loss which is greater than the amount of a commercially reasonable deductible but below the actual deductible by that party, such party shall be responsible for the amount of the loss which is above the then-current commercially reasonable deductible.

15. INDEMNITY AND WAIVER OF CONSEQUENTIAL DAMAGES.

(a) Indemnity. Subject to Section 14(d), each party (“Indemnitor”) hereby defends, indemnifies, and saves harmless the other party (“Indemnitee”) and its Associates against and from all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable attorneys’ fees actually incurred, that are actually imposed upon or incurred by or asserted against the Indemnitee or its Associates by a third party by reason of any of the following events:

(i) any work or act done at the Property at the direction of the Indemnitor, its Associates, or its contractors, except if the work or act is done by the Indemnitee, its Associates, or its contractors;

(ii) any Default (as defined in Section 16(a)) by the Indemnitor; or

(iii) pursuant to the terms of Section 19.

(b) Procedure. The Indemnitee must: (i) give the Indemnitor timely written notice of the claim (unless the Indemnitor already has notice); (ii) give the Indemnitor full and complete authority, information, and assistance for the claim’s defense and settlement; and (iii) not, by any act, admission, or acknowledgement, materially prejudice the Indemnitor’s ability to satisfactorily defend or settle the claim.
The Indemnitor’s obligation to indemnify the Indemnitee will be reduced to the extent of any increased claims or losses resulting from the Indemnitee’s failure to comply with the previous sentence. The Indemnitor will retain the right, at its option, to settle or defend the claim at its own expense and with its own counsel, provided that the Indemnitor may not admit any guilt or culpability of or on behalf of the Indemnitee. The Indemnitee will have the right, at its option, to participate in the settlement or defense of the claim with its own counsel and at its own expense, but the Indemnitor will retain sole and absolute control of the claim’s settlement or defense.

(c) Waiver of Consequential Damages. NEITHER PARTY WILL BE LIABLE TO THE OTHER NOR TO ANY THIRD PARTY FOR LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, LOST BUSINESS OPPORTUNITIES, IMPERFECT COMMUNICATIONS, MARKET SHARE OR CONSEQUENTIAL DAMAGES (“CONSEQUENTIAL DAMAGES”) INCURRED IN CONNECTION WITH THIS AGREEMENT OR BY A THIRD PARTY, INCLUDING BUT NOT LIMITED TO ANY CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO ANY NETWORK DISRUPTION, MALFUNCTION, DISRUPTION OF SERVICE, VANDALISM, ACTS OF GOD (INCLUDING, WITHOUT LIMITATION, LIGHTNING, WIND, RAIN, HAIL, FIRE OR STORMS), OR ANY OTHER REASON, EVEN IF THE PARTIES CONTEMPLATED THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

16. DEFAULT AND TERMINATION.

(a) Default. It will be a “Default” if:

(i) any party’s representations or warranties are false in any material respect and, if a breach of warranty can be cured, the non-complying party does not remedy the failure within thirty (30) days after receipt of written notice of default by the other party;

(ii) either party fails to pay when due any sum of money due to the other party, and the non-complying party does not remedy the failure within thirty (30) days after receipt of written notice of default by the other party; or

(iii) either party fails to perform any other obligation and does not remedy the failure within thirty (30) days after receipt of written notice of default by the other party, or if the failure cannot reasonably be remedied in that time, if the non-complying party does not commence a remedy within thirty (30) days and exercise reasonable efforts to prosecute the remedy to completion.

(b) Remedies for Default. Upon the occurrence of a Default, the non-defaulting party may terminate this Agreement upon thirty (30) days’ written notice to the defaulting party and pursue any additional legal and equitable remedies permitted by Applicable Law. The non-defaulting party must mitigate its damages resulting from a Default.

(c) Additional Termination by Tenant. Provided that no Tenant Default exists, Tenant may terminate this Agreement as provided below:

(i) upon sixty (60) days’ written notice during the Due Diligence Period and upon one hundred eighty (180) days’ written notice after the Due Diligence Period;

(ii) upon sixty (60) days’ written notice if Tenant or any Licensees are unable to (A) use the Wireless Network in accordance with the Permitted Uses as a result of material
interference; (B) obtain or maintain any rights necessary to provide access or utilities to the Premises; or (C) obtain or maintain any Required Approvals despite diligent efforts to do so;

(iii) upon sixty (60) days’ written notice if all Licenses terminate or expire;

(iv) as provided in Section 10 in the event of casualty or condemnation; or

(v) if Landlord shall become bankrupt, insolvent, or file a voluntary petition in bankruptcy, have an involuntary petition in bankruptcy filed against Landlord which cannot be or is not dismissed by Landlord within sixty (60) days of the date of the filing of the involuntary petition, files for reorganization or arranges for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of Landlord’s assets, or Landlord makes an assignment for such purposes for the benefit of creditors.

(1) If Tenant elects to terminate this Agreement pursuant to Section 16(c)(v), Tenant will send Landlord an invoice for the Termination Fee (as defined below) and Landlord will pay the invoice within thirty (30) days of receipt thereof. The “Termination Fee” is the sum of the Unamortized Component Cost, the Aggregate Cost of Capital, the Premium, and the Remaining Revenue. The “Unamortized Component Cost” is the sum of any unamortized costs and expenses related to the design, construction, installation, or modification of the Wireless Network. The “Aggregate Cost of Capital” is the sum of the Annual Cost of Capital for each year of the lease term. The “Annual Cost of Capital” for any particular lease year is the product of 12.5% and the Unamortized Component Cost as measured on the first day of the lease year. The “Premium” is the sum of the Unamortized Component Cost and the Aggregate Cost of Capital, all multiplied by fifteen percent (15%). The “Remaining Revenue” is the net present value of the aggregate remainder of the revenue due to ATC under each Customer Contract, including available renewal terms, calculated using a discount rate of four percent (4%).

(d) Effect of Tenant Termination. Upon Tenant terminating in accordance with this section, Tenant will surrender and vacate the Premises and deliver possession to Landlord pursuant to Section 17. Except in the event of termination due to Landlord Default, all amounts payable under this Agreement will be paid through and apportioned as of the date of termination. If there is no Default by either party, then upon termination, neither party will have any rights or obligations under this Agreement except for any rights or obligations that expressly survive the termination of the Agreement.

17. REMOVAL OF COMPONENTS UPON TERMINATION OR EXPIRATION. Within ninety (90) days following the termination or expiration of this Agreement, Tenant will remove the Wireless Network (other than as described below) from the Property and restore the Premises to as good a condition as it was in prior to the installation of the Wireless Network, reasonable wear and tear and casualty excepted. Tenant may—but will not be required to—remove any fiber optic or other cable, wiring, sleeving, or conduit installed by Tenant and restore or fill-in the risers or any core drillings that Tenant created in any structures on the Property. Tenant will properly cut, cap, and secure any fiber optic or other cable, wiring, sleeving, or conduit it leaves in place.

18. QUIET ENJOYMENT AND TITLE. Landlord warrants and represents that:

(a) it has marketable fee simple title to the Property (or a long-term lease or similar interest contained in a written instrument, which has been provided to Tenant) free of any restrictions, covenants, easements, leases, or licenses that may adversely affect the Permitted Uses;
(b) it has not received any notice of condemnation for the Property and there is no existing or threatened litigation relating to the Property that may adversely affect the Permitted Uses;

(c) its execution and performance of this Agreement will not violate any Applicable Laws or the terms of any mortgage, deed of trust, encumbrance, lease, or other agreement;

(d) it is not in default of any underlying leases or other agreements from which it derives its interest in the Property or any mortgage or deed of trust that encumbers the Property, and has committed no act that with the passage of time or the giving of notice will ripen into a default;

(e) the Property is in material compliance with Applicable Law, and Landlord will promptly remedy any non-compliance that may adversely affect the Permitted Uses;

(f) it has the full power and authority to enter into and perform its obligations under this Agreement, and, to the extent applicable, the person(s) executing this Agreement on its behalf, has the authority to enter into and deliver this Agreement on its behalf; and

(g) Tenant will have quiet enjoyment of the Premises as long as there is no Tenant Default.

19. HAZARDOUS SUBSTANCES.

(a) Definition of Hazardous Substances. “Hazardous Substances” are:

(i) any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act in 33 U.S.C. §1321(b)2(A);

(ii) any element, compound, mixture, solution, or substance designated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act in 42 U.S.C. §9601(14) and §9602;

(iii) any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (42 U.S.C. §6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by an Act of Congress);

(iv) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a));

(v) any hazardous air pollutant listed under Section 112 of the Clean Air Act (42 U.S.C. §7412);

(vi) any imminently hazardous chemical substance or mixture with respect to which the Administrator of the U.S. Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. §2606); or

(vii) petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (i) through (vi) of this paragraph, and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Except for the exclusions for petroleum and natural gas contained in the second sentence of 42 U.S.C. §9601(14)(F), the term “Hazardous Substances” will have the same meaning as “hazardous substance” in 42 U.S.C. §9601(14), as may be amended or superseded.
(b) **Tenant’s Use of Hazardous Substances.** Tenant will not use, generate, or store any Hazardous Substances on, under, about, or within the Property except for materials that are necessary and directly related to the Permitted Uses, in which case Tenant’s use, generation, or storage of Hazardous Substances will comply with Applicable Law. Tenant will have no liability to Landlord for any conditions existing, or events occurring, or any Hazardous Substances existing or generated on, under, about, or within the Property or in connection with the Premises prior to the Effective Date except and only to the extent Tenant exacerbates the problem through its negligence or willful misconduct, and then only to the extent of the exacerbation.

(c) **Tenant Indemnity for Hazardous Substances.** Tenant hereby indemnifies, defends, and holds harmless Landlord and its Associates from and against any and all losses, claims, suits, and damages incurred by those parties as a result of the presence, use, generation, storage, release, or disposal of Hazardous Substances on, under, about, or within the Property and from and against the costs and expenses of any required repair, clean-up, or remediation incurred by those parties, in each case only to the extent that the actions, costs, or expenses arise directly from (i) the presence, use, generation, storage, release, or disposal of Hazardous Substances by Tenant; its agents or contractors, or (ii) the exacerbation, due to Tenant’s negligence or willful misconduct, of Hazardous Substances existing or generated on, under, about, or within the Property prior to the Effective Date. Tenant’s indemnification obligations under this paragraph shall survive the expiration or termination of this Agreement.

(d) **Landlord Indemnity for Hazardous Substances.** To the extent allowed by Applicable Law, Landlord hereby indemnifies, defends, and holds harmless Tenant and its Associates from and against any and all losses, claims, suits, and damages incurred by those parties as a result of the presence, use, generation, storage, release, or disposal of Hazardous Substances on, under, about, or within the Property and from and against the costs and expenses of any required repair, cleanup, or remediation incurred by those parties to the extent that the actions, costs, or expenses arise directly from the presence, use, generation, storage, release or disposal of Hazardous Substances by Landlord, except and only to the extent Tenant exacerbates the damage or loss arising out of the presence of Hazardous Substances on the Property due to Tenant’s negligence or willful misconduct. Landlord’s indemnification obligations under this paragraph shall survive the expiration or termination of this Agreement.

(e) **Remediation of Hazardous Substances.** As part of Due Diligence, Tenant has the option, prior to construction of the Wireless Network, to retain a qualified environmental engineer, satisfactory to Landlord, to perform, at Tenant’s expense, one or more environmental site assessments of the Property (“Survey”) in accordance with reasonable and professional standards to determine whether there exist any Hazardous Substances (other than those introduced into the Property by Tenant or its agents). If the results of the Survey indicate the presence of any Hazardous Substances that must be remediated in order for Tenant to construct the Wireless Network (or which would require a modification of the design that results in an increase in the cost of the Wireless Network by more than five percent (5%)), Tenant will request Landlord to remediate the Hazardous Substances. If Landlord refuses to remediate the Hazardous Substances within ninety (90) days from the date of Tenant’s request, Tenant may terminate this Agreement upon ten (10) days’ written notice, and Landlord will refund all Per License Fees to Tenant within thirty (30) days of receipt of Tenant’s notice. Landlord may retain the Execution Fee in the event of such termination.

20. **ESTOPPEL CERTIFICATES.** Within fifteen (15) days after either party’s request, the other party will deliver a statement stating: (a) whether this Agreement is in effect and whether Tenant has exercised renewal options; (b) whether, to the party’s actual knowledge, there is a Default by either party; (c) whether Tenant has any rights to offsets or abatement of any amount due to Landlord; and (d) certifying such other facts as the requesting party reasonably requests.
21. NOTICES AND PAYMENTS. Except for phone and email notices pursuant to Sections 5 and 11, all notices must be in writing and personally delivered, mailed via U.S. certified mail return receipt requested, or transmitted by courier for next business day delivery to the receiving party’s Notice Address defined in Exhibit C. Payments will be sent to Landlord’s Payment Address defined in Exhibit C. Either party may change its Notice Address by sending written notice to the other party, and the new Notice Address will be effective fifteen (15) days after receipt by the other party. Notices will be deemed to have been given upon either receipt or rejection.

22. MISCELLANEOUS.

   (a) Agreement Runs with Land. This Agreement runs with the land and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

   (b) Memorandum of Agreement. Neither party may record this Agreement. Upon the request of either party, the other party will execute a memorandum of this Agreement in a form reasonably acceptable to the parties within fifteen (15) days of receipt of the request.

   (c) SNDA. This Agreement is subordinate to any existing mortgages, deeds of trust, or other recorded financing instruments, provided that upon Tenant’s request Landlord will reasonably assist Tenant in obtaining an executed subordination, non-disturbance, and attornment agreement (“SNDA”) from its lender in a form reasonably satisfactory to Landlord, Tenant, and the lender. The SNDA will state in substance that (i) this Agreement is subordinate to the lender’s interest, (ii) Tenant’s interest in this Agreement will not be disturbed as long as there is no Tenant Default; and (iii) the Tenant will attorn to lender as “landlord” upon foreclosure of the Property. This Agreement will be subordinate to any future mortgages, deeds of trust, or other recorded financing instruments upon Tenant’s receipt of an executed SNDA.

   (d) Equipment as Personalty. Any equipment of Tenant including the Wireless Network remains the personal property of the Tenant and any equipment of a Licensee remains the personal property of the Licensee even though it may be attached to the Property, and is removable consistent with the provisions of this Agreement.

   (e) Calendar and Business Days. Except as specifically provided in this Agreement, references to “day” or “days” will mean “calendar” days, provided that if the last day for performance falls on a Saturday, Sunday, or holiday for which banking institutions in the state in which the Property is located are generally closed, then the day of performance will be the next business day.

   (f) Brokers. Each party is responsible for paying its own broker’s fees, if any, in connection with this Agreement, and neither party will be responsible for any broker’s fees incurred by the other party.

   (g) Force Majeure. The period of time during which any party is delayed in performing any obligation under this Agreement due to any event or phenomenon outside of the reasonable control of that party including but not limited to fire, catastrophe, strikes, labor trouble, civil commotion, terrorism, war, or governmental prohibitions or regulations will be added to that party’s time for performance, and the party will not be deemed in default as a result of the delay.

   (h) Entire Agreement; Amendment. This Agreement embodies the entire agreement between the parties and it may not be amended, modified or terminated except by a writing signed by both parties. There are no representations or understandings existing prior to the Effective Date between Landlord and Tenant that are not stated in this Agreement.
(i) **Severability.** If any of the provisions of this Agreement, or the application thereof to any person or circumstances, is held invalid or unenforceable, the remainder of this Agreement, or the application of such provision or provisions to persons or circumstances other than those to whom or which it is held invalid or unenforceable, will not be affected thereby, and every provision of this Agreement will be valid and enforceable to the fullest extent permitted by Applicable Law.

(j) **Non-Waiver.** A party’s failure to exercise its rights after a breach of this Agreement or to insist on the strict performance of any term of this Agreement will not be a waiver of its rights or the term.

(k) **Relationship of Parties.** Landlord and Tenant agree that the relationship between them is solely that of landlord and tenant, and nothing will 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. Neither party, nor its employees or agents will have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other.

(l) **Interpretation.** The pronouns of any gender will include the other gender, and either the singular or the plural will include the other. References in this Agreement to sections, paragraphs or clauses will refer to those sections, paragraphs or clauses set forth in this Agreement unless the context expressly requires otherwise. Headings of sections or paragraphs are for convenience only and will not be considered in construing the meaning of sections or paragraphs.

(m) **Consent.** Whenever the consent of a party is required by this Agreement, consent may not be unreasonably withheld, delayed, or conditioned unless it is specifically stated that consent is in the party’s sole and absolute discretion. It will not be reasonable for any party to request additional payments, fees, or other consideration from the other party in exchange for consent.

(n) **Survival.** Any provisions of this Agreement that in order to have its intended effect must survive the expiration or termination of this Agreement will be deemed to survive.

(o) **Copies.** This Agreement may be executed in multiple counterparts, each of which will, for all purposes, be deemed an original, but which together will constitute one and the same instrument. A scanned or electronically reproduced copy or image of this Agreement will be deemed an original and may be used as an original for all purposes, including litigation and dispute resolution.

(p) **Governing law.** The laws of the State of Nebraska shall govern as to the interpretation, validity, and effect of this Agreement.

(q) **New Employee Work Eligibility Status.** The parties agree to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114 to the extent that said requirements apply to this Agreement. The parties are required and hereby agree to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**TENANT:**
ATC Indoor DAS LLC

By: 

Name: Jake Rasweiler

Title: Senior Vice President, Managed Networks

Date: 9/18/2018

**LANDLORD:**
Sarpy County, Nebraska

By: 

Name: Donald R. Kelly

Title: Sarpy County Board Chairman

Date: 8/28/18
EXHIBIT A

LEGAL DESCRIPTION

That part of the Southeast Quarter of Section 30, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, described as follows:

Commencing at a 2" brass cap stamped "Sarpy County Govt Corner" at the southwest corner of the Southeast Quarter of said Section 30;

Thence North 02°30'53" West (bearing referenced to Nebraska State Plane NAD83-2008) for 1183.46 feet along the west line of the said Southeast Quarter of Section 30;

Thence North 87°29'07" East for 100.00 feet to the TRUE POINT OF BEGINNING;

Thence North 02°30'53" West for 1174.44 feet;

Thence North 89°56'53" East for 1252.96 feet;

Thence South 02°51'55" East for 822.53 feet;

Thence along a curve to the left (having a radius of 1050.00 feet and a long chord bearing South 72°01'49" West for 250.02 feet) for an arc length of 250.62 feet;

Thence South 65°11'33" West for 729.55 feet;

Thence along a curve to the right (having a radius of 1000.00 feet and a long chord bearing South 72°37'02" West for 258.45 feet) for an arc length of 259.18 feet;

Thence along a curve to the right (having a radius of 60.00 feet and a long chord bearing North 75°17'28" West for 50.08 feet) for an arc length of 51.66 feet;

Thence along a curve to the right (having a radius of 130.00 feet and a long chord bearing North 26°34'11" West for 105.98 feet) for an arc length of 109.16 feet to the Point of Beginning;

Contains 30.791 acres.

APN: 011591994
EXHIBIT B
HEAD END SPACE DRAWING

[Attach Head End Space drawing here upon approval by both parties. If the parties have not agreed on the location of the Head End Space as of the Effective Date, the parties will work in good faith to identify a Head End Space for Tenant to construct an outdoor facility that:

- Is generally located in an area that will not interfere with the operation of Landlord or Landlord’s other tenants.
- is generally located in a portion of the Property that will minimize Tenant’s costs and expenses in installing and maintaining the Wireless Network (for indoor locations, the ground floor is preferred);
- is of sufficient space for the placement of the Wireless Network head end components of both Tenant and multiple Licensees (including future Licensees), but in no circumstance less than 650 square feet;
- has electrical service nearby of at least 150 amps at 480 volts three phase or 400 amps at 208 volts three phase, if available;
- has a floor loading capacity of at least 150 pounds per square foot;
- has reasonable access to the vertical and horizontal risers, raceways, conduits, and telecommunications pathways; and
- does not contain any Hazardous Substances.

Upon the parties’ agreement on the location of the Head End Space, Tenant will include the location on its Plans and submit for Landlord’s approval pursuant to Section 6(a). Upon Landlord’s approval of the Plans, the approved Head End Space drawing will be attached to this Agreement.]
# EXHIBIT C
## NOTICES AND CONTACT INFORMATION

<table>
<thead>
<tr>
<th><strong>Notice Address:</strong></th>
<th><strong>LANDLORD</strong></th>
<th><strong>TENANT</strong></th>
</tr>
</thead>
</table>
| Sarpy County Clerks Office  
1210 Golden Gate Drive  
Suite 1250  
Papillion, Nebraska 68046 | ATC Indoor DAS LLC  
10 Presidential Way  
Woburn, MA 01801  
Attn: Landlord Relations | with a copy to:  
American Tower Corporation  
116 Huntington Avenue, 11th Floor  
Boston, MA 02116  
Attn: Legal Department |

<table>
<thead>
<tr>
<th><strong>Payment Address:</strong></th>
<th><strong>LANDLORD</strong></th>
<th><strong>TENANT</strong></th>
</tr>
</thead>
</table>
| Sarpy County Fiscal Administration  
1210 Golden Gate Drive  
Suite 1250  
Papillion, Nebraska 68046 | n/a | n/a |

<table>
<thead>
<tr>
<th><strong>Access Contact:</strong></th>
<th><strong>LANDLORD</strong></th>
<th><strong>TENANT</strong></th>
</tr>
</thead>
</table>
| Ross Richards  
Tel: 402-593-4358  
Email: rrichards@sarpy.com | n/a | n/a |

<table>
<thead>
<tr>
<th><strong>Emergency Contact:</strong></th>
<th><strong>LANDLORD</strong></th>
<th><strong>TENANT</strong></th>
</tr>
</thead>
</table>
| Robert Canning  
Tel: 402-593-4170  
Email: rcanning@sarpy.com | DAS Network Operations Center  
Tel: (888) 773-4122  
Email: gnoctickets@americantower.com | n/a |