

**LICENSE AGREEMENT FOR SMALL WIRELESS
INSTALLATIONS
ON PUBLIC STRUCTURES**

BETWEEN

THE CITY OF CLAYTON, MISSOURI

AND

[REDACTED]

EFFECTIVE DATE: **[REDACTED]**

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**LICENSE AGREEMENT FOR SMALL WIRELESS INSTALLATIONS
ON PUBLIC STRUCTURES**

This License Agreement For Small Wireless Installations on Public Structures (the “Agreement”) is made and entered into as of _____, 201_ (“Effective Date”) by and between the City of Clayton, Missouri (“Licensor”) and _____ (“Licensee”). Licensor and Licensee shall be referred to hereafter individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Licensee seeks to affix small wireless communication antennas and related equipment to certain of Licensor’s Structures, as defined herein;

WHEREAS, Licensor wishes to encourage small wireless infrastructure investment in its community;

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Agreement, the Parties hereby agree as follows:

CERTAIN DEFINED TERMS

As used herein, the following capitalized terms have the meaning ascribed to them below.

“Emergency” means a situation in which there is an imminent threat of injury to person or property, or loss of life.

“FCC” means the Federal Communications Commission;

“Make-Ready Work” means the work required on or in Licensor’s Structure to create space for Licensee’s Attachments, and/or replacing and/or reinforcing the existing Structure to accommodate Licensee’s Attachments including, but not limited to, rearrangement or transfer of existing Attachments and the facilities of other entities, Structure relocation and replacement.

“Person” or “Persons” means any person or entity;

“Structure(s)” means pole(s) supporting one or more streetlights, traffic signals, flags, banners and/or signage; street furniture; billboard(s); trash receptacle(s); bus stop(s); and any other similar structure(s) capable of accommodating a Small Wireless Installation. Structure does not include any Licensor utility pole located in the public right-of-way or any Licensor pole used for the function of electricity distribution.

“Technical Grounds” means, in light of prevailing industry engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law.

“Small Wireless Installation” means a set of equipment at a fixed location that enables wireless communications between user equipment and a communications network and that meets both the following qualifications: (a) the antenna could fit within an enclosure of no more than six cubic feet in volume; and (b) all other associated wireless equipment (excluding electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, vertical cable runs and related conduit for connection of power and other services) that is cumulatively no more than twenty-eight cubic feet in volume, and which is affixed by Licensee to a Structure owned or controlled by Licensor pursuant to a Permit (in accordance with Section 3.1 hereof) authorized by Licensor, provided that no single piece of equipment affixed to the Structure shall exceed nine cubic feet in volume and no single piece of ground-mounted equipment shall exceed fifteen cubic feet in volume, exclusive of equipment required by an electric utility or municipal electric utility to power the Small Wireless Installation.

1. SCOPE OF AGREEMENT

1.1 Scope of Agreement. Nothing in this Agreement grants Licensee the right to make any specific Small Wireless Installation, or to install other facilities. Licensor hereby grants Licensee such rights-of-way and easements for the use and benefit of Licensee as necessary to exercise the right to attach to Licensor’s Structures, as may be approved by Licensor pursuant hereto, during the term of this Agreement. No use of Licensor’s Structures under this Agreement shall create or vest in Licensee any ownership or property rights in such Structures.

1.2 Interference with Small Wireless Installations. Licensor will not grant after the date of this Agreement a permit, license or any other right to any third party if, at the time such third party applies for access to a Structure, Licensor knows that such third party’s use may in any way adversely affect or interfere with the Licensee’s existing Small Wireless Installations, Licensee’s use and operation of its facilities, or Licensee’s ability to comply with the terms and conditions of this Agreement.

1.3 Other Rights. This Agreement does not affect or impair Licensee's ability to seek permits to install facilities in municipal rights of way pursuant to Licensor’s Code of Ordinances.

2. GENERAL OBLIGATIONS

2.1 Technical Requirements and Specifications.

At its own expense, Licensee must erect, install, repair and maintain its Small Wireless Installations in safe condition and good repair in accordance with:

(i) the requirements and specifications of the National Electrical Safety Code (“NESC”), the National Electrical Code (“NEC”) and any and all other applicable regulatory codes for safe practices when performing work on or near Structures (collectively, “Safety Codes”); and

(ii) any current or future rules or orders of the FCC, the State public utility commission, or any other federal, state or local authority having jurisdiction; but

(iii) changes to the requirements, specifications, rules and orders in subsections (i) and (ii) shall not apply retroactively unless required by law.

2.2 No Liens Permitted. Licensee will not, directly or indirectly, create, incur, assume or suffer to exist any lien with respect to any of Licensor's Structures or other Licensor property or facility resulting from any work performed by Licensee or on its behalf pursuant to this Agreement or any act or claim against it or any of its contractors, agents, or customers and will, at its sole expense, promptly take any action as may be necessary to discharge any such lien within thirty (30) days of first being notified in writing of its existence.

2.3 Worker Qualifications; Responsibility for Agents and Contractors. When performing work on a Structure with a Small Wireless Installation, each party shall ensure that its workers and, to the extent that it may employ agents or contractors, their workers, are adequately trained and skilled to access Structures in accordance with all applicable industry and governmental standards and regulations. Licensor may deny access to its Structures to any such worker who is not so qualified, or does not act in a safe and professional manner when accessing any Structure. In such event, Licensee shall take such reasonable and necessary action so as to ensure that such worker does not continue to access Structures on Licensee’s behalf unless such worker is qualified to Licensor’s reasonable satisfaction. In no event, however, shall a party be liable or otherwise responsible for the competence or conduct of the other party’s workers or those of the other party’s agents or contractors.

2.4 Utilities. Licensee shall be solely responsible for arrangement and payment for electric service necessary in connection with Small Wireless Installations. Licensee shall include a general description of such electric service arrangements in its Permit applications.

3. APPLICATION FOR PERMIT

3.1 Application for Permit. After Licensee obtains concept approval for an attachment to a particular Structure, and the parties have agreed on rent if not otherwise provided herein, Licensee shall apply for and obtain a permit from Licensor pursuant to City ordinance. Licensee shall comply with all applicable ordinance provisions.

3.2 Other Permits. Before making an installation, Licensee shall obtain any and all other required construction, excavation, traffic control, and other permits.

4. PREPARATION OF STRUCTURES FOR ATTACHMENT

4.1 Make-Ready Costs. As a general rule, Licensor does not intend to perform any Make-Ready Work in connection with Applications for Permit submitted by Licensee hereunder; however, if Licensor wishes to perform Make-Ready Work, Licensor shall notify Licensee within 14 days of Licensee's filing of the Application. Unless Licensor so notifies Licensee, then Licensee will perform any Make-Ready Work necessary to replace and/or otherwise prepare the Structure for Attachment, and submit any applicable Surety Bond, to be returned upon satisfactory completion of the Make-Ready Work.

(a) If Licensor intends to perform Make-Ready Work, Licensor will provide Licensee with a written estimate ("Make-Ready Cost Estimate") of the direct costs to prepare the Structure(s) for attachment by Licensee ("Make-Ready Costs") within fourteen (14) days of Licensor authorizing the Permit in accordance with Section 3. Licensee shall have sixty (60) days from the receipt of the Make-Ready Cost Estimate to accept the terms set forth therein. Licensor will not begin Make-Ready Work until it has received Licensee's signed approval of the Make-Ready Cost Estimate and full payment thereof ("Approved Make-Ready Cost Estimate").

(b) In the event Licensor determines, based upon Technical Grounds, that inadequate space exists on its Structure(s) to accommodate any proposed Small Wireless Installation, Licensor will consider Licensee's reasonable proposals to replace such Structure(s), at Licensee's sole expense, with Structure(s) with adequate space to accommodate the proposed Small Wireless Installation; provided, however, that nothing in this Agreement shall obligate Licensor to replace any Structure for the sole purpose of accommodating any Small Wireless Installation. Any such proposed replacement shall be treated as Make-Ready Work.

(c) If a Person, other than Licensor, would have to rearrange or adjust any of its facilities in order to accommodate an approved new Small Wireless Installation, Licensor shall use reasonable efforts, at Licensee's sole expense to coordinate such activity. Licensee shall, however, be responsible for directly paying such other Person for its charges for the same. The Small Wireless Installation shall be conditioned on the completion of all Make-Ready Work needed to establish full

compliance with NESC, and with Licensor Practices and engineering standards; provided, however, that Licensee shall not be responsible for any third-party or Licensor costs necessary to correct third party or Licensor attachments that are non-compliant at the time of Licensee's Application. If Licensee is requested by another Person, in comparable circumstances, to relocate or adjust any Small Wireless Installation to accommodate that Person's facilities, subject to Licensor's written approval of such relocation, the Licensee shall reasonably cooperate with such request and charge no more than Licensor would be permitted to charge for the relocation of its facilities on the applicable Structure under section 4.1(a) above.

4.2 Completion of Make-Ready Work. Licensor will complete all requested make-ready work described in the Approved Make-Ready Cost Estimate ("Make-Ready Work") within sixty (60) days after receiving the Approved Make-Ready Cost Estimate and payment thereof.

4.3 Make-Ready Cost Reconciliation. If the actual and reasonable costs incurred by Licensor in a Make-Ready effort exceed the pre-paid Make-Ready Cost Estimate, Licensee shall pay Licensor the shortfall amount of such costs within sixty (60) days of receipt of the invoice. If such Make-Ready Costs were less than the pre-paid Make-Ready Estimate, Licensor will refund the excess Make-Ready Payment to Licensee within sixty (60) days following completion of the make-ready work. No interest shall accrue on any excess Make-Ready Payment credit balance or be due on any shortfall.

4.4 Completion of Installation. Licensee must commence installation of a Small Wireless Installation within 6 months of receipt of Permit hereunder and must complete such installation within one year of receipt of such Permit, or such Permit shall lapse. Upon request, Licensor will grant Licensee an extension of up to six (6) months each of the commencement and completion deadlines. Licensee may not use Permits to reserve space for long periods of time and interfere with third party efforts to make similar installations. Within twenty (20) business days of completing the installation of each Small Wireless Installation, Licensee shall notify Licensor of such completion.

4.5 Tagging. Licensee shall clearly identify its ownership of all its Small Wireless Installations by an adequate label placed at each location.

5. OPERATION AND MAINTENANCE; RESERVATION OF RIGHTS

5.1 Reservation of Rights. Licensor reserves the right to operate and maintain its Structures and facilities, to discontinue such maintenance, and to remove its Structures and facilities, in the best manner required to fulfill its own service requirements, and its public, employee and worker safety obligations.

5.2. RF Emissions.

(a) Licensee will comply with all Federal Communications Commission (FCC) regulations regarding radio frequency (“RF”) emissions and exposure limitations. Licensee is allowed to install signage and other mitigation, such as a power cut-off switch on Structures, to allow workers and third parties to avoid excess exposure to RF emissions. Licensor’s authorized field personnel will contact Licensee’s designated point of contact not less than 24 hours in advance to inform Licensee of the need for a temporary power-shut-down. In the event of an unplanned outage or cut-off of power or an emergency, the power-down will be with such advance notice as practicable. Once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform Licensee as soon as possible that power has been restored. The parties acknowledge that they understand the vital nature of Licensee’s Small Wireless Installations and agree to limit the frequency of power-downs and restore power as promptly as much as reasonably possible.

(b) Licensor, Licensee and other attachers which emit RF on Licensor’s Structures are under an obligation to operate their own existing or future facilities to protect against RF interference to RF signals of Licensor, Licensee, and such other attachers, as applicable, as may emanate or arise. Licensor and Licensee and all others on Licensor’s Structures shall endeavor to correct any interference to other networks created by its RF emissions promptly and shall coordinate and cooperate with each other relating to the same.

5.3 FCC Antenna Registrations, Federal Aviation Administration (“FAA”) Compliance. Licensee is solely responsible for ensuring compliance with any and all FCC antenna registration, FAA, or similar requirements with respect to the location of the Licensee’s antennas or other facilities. Without limitation, Licensee acknowledges and agrees that Licensor’s Structures are not “antenna structures” under the FCC’s rules and that, accordingly, Licensor has no obligation of its own in this regard to register them with the FCC, the FAA, or other agency.

5.4 Equipment Modification and Replacements. Subsequent to the original installation of Licensee’s equipment, Licensee may modify or replace the equipment within the size limits for Small Wireless Installations so long as such modification or replacement does not increase the load on the applicable Structure beyond the loading, if any, that was established in the approved application, or involve placement of equipment outside the area designated in the approved application without obtaining prior written consent of Licensor.

5.5 Access. At all times throughout the Term of this Agreement, and at no additional charge to Licensee, Licensee and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access (“Access”) to, in and on any outdoor Structure used or to be used pursuant for an approved Permit, so that Licensee may install, operate, maintain, repair, replace, remove, or modify its Small Wireless Installations. To the extent Licensee needs to access the interior of any of Licensor’s buildings, Licensee will make a request to Licensor for

access consistent with the times and terms that such Structures are available for access by Licensor's employees, including emergency access. Licensor acknowledges that in the event Licensee cannot obtain Access, Licensee shall incur significant damage. If Licensor fails to provide the Access granted by this section, such failure shall be a default under this Agreement.

6. CHARGES, BILLING AND PAYMENT

6.1 Annual Rent For Small Wireless Installations. Licensee shall pay Licensor the rental fee ("Rent") per Small Wireless Installation, in the initial amount of \$150 per utility pole, and shall pay Rent in the amount specified by addendum hereto for attachment to other Structures, for each year (or partial year) that this Agreement remains in effect and the specific Small Wireless Installation remains in place. Said Rent is per Small Wireless Installation and includes all appurtenant equipment and facilities used in connection therewith. Rent shall not be refunded unless specifically provided herein. Rent for installations on any Structure other than a utility pole shall increase by a factor of 10% at the beginning of year 6, 11 and 16 of the term of this Agreement (see section 12).

6.2 Timing of Payment and Calculation of Number of Small Wireless Installations.

(a) Initial Rent for each installation shall be payable upon commencement of installation, prorated for the number of months remaining in the calendar year. Thereafter, the Rent shall be payable annually in advance for each Small Wireless Installation, as recorded by Licensor or for which a Permit has been approved and installation commenced or completed as of each October 1 (the "Record Date").

(b) If Licensee's records show a different number of Small Wireless Installations for which a Rent payment is required, Licensee shall so notify Licensor within thirty (30) days of relevant invoice. Licensor will then, following receipt of Licensee's notification, either accept in writing Licensee's revised count/information or notify Licensee in writing that a dispute exists about such count, in which event the parties shall comply with the dispute resolutions provisions of the agreement.

6.3 Unauthorized Small Wireless Installations.

(a) Upon discovery of a Small Wireless Installation governed by this Agreement that has not been approved by Licensor (an "Unauthorized Small Wireless Installation"), unless otherwise agreed by Licensor in accordance with the terms hereof, Licensee shall immediately remove the installation at its cost within sixty (60) days.

(b) Unauthorized Small Wireless Installations shall not be considered a default of this Agreement unless there is established a pattern of Unauthorized Small Wireless Installations by Licensee.

6.4 Billing and Payment Generally.

(a) Except as otherwise provided herein, all bills and invoices and other requests for payment rendered under this Agreement shall be paid by Licensee within ninety (90) days from the receipt of invoice. Interest of one percent (1%) per month (or the highest amount permitted by law, whichever is less) of the total amount due and unpaid will apply to any unpaid amount after ninety (90) days from the receipt of invoice.

(b) Licensee shall notify Licensor within thirty (30) days of the date of invoice of any dispute, with sufficient particularity to identify the amounts in, and grounds for, dispute.

(c) Any charges payable by Licensee under this Agreement other than for Unauthorized Small Wireless Installations shall be billed by Licensor within one (1) year from the end of the calendar year in which the charges were incurred; any such charges beyond such period shall not be billed by Licensor and shall not be payable by Licensee.

7. AUDITS AND INSPECTIONS

7.1 Audits.

(a) Licensee and Licensor shall cooperate in determining the total number of Small Wireless Installations, including by joint audit if mutually agreed. This determination shall be based on an on-going inventory of Permits that shall be maintained by Licensor.

(b) Licensee and Licensor may mutually agree that in lieu of any physical audit, the number of Small Wireless Installations may be determined from existing maps and attachment records, in which case, each Party shall make all relevant maps and records available to the other Party and the number of Small Wireless Installations shall be cooperatively determined.

7.2 Safety Inspections. If Licensor discovers any regulatory, safety or other violation of this Agreement with respect to Small Wireless Installations, it shall notify Licensee and Licensee shall have sixty (60) days in which to remedy such violations, except that Licensor may require quicker action in Emergency situations. Licensor may conduct, at its sole expense, inspections of Small Wireless Installations on Licensor's Structures and conduct inspections in the vicinity of Small Wireless Installations. Licensor shall give Licensee sixty (60) days' prior written notice of such inspections and Licensee shall have the right to be present at and observe any such inspections, at Licensee's sole expense. However, in the event of an Emergency for which Licensor must promptly provide or restore safe and reliable service to a customer, Licensor may conduct such inspections immediately and without prior notice to Licensee. Notwithstanding the foregoing, Licensee shall pay Licensor for its actual and reasonable

costs for safety inspections performed for the purpose of determining if a safety violation of which Licensor has provided written notice to Licensee has been timely corrected by Licensee.

8. STRUCTURE REPLACEMENT AND ABANDONMENT AND REMOVAL OF SMALL WIRELESS INSTALLATIONS

8.1 Replacement or Abandonment of Structure.

(a) If for safety, reliability or operational reasons or due to government requirements Licensor replaces a Structure to which Small Wireless Installations are affixed, Licensee will, upon ninety (90) days' written notice, at its own expense, remove the Small Wireless Installation located on the original Structure, and transfer it to the replacement Structure unless in such written notice Licensor advises that transfer will not be allowed (in which case a pro rata portion of the Rent for that Small Wireless Installation shall be refunded).

(b) Notwithstanding the foregoing, in the case of an Emergency, Licensor may remove, or replace the Small Wireless Installations or transfer them to replacement Structures, or perform any other work in connection with said Small Wireless Installations that may reasonably be required to maintain, replace, remove or relocate the Structures. In such a case, Licensee shall reimburse Licensor for the expenses incurred by Licensor. In the event of an Emergency, Licensor shall notify Licensee as soon as practicable, but in no event later than 24 hours after the Emergency.

(c) If Licensor desires to abandon any Structure, it shall give Licensee sixty (60) days' written notice, and within such time, Licensee shall remove or otherwise dispose of its Small Wireless Installations.

(d) If, upon expiration of any required notice period for removal, Small Wireless Installation(s) has/have not been removed, Licensor may at Licensee's sole expense, remove and dispose of the Small Wireless Installation(s), without any liability to Licensee for such removal and disposition.

8.2 Removal of Small Wireless Installations by Licensee. Licensee may at any time remove Small Wireless Installations from Licensor's Structures, and shall give Licensor notice of such removal within thirty (30) days after removal. No refund of any rental paid will be due on account of such removal except as provided for in section 13.3 or if triggered by casualty, fire or other harm affecting any Structure ("Casualty Event"). Licensor will provide notice to Licensee of any Casualty Event as soon as reasonably possible thereafter. In the event of damage by a Casualty Event to a Structure that cannot reasonably be expected to be repaired within forty-five (45) days following such Casualty Event or which Licensor elects not to repair, or if such Casualty Event is reasonably be expected to disrupt Licensee's operations on the Structure for more than

forty-five (45) days, then Licensee may, at any time following such casualty or harm; (i) terminate the applicable Permit or affected portion thereof upon fifteen (15) days' written notice to Licensor; (ii) place a temporary facility, if feasible and, at a mutually acceptable location equivalent to Licensee's current use of the Structure until such time as the Structure is fully restored to accommodate Licensee's Small Wireless Installation; or (iii) seek an alternate location equivalent to Licensee's current use of the Structure. Any such notice of termination shall cause the applicable Permit or affected portion thereof to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the applicable Permit. The rent shall abate during the period of repair following such Casualty Event in proportion to the degree to which Licensee's use of the Structure is impaired. Licensee will be entitled to collect all insurance proceeds payable to Licensee on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis.

9. INSURANCE

9.1 Licensee shall at its sole cost and expense maintain the insurance coverage and limits required by this Section 9 during the Term of this Agreement. Licensee agrees to procure the required insurance from an insurance company having and maintaining an A.M. Best rating of at least A-VII and deliver to a Licensor a Certificate of Insurance evidencing the types of insurance and policy limits required, together with all related endorsements.

9.2 Required Insurance.

(a) Workers' Compensation and Employer's Liability insurance, as required by statute, with Employer's Liability limits of \$500,000 each accident, \$500,000 by disease policy limits, and \$500,000 by disease each employee. To the extent allowed by law, the policy must include a blanket waiver of subrogation in favor of Licensor.

(b) Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage as required by ordinance and in an amount sufficient to cover city's potential liability considering sovereign immunity limitations.

The Commercial General Liability policy must include Licensor as an additional insured on a primary and non-contributory basis and a waiver of subrogation in favor of Licensor.

(c) Business Automobile Liability insurance with limits of at \$1,000,000 Combined Single Limit for each Accident for Bodily Injury and Property Damage, extending to all company owned, leased, and non-owned vehicles.

(d) Umbrella/Excess Liability insurance with limits of \$1,000,000 each occurrence and in the aggregate.

9.3 Licensee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance. Licensee shall provide at least thirty (30) days advance written notice of cancellation or non-renewal of any required insurance that is not replaced. Licensee will require any subcontractors performing work under this Agreement to maintain coverage and limits at least as broad as those listed above. With respect to any required policy that is issued on a “claims-made” basis, Licensee agrees to maintain coverage for two (2) years following the term of this Agreement. Notwithstanding the foregoing, Licensee may self-insure the required insurance under the same terms and conditions as outlined above.

10. ALLOCATION OF LIABILITIES

A Party shall not be liable for any damages for such injuries to third Persons or any third Person’s property proximately caused by the other Party’s negligence or willful misconduct or by its failure to comply at any time with the practices herein provided. As used in the immediately preceding sentence, reference to injury to property shall be deemed to refer to physical damage to physical property. Licensor in no way waives its sovereign immunity.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY CUSTOMER OR ANY PURCHASER OF SUCH PARTY OR ANY OTHER PERSON, FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE.

11. INDEMNIFICATION

11.1 To the extent permitted by law, the party performing work (including but not limited to, the placement, installation, operation, maintenance, rearrangement or removal of attachments) on a Structure shall indemnify, hold harmless and, at the other’s sole option, defend the other, its elected and appointed officials, employees, contractors, subcontractors, suppliers, licensees (other than Licensee), invitees, agents, attorneys, employees, successors and assigns (together “Indemnitees”) from and against any and all liabilities, damages or claims for damage, including but not limited to all actual and reasonable costs, attorneys’ fees, and other charges and expenditures that Indemnitees may incur, arising from or related to the use or operation of Small Wireless Installations hereunder or negligent work performed on a Structure, including acts or omissions by its agents, contractors, or subcontractors except to the extent that such liabilities, damages or claims are a result of Indemnitee’ negligence or willful misconduct.

12. TERM

This Agreement shall commence as of the Effective Date, and, if not lawfully terminated sooner, remain in full force and effect for a term of ten (10) years, and will automatically renew for two (2) successive five (5) year terms, unless either Party gives the other written notice of termination at least one hundred and eighty (180) days prior to the then-current term. Upon termination of this Agreement, Licensee shall remove Small Wireless Installations made pursuant hereto from all Licensor's Structures within one hundred and eighty (180) days. If not so removed within one hundred and eighty (180) days following such termination, Licensor shall have the right to remove such Small Wireless Installations, and to dispose of same, at Licensee's sole expense and without any liability to Licensee for such removal and disposition.

13. DEFAULT AND TERMINATION

13.1 Default. If either Party fails to perform or observe any material term or condition of this Agreement within sixty (60) days after receipt of written notice of such failure from the other Party, then such Party will be in default of the Agreement ("Default"). No such failure, however, will be deemed to exist if a Party has commenced to cure such Default within such period and provided that such efforts are prosecuted to completion with reasonable diligence.

13.2 Licensee's Default and Licensor's Remedies. If Licensee does not cure its Default within the allotted time period, Licensor may, at its reasonable discretion, take any one or more of the following actions:

- (a) suspend Licensee's access to any or all of Licensor's Structures;
- (b) terminate the specific Permit(s) or affected portion thereof granted to Licensee covering the Structure(s) to which such Default is applicable;
- (c) require the obligation to be fulfilled;
- (d) remove, relocate, or rearrange Small Wireless Installations to which such Default relates (all at Licensee's sole expense);
- (e) decline to Permit additional Small Wireless Installations under this Agreement until all such Defaults are cured;
- (f) only in the case of a pattern or practice of Defaults, terminate this Agreement.

13.3 Licensor's Default and Licensee's Remedies.

(a) If Licensor does not cure its Default within the allotted time period, Licensee may, at its reasonable discretion, either terminate this Agreement or demand that the terms of this Agreement be complied with.

(b) If Licensor Defaults and Licensee elects to terminate the Agreement, Licensor shall refund any portion of advanced, prepaid Rent actually paid by Licensee pro-rated for any period of the Term remaining following the effective date of the termination of this Agreement. Licensor shall make such refund within sixty (60) days of the effective date of such termination.

13.4 Effective Date of Termination. Any termination under sections 13.2(b), 13.2(f) or 13.3(a) shall be effective upon written notice from the terminating party to the other party. Such notice will identify the effective date of the termination, which effective date may be as early as the effective date of the notice under section 16.1.

13.5 Cumulative Remedies. The remedies provided by this section 13 are cumulative and in addition to any other remedies available under this Agreement or otherwise.

14. DISPUTE RESOLUTION PROCEDURES

As a condition precedent to the initiation of any litigation, the Parties shall in good faith attempt to settle any dispute arising out of or relating to this Agreement through upper management escalation and non-binding mediation. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. The dispute shall be escalated to upper management to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved within thirty (30) business days of receipt of the disputing Party's notice, either Party may initiate mediation. Such mediation shall take place at a mutually agreeable time and location, with a mutually approved mediator. In the event that such dispute is not resolved within ninety (90) calendar days following a party's request for mediation, either Party may initiate litigation. In case of a failure of either Party to follow the foregoing, the other may seek specific enforcement of such obligation in the court having jurisdiction hereunder.

15. CONFIDENTIALITY

Unless otherwise authorized by this section, neither Party shall at any time disclose, provide, demonstrate or otherwise make available any confidential information of the other Party ("Confidential Information"). "Confidential Information" shall include any information of a confidential or proprietary nature disclosed by a Party to this Agreement to the other Party, but excluding the terms and conditions of this Agreement. Each Party shall use its best efforts and shall cause its officers, directors, employees, lenders and agents (including retained attorneys and consultants) to whom such Confidential Information may be disclosed to safeguard the confidentiality of the other Party's Confidential Information. At a minimum, such precautions shall include, but not be limited to, all precautions taken to ensure the confidentiality of such Party's own Confidential Information. Confidential Information may be disclosed (a) with the non-disclosing Party's prior written consent, or (b) as may be required by applicable

law, including Open Records laws, or governmental authorities (including but not limited to disclosures necessary to obtain permits and other regulatory approvals).

16. MISCELLANEOUS PROVISIONS

16.1 Notices. Except as provided below, all written notices shall be effective upon actual delivery or completed facsimile addressed to the other party as follows:

To Licensor:

[Redacted]

in each of the above cases, with a copy sent to:

[Redacted]

To Licensee (including bills):

in each of the above cases (excluding bills), with a copy sent to:

Contact Number for day to day operations:

Licensor: _____
Licensee:

Any Party may change its address or other contact information at any time by giving the other Party, and Persons named above, written notice of said change.

16.2 Force Majeure. Deadlines for completing work and providing notice under this Agreement shall be suspended for a reasonable period upon the occurrence of a force majeure event.

16.3 Assignment and Transfer. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties. Except as otherwise provided in this Agreement, neither Party shall assign this Agreement or its rights or obligations to any firm, corporation, individual, or other entity, without the written consent of the other Party, which consent shall not be unreasonably withheld. Licensee may assign its rights and obligations to an affiliate without consent upon 30 days' written notice. Affiliate for purposes of this provision is any entity that controls, is controlled by, or is under common control with Licensee.

16.4 Applicable Law. This Agreement shall be interpreted, construed, and enforced, in accordance with the laws of the State of Missouri, without regard to its conflict of laws principles, and, where applicable, federal law. The venue for any litigation regarding this Agreement shall be the Circuit Court of St. Louis County, Missouri.

16.5 Change of Law. In the event that any legislative, regulatory, judicial, or other action ("new law") affects the rights or obligations of the Parties, or establishes rates, terms or conditions for the construction, operation, maintenance, repair or replacement of Small Wireless Installation on public infrastructure, that conflict, in any material respect with the terms of this agreement, then either Party may to the extent necessary, upon thirty (30) days' written notice, require that the terms of this agreement be renegotiated to conform to the new law on a going forward basis for all existing and new Small Wireless Installations, unless the new law requires retroactive application. In the event that the Parties are unable to agree upon such new terms within 90 days after such notice, then either party may seek a ruling regarding the appropriate conforming terms from a court of competent jurisdiction. In the event the dispute includes rates, the Parties agree that in the interim Licensee will continue paying the current contract rate until the court makes its ruling and that the interim amounts paid will be trued up based on the court's ruling with any excess or under payments paid within thirty (30) days of the court's ruling.

16.6 Exhibits. In the event of any inconsistency between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such incorporated Exhibits unless such Exhibit specifies otherwise.

16.7 Execution in Counterparts. This Agreement may be executed in several counterparts, including by counterpart facsimiles or emails, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

16.8 Waiver. The failure of either Party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision.

16.9 Severability. If any portion of this Agreement is found to be unenforceable, the remaining portions shall remain in effect and the Parties shall begin negotiations for a replacement of the invalid or unenforceable portion.

16.10 Survival. The terms and provisions of this Agreement that by their nature require performance by either Party after the termination or expiration of this Agreement, shall be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.

16.11 Waiver of Jury Trial. Each Party waives its right to a trial by jury on disputes arising from this Agreement.

16.12 Entire Agreement; Amendments. This Agreement (including the Exhibits hereto) embodies the entire agreement between Licensee and Licensor with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, oral or written, with respect thereto. Each Party acknowledges that the other Party has not made any representations other than those contained herein. This Agreement may not be amended or modified orally, but only by an agreement in writing signed by the Party or Parties against whom any waiver, change, amendment, modification, or discharge may be sought to be enforced.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

THE CITY OF CLAYTON, MISSOURI

BY: _____

Name:

Title:

Date

Name:

Title:

Date