



Technology Department

19200 Cobb Avenue

Tornillo, TX 79853

Phone 915.765.3035

Fax 915.765.3099

MEMORANDUM

To:

From:

Subject:

Date:

HISTORY:

RATIONALE:

BUDGET IMPACT:

ADMINISTRATIVE RECOMMENDATION:

Vision: *Believe we can succeed, with pride we will achieve.*

Mission: *The mission of the District is to educate and inspire students in a safe and supportive environment which will result in closing the achievement gap by preparing all students for college readiness and success in a global society.*

TASB ConnectED Texas Program

Karen O'Grady <Karen.OGrady@tasb.org>

Wed 7/17/2024 1:53 PM

To: Garcia, Carlos <GarciaC@tisd.us>

CAUTION: This email originated from outside TISD organization. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Garcia,

The Texas Association of School Boards (TASB) has partnered with Diamond Communications, a leading wireless infrastructure provider, to launch the **ConnectED Texas** program. Many TASB members have expressed concerns about poor or unreliable cellular coverage on their campuses and how it impacts classroom learning and safety around district facilities. For rapidly growing communities, what was once ample capacity may now be insufficient. The **ConnectED Texas** program is the result of a two-year review conducted by TASB to explore ways to assist members with these concerns.

The **ConnectED Texas** program, developed by TASB and Diamond Communications, facilitates the creation of cellular infrastructure (cell towers) on district properties. This program aims to enhance educational environments by providing improved connectivity, boosted cell service, and emergency communications across campuses and surrounding areas. Best of all, the program incurs no cost to the district and has the potential to generate a long-term revenue stream, putting money back into your budget!

We would like the opportunity for a brief virtual meeting to present potential solutions for addressing your connectivity issues and improving safety around your school properties. If you are available for a meeting or would like additional information about this new program, please reach out to me at any time.

Additional information can be found at the following links:

[ConnectED Texas: Advancing Cellular Connectivity for Texas School Districts | TASB](#)

[New Program Seeking to Bring Increased Cell Connectivity to Texas School Districts | TASB](#)

Best Regards,

Karen O'Grady

Services Manager

Business Services



Texas Association of School Boards

12007 Research Blvd. • Austin, TX 78759

512-738-0197 • 800-580-8272

[TASB Facility Services Webpage](#)

RE: ConnectED Texas SMA - Tornillo ISD

Jeff Clemmons <Jeff.Clemmons@tasb.org>

Thu 9/12/2024 7:55 PM

To: Garcia, Carlos <GarciaC@tisd.us>; Escarsega, Christopher <EscarsegaC@tisd.us>; jcullen@diamondcomm.com <jcullen@diamondcomm.com>

Cc: Karen O'Grady <Karen.OGrady@tasb.org>; Dale Shumaker <dshumaker@diamondcomm.com>; Peter Woodbury <pwoodbury@diamondcomm.com>; Michelle Zakalik <MZakalik@diamondcomm.com>

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Thank you for reaching out, Carlos. This is a very good question that I wish more districts asked!

TASB is and will be very involved in this project for years to come. Approximately two years ago, TASB set out on a journey through a Request for Information to team up with a firm to provide cell site marketing services to our members after hearing from them about the connectivity struggles so many of you face. As a 75 year old organization that is beholden to and governed by the school districts in Texas, our first and only commitment is to our members. As with any service that TASB offers, either directly or through a service provider, we provide the assurance to our members that the service will be provided as promised. From the marketing agreement to the potential construction and leasing of a cell tower, TASB will be here to provide quality service assurance to our members. If Diamond Communications does not perform to the high level of service that is expected by TASB for our members, they will have both your district and TASB to answer to. I meet with Diamond Communications weekly and can assure you that they treat our members at the high level that we expect, which has provided TASB an ongoing and mutual respect and relationship between us and our members for 75 years and will continue for many more years to come.

If at any time you would like to discuss further, please do not hesitate to reach out to me at any time. My contact information is below.

Thank you for the opportunity to earn your business and have a wonderful weekend!

Jeff Clemmons*Division Director**Facility Services*

Texas Association of School Boards

12007 Research Blvd. • Austin, TX 78759

Cell 512-567-7300 • Office 512-505-2850

tasb.org

From: Garcia, Carlos <GarciaC@tisd.us>**Sent:** Thursday, September 12, 2024 6:12 PM**To:** Escarsega, Christopher <EscarsegaC@tisd.us>; jcullen@diamondcomm.com**Cc:** Karen O'Grady <Karen.OGrady@tasb.org>; Dale Shumaker <dshumaker@diamondcomm.com>; Jeff Clemmons <Jeff.Clemmons@tasb.org>; Peter Woodbury <pwoodbury@diamondcomm.com>; Michelle Zakalik

<MZakalik@diamondcomm.com>

Subject: Re: ConnectED Texas SMA - Tornillo ISD

Thank you for the information, I forgot to ask, what or how is TASB involved with this project other than utilizing its legal services to draft this document?

Carlos

From: Joseph Cullen <jcullen@diamondcomm.com>

Sent: Thursday, September 12, 2024 2:05 PM

To: Garcia, Carlos <GarciaC@tisd.us>; Escarsega, Christopher <EscarsegaC@tisd.us>

Cc: Karen O'Grady <karen.ogradey@tasb.org>; Dale Shumaker <dshumaker@diamondcomm.com>; Jeff Clemmons <jeff.clemmons@tasb.org>; Peter Woodbury <pwoodbury@diamondcomm.com>; Michelle Zakalik <MZakalik@diamondcomm.com>

Subject: ConnectED Texas SMA - Tornillo ISD

CAUTION: This email originated from outside TISD organization. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. Garcia and Mr. Escarsega,

It was great meeting you over Teams today. The Diamond team enjoyed our discussion of the current wireless coverage outlook at the district and looks forward to helping you accomplish your coverage and safety objectives.

As discussed, attached is a template Site Marketing Agreement ("SMA") and the presentation from our call. Once you have had a chance to review it internally, we can send you an executable version for signature. Exhibits B and C are the lease templates we reference in the SMA. We don't need to worry about the final form of these lease exhibits until we get further along in the marketing process.

If Tornillo ISD would like to move forward with the executable, you may request it through this link: <https://survey.alchemer.com/s3/7815629/Site-Marketing-Agreement-Info-2>. The form will ask you to fill in some basic information that we need to create the executable form of the SMA. You may also respond to this email with the necessary information.

- Full entity name
- Mailing address (no PO Boxes)
- A contact person associated with the same mailing address (include phone number)
- A list of all ISD properties
 - o The list should include the name and address of each property

Please send us an outlook on the future growth activity in the district when you can.

We look forward to working with you to formulate connectivity solutions.

Thank you,
Joe Cullen



Diamond
Communications



Wireless Connectivity in Tornillo ISD

ConnectED Texas Program Overview

TASB is working with Diamond Communications to bring best-in-class wireless services and connectivity solutions to its Independent School Districts (“ISDs”)

- Diamond has **full-service wireless infrastructure capabilities** and will work in close collaboration with each ISD to meet critical objectives:
 - Health and safety considerations
 - Educational opportunities
- Diamond to **market ISD properties** to wireless carriers
- Provide ISDs with connectivity solution opportunities
 - Reduce safety concerns by improving connectivity for school resource officers, emergency services and educators
 - Keep students and parents connected more reliably
- Provide ISDs with a **no-cost option** to improve wireless connectivity in and around school properties
- Potential to create a **long-term revenue stream** for ISDs

About Diamond

Diamond is a U.S. leader in the development and management of wireless communications infrastructure

- Founded in 2006 by tower industry executives
- National presence with offices in 18 states
- Significant presence and experience in Texas
- Key executives have 15 - 25 years of wireless industry experience
- Over 4,000 tenanted sites (owned and managed)
- Market and/or manage approximately 400,000 sites
- Proven track record of successful management programs
- Highly-experienced team with operational, engineering, legal and financial expertise
- Experience deploying emergency communications networks on our sites
- Unique capabilities for indoor and outdoor connectivity solutions



Diamond is management-controlled with additional financing provided by both individual and institutional sources, including Goldman Sachs (NYSE: GE), John Hancock and the Ontario Teachers' Pension Plan Board

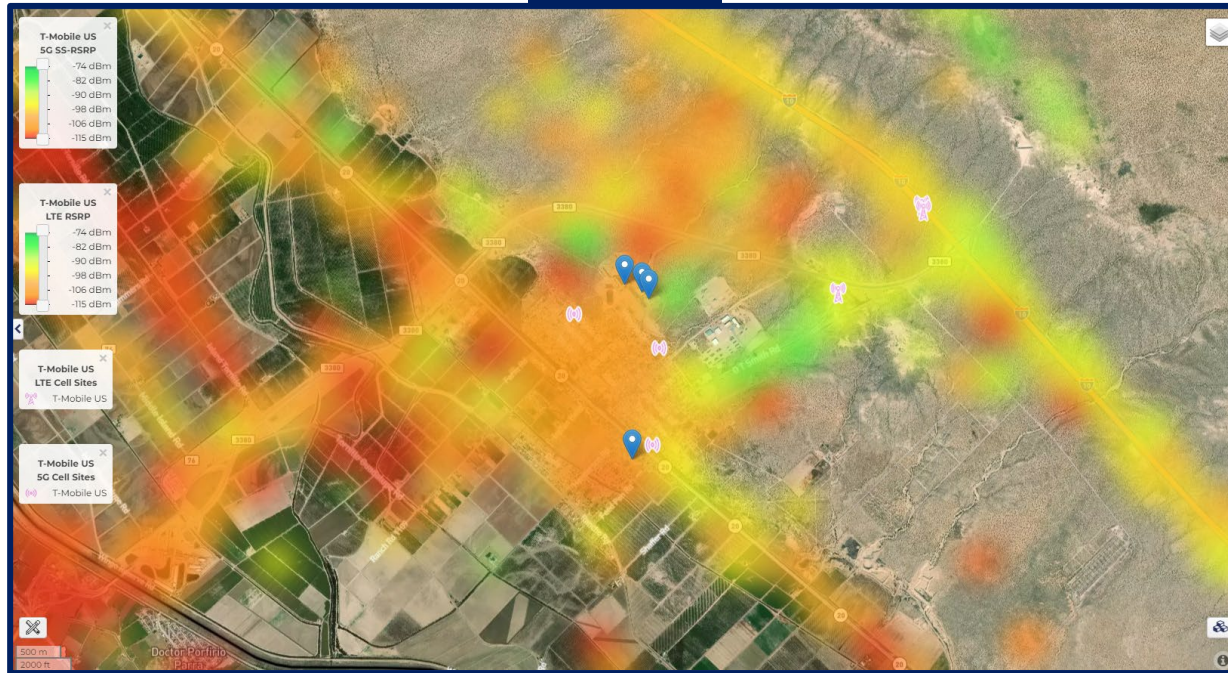
ISD Coverage Outlook (900m RSRP Average)

	T-Mobile	Verizon	AT&T
Tornillo ISD Administration Office	-105 dBm	-104 dBm	-105 dBm
Tornillo Intermediate	-107 dBm	-105 dBm	-111 dBm
Tornillo Junior High	-107 dBm	-105 dBm	-111 dBm
Tornillo High School	-107 dBm	-105 dBm	-111 dBm

*Less than -100 dBm is considered unreliable coverage
E.g., -105 dBm is considered unreliable; -80 dBm is considered reliable*

Overall Coverage - T-Mobile

T-Mobile

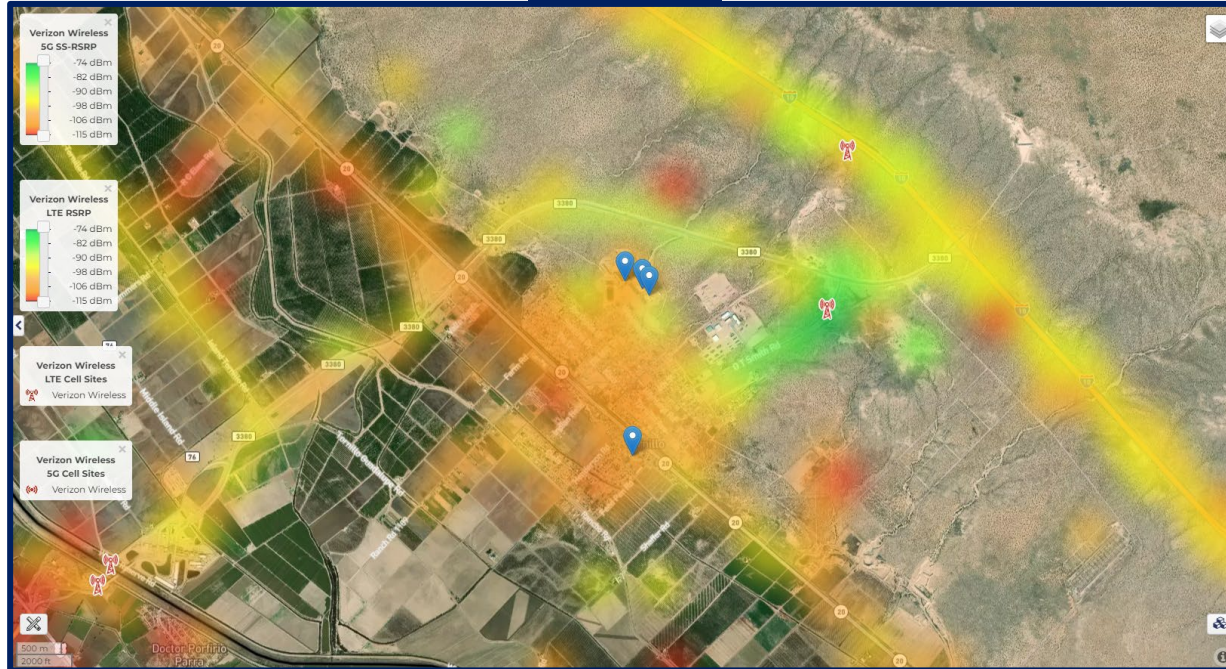


- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from August 2023 - July 2024.

Overall Coverage - Verizon

Verizon

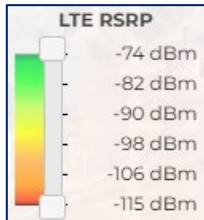
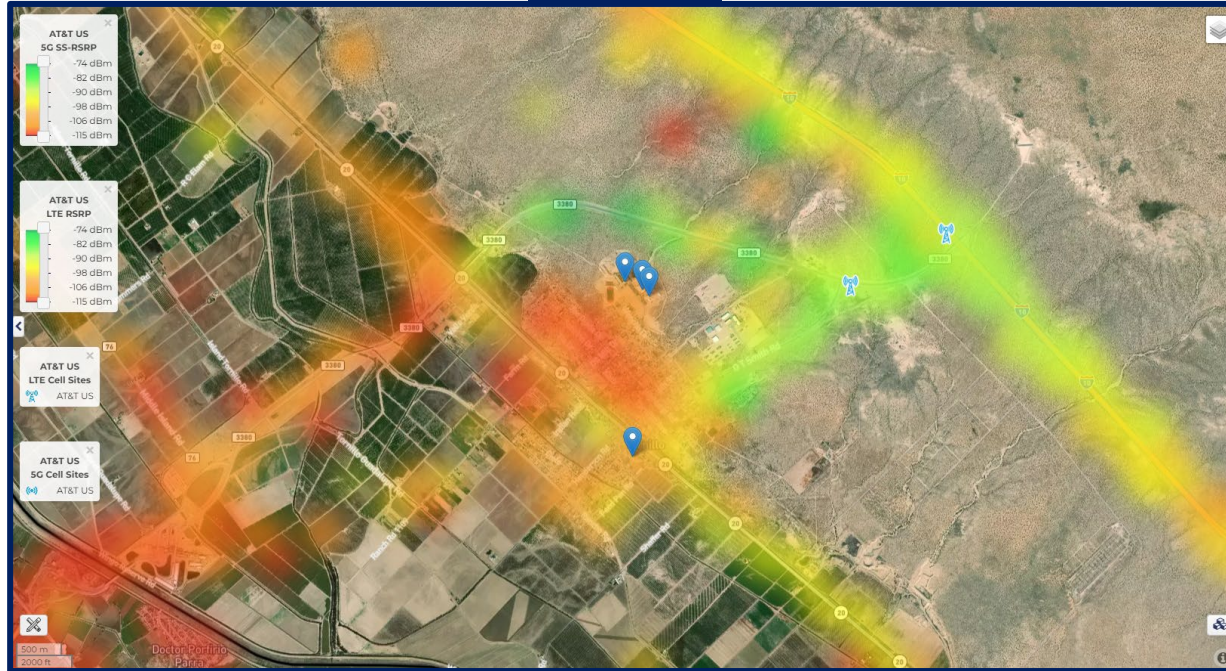


- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from August 2023 - July 2024.

Overall Coverage - AT&T

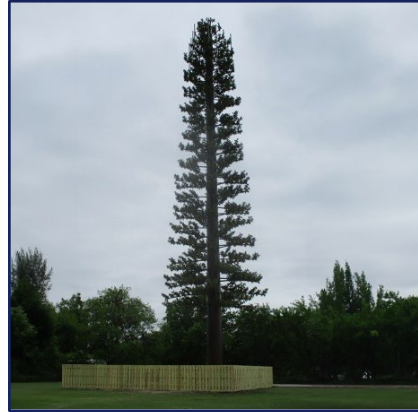
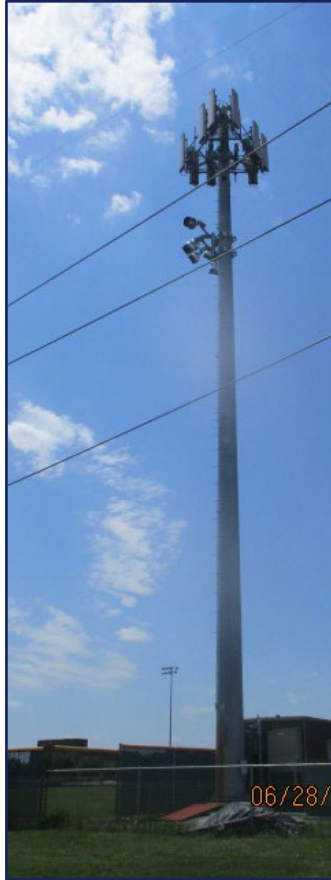
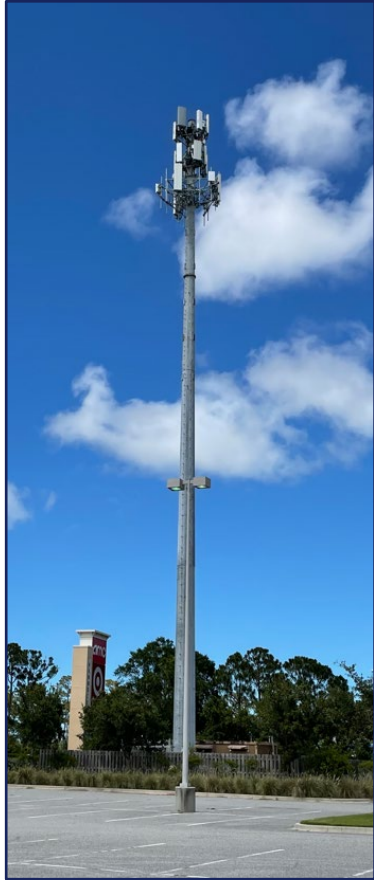
AT&T



- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from August 2023 - July 2024.

Tower Examples



Illustrative Economics

- **Existing Structures** (rooftops, water tanks, etc.)
 - **ISD receives 75%** of the revenue received from **any tenant** installed
- **New Tower Builds - Monopole Structure**
 - Diamond will incur all costs associated with tower construction
 - **ISD receives 30%** of the revenue received from the **first and second** cellular carriers installed
 - **ISD receives 40%** of the revenue received from the **third and any subsequent** cellular carriers installed

Revenue-Share Example - New Tower Build

# of tenants	Year 1	Year 2	Year 3	Year 4	Year 5	Cumulative Year 10
1	\$9,000	\$9,225	\$9,456	\$9,692	\$9,934	\$100,830
2		\$9,000	\$9,225	\$9,456	\$9,692	\$89,591
3			\$12,000	\$12,300	\$12,608	\$104,833
Total	\$9,000	\$18,225	\$30,681	\$31,448	\$32,234	\$295,254

- Monthly Rent: \$2,500
- Annual Escalation: 2.5%

Importance of Carrier Participation

- Carrier interest is based on their individual coverage and capacity needs
- Carriers are responsible for funding their equipment to be deployed at each site
- Carrier budgets are limited, and network priorities established
- Diamond will showcase available ISD properties/locations and coverage deficiencies to the carriers through our marketing efforts



Indoor Connectivity

- Many schools have been constructed with materials that negatively impact cellular coverage
 - 'Old' materials (e.g., cinder blocks) or 'new' materials (e.g., energy efficient glass) are difficult to penetrate
- Diamond has a team that solely focuses on providing indoor wireless connectivity. We design comprehensive indoor solutions, including distributed antenna systems ("DAS")
- Diamond can analyze the indoor connectivity at your schools, and discuss various options to improve in-building cell service



Next Steps

1. ISD: Review and Sign the Site Marketing Agreement (“SMA”)
2. Diamond: Develop Marketing Materials
3. Diamond: Market ISD Properties to the Wireless Carriers
4. ISD: Approve/Reject Opportunities for Antenna(s) Sites on School Property



ConnectED Texas Agreements

The following document includes the Site Marketing Agreement (“SMA”), the Antenna Site Lease Agreement (Exhibit B, applicable for a rooftop colocation on ISD property) and the Option and Ground Lease Agreement (Exhibit C, applicable for a new tower build on ISD property).

Site Marketing Agreement – The SMA is the initial operative document which allows Diamond to market the ISD’s properties and create connectivity options for the ISD’s review and approval. *This is the only agreement the ISD needs to sign for Diamond to start the marketing process.* Diamond will send an executable version to the ISD upon request.

Exhibits B and C – These are the lease templates referenced in the SMA. *They do not require a signature at this time.* The final form of these lease exhibits will be prepared when a site-specific opportunity is brought to the ISD and the ISD decides to pursue the site.

SITE MARKETING AGREEMENT

This Site Marketing Agreement (the “**Agreement**”) is made and entered into on the latest date set forth on the signature page below (“**Effective Date**”), by and between Diamond Towers V LLC, a Delaware limited liability company having an address at 120 Mountain Avenue, Springfield, New Jersey 07081 (“**Diamond**”), and Tornillo Independent School District, a Texas corporation having an address at 19200 Cobb Ave, Tornillo, TX 79853 (“**Entity**”). Diamond and Entity shall each be referred to as “**Party**” and together as “**Parties**.”

WITNESSETH

WHEREAS, this Agreement covers those certain properties, towers, and other structures that are owned, leased, operated, or otherwise controlled by the Entity as designated on the attached Exhibit A, Included Properties, which is incorporated herein by reference for all purposes (each, a “**Property**,” and collectively the “**Properties**”); and

WHEREAS, Entity has determined that a public purpose may be served by the development of wireless communication infrastructure on the Properties; and

WHEREAS, Entity desires to retain Diamond to exclusively market existing wireless infrastructure and manage the development of new or expanded wireless communication infrastructure on the Properties, including existing and newly developed structures for macro sites and small cells. These services will include marketing the Properties to any wireless communication operators or other tenants (each a “**Tenant**” or, if more than one, “**Tenants**”) interested in locating communications equipment on or in (a) existing towers, buildings, rooftops, kiosks, or other existing structures located on the Properties (each, an “**Existing Structure**”) and (b) new structures built on the Properties (each, a “**New Structure**”); and

WHEREAS, Diamond, having expertise in the field of telecommunications site management and development, is agreeable to being Entity’s exclusive representative for purposes of marketing the Properties to potential Tenants as described herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Entity and Diamond agree as follows:

Section 1. Engagement:

Entity hereby grants Diamond the exclusive right during the Term, as herein defined, to market the Properties for telecommunication use by Tenants, including without limitation macro site infrastructure and small cell infrastructure. Any Property that Entity wishes to include in Diamond’s exclusive marketing rights is set forth in Exhibit A, Included Properties, attached hereto. The Parties may mutually agree to update Exhibit A from time to time during the Term to add properties to the list of “Properties” for which Diamond will have the exclusive right and license to market hereunder, provided that any such updates to Exhibit A are approved and signed by authorized representatives of each Party. Further, Entity reserves the right to remove any

Property from the list by notifying Diamond in writing if the Property is required for Entity purposes.

Section 2. Duties of Diamond and Entity – Roles and Responsibilities:

2.1 Diamond shall utilize its sales force to market the Properties to Tenants. The marketing may include the following:

2.1.1 The development and distribution of Entity and Property-specific marketing materials, including presentations and marketing sheets which highlight attributes of the locations and carrier coverage analysis;

2.1.2 Incorporation of the Properties and Existing Structures into Diamond's database for marketing to potential Tenants; and

2.1.3 Meetings with wireless communication companies, including Verizon, AT&T, T-Mobile, Dish Network, and cable companies, among others, to market the Properties.

2.2 Following a potential Tenant's indication of interest to collocate or attach wireless communications equipment on a Property, Diamond shall submit information on the potential collocation or attachment to Entity for review, including the form of agreement as follows: (i) a lease/sublease agreement between Entity and Diamond for a collocation on an Existing Structure (a "**Collocation Agreement**") utilizing the form attached hereto as Exhibit B, with Diamond leasing space from Entity on the Existing Structure and subleasing or licensing that space to the Tenant pursuant to an agreement between Diamond and Tenant, or (ii) a ground lease agreement (a "**Ground Lease Agreement**") between Entity and Diamond for a collocation of a New Structure utilizing the form attached hereto as Exhibit C with Entity leasing an agreed upon portion of the applicable Property to Diamond for the construction, ownership, operation, and maintenance by Diamond of any such New Structure. The terms Collocation Agreement and Ground Lease Agreement may collectively be referred to as the "**Leases**" or individually as a "Lease.") In each of romanette (i) and (ii) above, Diamond will be granted a leasehold interest in the applicable Property, subject to the terms and conditions herein. Whether or not to accept any Lease, and on what terms, shall be in the sole discretion of Entity. Nothing herein shall require Entity to enter into any Lease or other agreement. No Lease or other agreement shall be effective unless and until all requisite approvals have been received by Entity including, as necessary, approval of its governing body. Diamond acknowledges that any Lease provided herein is an ancillary use of Entity's Property, and nothing in this Agreement shall interfere with the Property's use for Entity's purposes. Entity, by and through its governing body, retains ultimate and exclusive authority to control all aspects of the Property's use, including the right to determine at any time that a Property may be withdrawn from consideration for a Lease transaction.

- 2.3 In relation to any opportunity generated under this Agreement, Diamond shall provide Entity services including consulting; project management; regulatory and zoning approvals; community outreach; site management; existing tenant management (if applicable) site administration; and any other services agreed between the Parties. Diamond shall be responsible for compliance with all applicable local, state, and federal laws and regulations related to use of all Properties pursuant to this Agreement.

Section 3. Access to the Properties:

- 3.1 Entity acknowledges that, for Diamond to perform its duties, Diamond and its agents will require access to the Properties. Diamond shall have the right, upon prior notice to Entity as set forth herein, to grant access to and from the Properties to Diamond's employees and agents, and any Tenants, so long as the same does not interfere with Entity's use of the Properties and is for the purposes of facilitating Diamond's rights and obligations under this Agreement. When accessing any Property, Diamond, its employees, agents, and any Tenants shall comply with all Entity safety, security, and access protocols and requirements. Diamond shall provide Entity's designated contact (as listed in this agreement or as may be updated by Entity in writing) with at least seventy-two (72) hours' written notice prior to accessing any Property. Entity shall provide any safety, security, and access protocols for such Property to Diamond upon such request for access.

Entity Contact for Property Access: Carlos Garcia, Technology & Safety
Director / Phone: (915) 765-3000

Section 4. Term and Compensation:

- 4.1 The term of this Agreement shall commence on the Effective Date and, unless terminated earlier as provided herein, shall continue in effect for a period of five (5) years following the Effective Date (the "**Initial Term**"). This Agreement may be extended for an additional five (5)-year term ("**Extension Term**") upon the mutual consent of Entity and Diamond, including receipt of all requisite approvals. The Initial Term and Extension Term may be collectively referred to as the "**Term.**"
- 4.2 Entity shall have no obligation to compensate Diamond for any services performed pursuant to this Agreement. Diamond shall be responsible for all costs incurred in performance and shall have no right to reimbursement from Entity for any of its expenses, including without limitation expenses incurred for securing necessary permits and approvals to construct or install wireless communication equipment and related structures. Diamond acknowledges that it has received consideration for the performance of its obligations under this Agreement by virtue of the right granted to enter potential Lease transactions.

- 4.3 The compensation owed by Diamond to Entity related to any Lease shall be as further described in Exhibit D, attached hereto and a made a part hereof. Diamond's payment of any compensation to Entity will be as set forth in the applicable Lease.

Section 5. Insurance:

- 5.1 Diamond shall maintain in full force and effect throughout the Term commercial general liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, which insurance shall name Entity as an additional insured.
- 5.2 Diamond shall purchase and maintain Workers' Compensation as required by statute and Employer's Liability insurance.
- 5.3 Diamond shall purchase and maintain business automobile liability insurance, applying to owned, non-owned, and hired automobiles in an amount not less than \$1,000,000 for bodily injury, including death to any one person, and for property damage on account of any one occurrence. The policy shall insure any vehicle used in connection with Diamond's obligations under this Agreement. A "Waiver of Subrogation" in favor of Entity shall be provided.
- 5.4 Diamond shall purchase and maintain professional liability insurance that will cover all acts, errors, or omissions and breach or disclosure of personal information by Diamond in the amount of \$1,000,000 per claim, with an annual aggregate of at least \$2,000,000.
- 5.5 Diamond shall promptly, upon execution of this Agreement and on an annual basis throughout the Term, furnish certificates of insurance and proof of the required insurance and endorsements demonstrating compliance with the above requirements. Certificates shall indicate the name of the insured, the name of the insurance company, the name of the agency/agent, the policy number, the term of coverage, and the limits of coverage.
- 5.6 All insurance carriers will carry and A.M. Best rating of A- or better and be of a financial size category of VIII or larger.

Section 6. Indemnification:

Diamond agrees to indemnify, defend, and hold Entity harmless from and against any and all third party claims, injury, loss, damage, liability, costs or expenses (including reasonable attorneys' fees and court costs) incurred by or asserted against Entity arising from Diamond's negligent acts or omissions, or Diamond's intentional acts, related to the activities set forth in this Agreement. Notwithstanding the foregoing, to the extent permitted by law, Diamond's obligations under this Section shall not apply to any claim or liability to the extent determined by a court, arbitrator, or tribunal of competent jurisdiction to be based upon the negligence, recklessness, or willful behavior of Entity.

Section 7. Termination for Default:

- 7.1 In the event of a material breach of this Agreement (a “**Default**”) by either Party, the non-defaulting Party shall provide the defaulting Party with a written notice of said Default, providing the defaulting Party with at least thirty (30) days to remedy said Default; provided, however, that if any such Default is not capable of being cured within the requisite period of time, then so long as the Party charged with the Default has diligently pursued such cure of the Default within the prescribed period and continues to diligently pursue cure, such Party shall be given the reasonably necessary time, as determined in the reasonable discretion of the non-defaulting party, to cure the Default. If the Default continues after said cure period, the non-defaulting Party may immediately terminate this Agreement.
- 7.2 **Termination by Entity:** Entity may terminate this Agreement upon ninety (90) days’ written notice to Diamond if (i) within three (3) years of the Effective Date, Diamond’s marketing efforts have failed to yield any executed Lease agreements with Tenants regarding the Properties or (ii) the needs of Entity require other use of the Properties as determined in Entity’s sole discretion. Termination of this Agreement pursuant to this Section 7.2 shall not terminate any active Leases, which Leases may only be terminated by their own terms. Notwithstanding the foregoing, and to the extent such termination is not due to subsection (ii) above, if Diamond has received bona fide interest from a Tenant to collocate on a Property within three (3) years of the Effective Date, Diamond shall be entitled to continue working with such Tenant, post termination, to finalize a Lease. Such Lease shall remain subject to the terms and conditions of this Agreement. For purposes of this Section, “bona fide interest” means a proposal, written expression of interest regarding a specific Property or Properties, commencement of formal negotiation of terms, or other documented expression of specific intent or interest by a potential Tenant regarding a Property. “Bone fide interest” shall not include receipt, general response, or informal communications regarding marketing of properties not specific to a particular Entity Property or Properties.

Section 8. Successors and Assigns:

This Agreement may not be transferred or assigned by Diamond without the express written consent of Entity. To the extent permitted by law and if a transfer or assignment is agreed to by Entity, this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of Entity and Diamond.

Section 9. Entire Agreement:

This Agreement and the related agreements referred to herein and attached hereto constitute the entire agreement between the Parties with respect to the subject matter herein and shall supersede all prior agreements and understandings, oral or written, between the Parties hereto concerning the subject matter of this Agreement. No Party has made any oral or written representation other than

those set forth in this Agreement, and no Party is entering into this Agreement in reliance on any representation other than those set forth in this Agreement.

Section 10. Notices:

Any notice, approval, waiver, objection, or other communication (“Notice”) required or permitted to be given hereunder or given in regard to this Agreement by one Party to the other shall be in writing and the same shall be given and be deemed to have been served and given: (a) if hand delivered, when delivered in person to the address set forth hereinafter for the Party to whom notice is given; (b) if mailed United States mail, postage prepaid, by Certified Mail, Return Receipt Requested, when delivered; or (c) if by overnight delivery by a nationally recognized courier, when received by the other Party. Any Party may change its address for notices by notice theretofore given in accordance with this Section 10:

If to Entity, to:

Tornillo Independent School District
19200 Cobb Ave
Tornillo, TX 79853
Attn: Carlos Garcia

If to Diamond, to:

Diamond Towers V LLC
120 Mountain Avenue
Springfield, New Jersey 07081
Attention: Legal Department

Section 11. Headings:

The headings within this Agreement are intended solely for the convenience of reference and shall not be considered in construing this Agreement.

Section 12. Governing Law:

This Agreement shall be governed in accordance with the laws of the State of Texas, without regard to that State’s conflicts laws.

Section 13. Representations and Warranties:

- 13.1 Each Party represents and warrants to the other Party that the execution and delivery of the Agreement and the performance of such Party’s obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the Party and is enforceable in accordance with its terms.
- 13.2 Diamond represents and warrants that (1) it does not, and shall not for the duration of this Agreement, boycott Israel or (2) the verification required by Section

2271.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of the contract, Diamond shall promptly notify Entity. Further, Diamond shall cooperate with any request by Entity to provide such further information and certifications as Entity may require to establish compliance with Texas Government Code Chapter 2271.

13.3 Diamond represents and warrants that (1) it does not, and will not for the duration of this Agreement, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Diamond shall promptly notify Entity. Further, Diamond shall cooperate with any request by Entity to provide such further information and certifications as Entity may require to establish compliance with Texas Government Code Chapter 2274.

13.4 Diamond verifies that (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Diamond shall promptly notify Entity. Further, Diamond shall cooperate with any request by Entity to provide such further information and certifications as Entity may require to establish compliance with Texas Government Code Chapter 2272.

Section 14. Public Information Act. Diamond acknowledges that Entity must and will comply with Texas Government Code, Chapter 552, the Texas Public Information Act (“PIA”) in the release of information, including this Agreement, any Lease, and any information which may be received or produced under this Agreement. Entity will use reasonable efforts to notify Diamond if a request for public information is received which may require Entity to disclose any portion of the information provided by Diamond or any other material that Diamond has clearly marked as proprietary, confidential, or otherwise exempt from disclosure under the PIA so as to allow Diamond the opportunity to seek to protect such materials from public disclosure. However, Diamond acknowledges and agrees that Entity (i) is not obligated to assert or argue on behalf of Diamond that any information provided to Entity is exempt from disclosure, (ii) will disclose information when required by the PIA, and (iii) shall not be liable for the disclosure of any information submitted by Diamond.

Section 15. Limitation on Damages. Neither Party, nor any of the Parties’ respective parents, subsidiaries, affiliates, governing body members, directors, officers, partners, shareholders, members, employees, agents, successors, or permitted assigns, will be liable for any special, incidental, indirect, exemplary, punitive or consequential damages of any kind whatsoever, including lost profits, lost revenues, lost data, and other economic losses, however caused and regardless of whether such damages are foreseeable or whether a Party has been advised of their possibility. These limitations on damages will apply regardless of whether the liability arises out of breach of contract, tort, indemnity, or any other theory.

IN WITNESS WHEREOF, this Agreement shall become effective on the Effective Date:

ACCEPTED BY:

Tornillo Independent School District

BY: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

ACCEPTED BY:

Diamond Towers V LLC

BY: _____

PRINT NAME: Michael G. Brett

TITLE: COO

DATE: _____

EXHIBIT A
Included Properties

Tornillo Junior High School: 300 Oil Mill Rd., Tornillo, TX 79853

Tornillo Technology Service Center: 19190 Cobb Ave., Tornillo, TX 79853

Tornillo High School: 430-D Oil Mill Rd., Tornillo, TX 79853

Tornillo Intermediate School: 410 Oil Mill Rd., Tornillo, TX 79853

Tornillo Community Center: 19210 Cobb Ave., Tornillo, TX 79853

Tornillo Central Office: 19200 Cobb Ave., Tornillo, TX 79853

EXHIBIT B

Colocation Agreement Form

[ATTACHED]

ANTENNA SITE LEASE AGREEMENT

This Antenna Site Lease Agreement (“**Agreement**”) is entered into on this ___ day of _____, 202__ (the “**Effective Date**”), by and between Diamond _____ LLC, having an office at 120 Mountain Ave., Springfield, NJ 07081, on behalf of itself and its affiliates (hereinafter referred to as “**Diamond**”), a Delaware limited liability company, and _____, having its principal office at _____ (hereinafter referred to as “**Landlord**”), a _____.

WHEREAS, the term “**Premises**” as used in this Agreement refers to the land, improvements or property owned or managed by the Landlord and known as _____, located at _____, in the City of _____, County of _____, State of Texas, , together with a non-exclusive easement for ingress and egress as more particularly described in the attached Exhibit A.

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration recited herein, receipt of which is hereby acknowledged by the Landlord and Diamond, Landlord and Diamond agree as follows:

1. **USE:**

(a) Landlord leases to and grants Diamond exclusive use of the Premises for the installation, removal, operation and maintenance of wireless communications transmission systems of Diamond and/or those individuals or entities (such individuals or entities being hereinafter collectively referred to as “**Licensees**”) installing, removing, maintaining and/or operating radio communications systems, video transmission systems and/or other communications transmission systems at the Premises pursuant to separate agreements between Diamond and such Licensees. This equipment and its component parts are hereinafter defined and referred to collectively as the “**System(s)**”.

(b) The parties hereto agree that the System(s) and/or equipment may be owned by Diamond and/or Diamond’s Licensees and that Diamond shall remain fully responsible for the performance and observation of the duties, conditions and provisions under this Agreement. Diamond shall have the right to post on the Premises, a conspicuous sign giving notice of its exclusive right to the use of the Premises for the installation of such System(s). Said sign shall be no larger than 8.5” X 3.75” and shall be posted in such a manner that no damage will be done to the property of the Landlord.

(c) Diamond or its Licensees will have to perform engineering analysis as to the feasibility of or coverage provided by Systems installed at the Premises. Landlord understands that Diamond and/or its Licensees cannot install the System(s) at the Premises without obtaining all required permits, consents, and approvals of all governmental authorities and agencies or other applicable third parties pertaining to or in connection with the construction, ownership, operation, maintenance or use of the Systems (collectively, the “**Approvals**”). Landlord shall reasonably assist Diamond or its Licensees in obtaining all necessary Approvals, but such assistance shall be

at no cost to Landlord. As a result of the indeterminate time it will take before the necessary Approvals are granted and/or the engineering studies of Diamond or its Licensees are completed, Landlord is aware that there can be no date certain for installation of System(s) at its Premises but Diamond agrees to work in good faith and with due diligence.

2. **TECHNICAL:**

(a) It is understood that the exact model number and types of equipment associated with each System shall be determined upon completion of engineering studies since frequency, coverage pattern, technological improvements and other factors are integral parts of such a determination. It is understood and agreed that the particular equipment associated with each System may include antenna(s) for transmitting and for receiving (being of various sizes and shapes; i.e., poles, panel, parabolic, etc., and which may be installed on the same mounting assembly or at a different level or location), radio base station(s) and cables which are connected to the antenna(s), a video system which may include video and radio components and associated control accessories.

(b) Diamond and Licensees shall be permitted to use the interior and exterior portions of the Premises for the location of antennas and to use the interior portions of the Premises to install, remove, operate, maintain and repair cables, pipes, conduits, cable trays and other associated components in order to connect and operate such System(s).

(c) At Landlord's option and at Diamond's sole expense, Diamond and/or Licensees may utilize the electrical power distribution system installed at the Premises, or Diamond and/or Licensees may make arrangements with the electric utility company to have a separate electric service, billed to and paid directly by Diamond or Licensee, installed upon the Premises solely for the purpose of supplying electrical power to the System(s). In the event that Landlord elects for Diamond and/or the Licensees to utilize the electrical power distribution system installed at the Premises, Diamond and/or the Licensees, at their sole respective expense, will arrange for the electric utility company to install a sub-meter, bearing the relevant certificate of accuracy, to measure the electrical power consumed by equipment of Diamond and/or any Licensees. In such case, Diamond will reimburse Landlord for power consumed. Such reimbursement shall be in addition to the monthly amounts paid or sums paid the Landlord pursuant to the provision of Section 15 and Exhibit B of this Agreement and shall not be included in the calculation of revenue received from the installation of System(s) at the Premises as set forth on Exhibit C attached hereto and made a part of this Agreement. In the event that Landlord elects for Diamond and/or any Licensee to have a separate electric service installed upon the premises, Diamond and/or the Licensee(s) shall make arrangements with the utility company to install the separate electric service, at the sole expense of Diamond and/or Licensee(s), and bill Diamond or Licensee(s) directly for electricity consumed by said system.

(d) Prior to the initial installation of the Systems or any existing utilities, Diamond shall submit to the Landlord, for its approval, plans and specifications for the same. Such approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall approve or reject each submittal by delivering to Diamond a completed Landlord approval form in substantially the form of the Landlord Approval Form attached hereto as Exhibit D ("**Landlord Approval Form**")

within thirty (30) days after receipt of any such submittal from Diamond. In the event that a Diamond submittal is rejected, such Landlord Approval Form shall describe in detail the reason for such rejection and will allow Diamond the opportunity to remedy the specified reasons for rejection if possible. All costs and expenses, including but not limited to the cost of repairs related to the making of any installations and modifications to the Systems or electrical services and meters directly related to the Systems shall be borne by Diamond.

(e) If at any time Diamond reasonably determines that any System(s) installed at the Premises does not materially perform to expectation, or is subject to material interference, or material changes in the surrounding buildings and/or structures limits the System(s) effectiveness, Diamond will have the right to remove said System(s) and cease payment corresponding to the specific System(s) removed. In such event, and at Landlord's option, Diamond shall, at its expense, remove any separate electrical service, if installed, or reverse any modifications to the electrical distribution system of the Premises, and, in all events, Diamond shall restore the Premises to its condition existing prior to said installations or modifications, reasonable wear and tear excepted.

3. **INTERFERENCE:**

(a) Should it be reasonably determined that the System(s) installed by Diamond and/or any Licensee cause any interference to the radio, television or other electronic components of Landlord or the tenants within Landlord's building, then Diamond will immediately provide whatever expertise and equipment is necessary for the elimination of the interference at the sole expense of Diamond. If the interference cannot be eliminated by ordinary means, using accepted engineering practices, then components of the offending System(s) shall be removed from the Premises by Diamond or any Licensee upon written request of Landlord.

(b) Diamond represents that, prior to entering into this Agreement, it will exercise due diligence in reviewing the Premises and existing uses on or near the Premises to reasonably determine that it is appropriate for the intended use without interference, and will continue to exercise such due diligence prior to any installation(s) by Diamond or any Licensee. In the event the Landlord or Landlord's tenants install electronic equipment after the date of installation(s) by Diamond or any Licensee and such equipment causes material interference to the System(s) of Diamond or any Licensee, then, Diamond shall notify Landlord and the Parties agree to work in good faith to try to determine solutions to mitigate or resolve the interference problem, including removing or relocating the offending equipment. In the event interference is material and unable to be rectified, Diamond shall have the right, but not the obligation, to terminate this Agreement upon thirty (30) days' written notice to Landlord.

4. **QUIET ENJOYMENT:** Landlord covenants and agrees that, upon Diamond's observing and performing all the terms of this Agreement, Diamond and all Licensees may peacefully and quietly enjoy the Premises, subject to the terms and conditions of this Agreement.

5. **CONDITION OF PREMISES:** Diamond acknowledges that it has independently and personally inspected the Premises and that it has entered into this Agreement based upon such examination and inspection. Diamond accepts the Premises in their current condition, "AS IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY WHATSOEVER,

EXPRESS OR IMPLIED,” other than the warranty of quiet enjoyment; specifically, without limiting the generality of the foregoing, Diamond accepts the Premises without any warranty of (a) the nature or quality of any construction, structural design or engineering of any improvements currently located at or constituting a portion of the Premises, (b) the quality of the labor and materials included in any such improvements, or (c) the suitability of the Premises for any particular purposes or development potential.

6. **WAIVER OF CONSUMER RIGHTS UNDER DTPA:** AS A MATERIAL CONSIDERATION FOR LANDLORD’S ENTERING INTO THIS AGREEMENT, DIAMOND HEREBY WAIVES ANY RIGHTS IT MAY HAVE UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ., TEXAS BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION, DIAMOND VOLUNTARILY CONSENTS TO THIS WAIVER.

7. **ACCESS:** Landlord hereby authorizes Diamond and its Licensees and their respective officers, agents, assigns, representatives, employees, contractors, subcontractors, and clients to access the aforementioned Premises for the purpose of installing, removing, operating, repairing and maintaining the System(s). Access to the Systems shall be scheduled by Diamond with Landlord in advance, on no less than forty-eight (48) hours written notice, during normal working hours on normal business days. Diamond shall schedule access in accordance with this Section by calling the following number _____ or via email at _____. Any persons accessing the Premises shall be required to comply with all Landlord safety, security, and access protocols and requirements. In the case of an emergency or material equipment malfunction, access to the System(s) will be permitted at any reasonable time, subject to reasonable security, safety and identification procedures required by the Landlord and/or applicable law.

8. **OWNERSHIP:** Any System(s) installed by Diamond and/or any Licensee upon the Premises, including but not limited to the antennas, poles, accessories and other components, shall remain the personal property of Diamond or the Licensee, as the case may be, and shall not be deemed fixtures. Landlord agrees to do nothing to intentionally destroy said System(s) identification or cloud the ownership of the above-described property.

9. **NO LIABILITY:** Landlord does not assume any liability for the System(s) installed at the Premises nor does it guarantee the proper installation, removal, operation, security or maintenance of any System(s) installed thereon.

10. **INSURANCE:** Diamond shall furnish a Certificate of Insurance to Landlord, naming Landlord as holder, to cover any damage that may arise by virtue of the installation, removal, operation or maintenance of the System(s). Throughout the initial term and any renewal term of this Agreement, Diamond shall procure and maintain commercial general liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate, which insurance shall include Landlord as additional insured. Diamond shall require all of its Licensees, contractors and subcontractors to maintain general liability insurance coverage in an amount equal to that specified in this Section 10. Diamond shall promptly, upon execution of this Agreement and on an annual basis throughout

the Term, furnish certificates of insurance and proof of the required insurance and endorsements demonstrating compliance with the above requirements. Certificates shall indicate the name of the insured, the name of the insurance company, the name of the agency/agent, the policy number, the term of coverage, and the limits of coverage. All insurance carriers will carry an A.M. Best rating of A- or better and be of a financial size category of VIII or larger.

11. **INDEMNIFICATION AND HOLD HARMLESS**: In addition to, and without limiting, any other indemnification obligations in this Agreement, Diamond will defend, indemnify, and hold harmless Landlord and its officers, board members, employees, and agents from and against all claims, suits, actions, liability, liens, loss, and damage of any character, type, or description, including without limitation all expenses of litigation, court costs, and attorneys' fees, arising out of or related to: (a) injury or death to any person or damage to property related to the acts of Diamond or its agents, employees, contractors, invitees, licensees, or sublessees on Landlord's property; and (b) Diamond's negligence, misconduct, breach of contract, or other failure to comply with its obligations under this Agreement, or infringement or violation of a third-party's intellectual property or privacy right. Notwithstanding the foregoing, Diamond shall have no obligation to indemnify and hold harmless Landlord and its officers, board members, employees, and agents from and against all claims, suits, actions, liability, liens, loss, and damage of any character, type, or description, including without limitation all expenses of litigation, court costs, and attorneys' fees, to the extent determined by a court, arbitrator, or tribunal of competent jurisdiction to have been caused by Landlord's negligence or willful misconduct.

12. **COMPLIANCE**:

(a) Diamond shall comply with all federal, state, and local rules, regulations, laws, ordinances, statutes and requirements of all governmental authorities, and shall require the same compliance by all Diamond Licensees, agents, contractors, and subcontractors. Diamond shall defend, indemnify, and hold harmless Landlord for any claims, suits, actions, liability, loss, or damage caused by the noncompliance by Diamond, its employees, agents, contractors, and Licensees.

(b) Without limiting any other compliance requirements in this Agreement or under applicable law, Diamond shall comply with all applicable requirements of Texas Government Code §2252.909 (Required Lease Terms for Lease of Public Property), or any successor statute. Diamond shall:

(i) Include in each contract for the construction, alteration, or repair of an improvement on the Premises a condition that the contractor (A) execute a payment bond that conforms to Subchapter I, Chapter 53, of the Texas Property Code; and (B) execute a performance bond in an amount equal to the amount of the contract for the protection of Landlord and conditioned on the faithful performance of contractor's work in accordance with the plans, specifications, and contract documents; and

(ii) Provide Landlord a notice of commencement, as set forth herein, at least 90 days before the date the construction, alteration, or repair of any improvement to the

Premises begins. The notice of commencement under this subsection must (A) identify the public property where the work will be performed; (B) describe the work to be performed; (C) state the total cost of the work to be performed; (D) include copies of the performance and payment bonds required under subsection (e)(i); and (E) include a written acknowledgement signed by the contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth day after the date a subcontract is executed.

(iii) On or before the 10th day after Landlord receives a notice of commencement for the construction, alteration, or repair of an improvement to leased property required under subsection (e)(ii), Landlord may notify Diamond that the construction, alteration, or repair may not proceed.

(iv) Diamond acknowledges that, pursuant to Texas Government Code §2252.909(e), a person commits an offense (Class A misdemeanor) if the person materially misrepresents information in a notice of commencement.

13. **CASUALTY & CONDEMNATION:**

(a) In the event of any damage to or destruction of or condemnation of the Premises or any part thereof which renders the Premises unusable or inoperable through no fault of Diamond, Diamond shall have the right, but not the obligation, to elect within thirty (30) days of the date of the casualty or other harm to terminate this Agreement and all of its duties and obligations herein by giving written notice to Landlord after such damage, destruction or condemnation, if by virtue of such casualty, Diamond reasonably determines that the Premises are no longer adequate for Diamond to continue its material operations or the operations of any Licensee or any necessary repairs to the Premises have not been completed or cannot be reasonably completed within one hundred eighty (180) days from the date of the damage. If Diamond does not terminate this Agreement the amount of compensation payable to Landlord herein shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises. Diamond shall be fully responsible, including obtaining insurance coverage for its own protection from losses from any damages to Systems or other equipment or personal property placed at the Premises, and Landlord shall not directly or through insurance be liable for any loss to such Systems, equipment, or property, except to the extent caused by Landlord's negligence or willful misconduct and, in such event, only to the extent permitted by law.

(b) In the event of condemnation, unless Diamond and the Licensees are allowed by the condemning authorities to continue its operation on the Premises, this Agreement may be terminated by Diamond as of the date title to the lands vests in the condemning authority or the date Diamond is required to cease its operation, whichever is earlier. Diamond shall be entitled to seek its own award from the condemning authority.

14. **DEFAULT AND TERMINATION:** Except as otherwise provided in this Agreement, this Agreement may be terminated without any penalty or further liability upon written notice as follows:

(a) In the event either party shall default in its obligations under this Agreement and such default is not cured within sixty (60) days from the date of receipt of written notice from the non-defaulting party to the defaulting party, the non-defaulting party shall have the right to terminate this Agreement. Notwithstanding the foregoing, if the defaulting party commences and continues to cure the default within such period, the defaulting party shall have reasonable, additional time (not to exceed forty-five (45) days) to cure the default;

(b) Upon thirty (30) days' written notice by Diamond to Landlord, if Diamond is unable to obtain or maintain through no fault of Diamond, any license, permit or other governmental approval necessary for the construction and/or operation of the Systems or Diamond's business; or

(c) By Diamond for any or no reason upon three (3) month's advance written notice from Diamond to Landlord, and upon payment of a termination fee to Landlord in an amount equal to twelve (12) months of compensation as calculated using the manner and rate specified on Exhibit B.

(d) By Landlord as set forth in this Section 14(d). As a governmental entity, Diamond acknowledges that, by entering into this Agreement, Landlord is not relinquishing, and may not relinquish, the authority of its governing body to control the property's use or allow the Agreement to interfere with the property's public purpose. After the tenth (10th) anniversary of the Effective Date, to the extent Landlord's governing body determines that the Agreement will no longer serve a public purpose or that the Premises is required for other purposes, Landlord may, upon at least one hundred eighty (180) days' written notice to Diamond, terminate the Agreement at the end of its then current term. Such notice shall include a detailed reason and/or justification for the termination. Further, in the event a need arises on the part of Landlord to use the Premises for the governmental entity's own purposes after the tenth (10th) anniversary of the Effective Date, Diamond agrees to work with Landlord to modify the Agreement to accommodate such use or, if such accommodation is not possible, Landlord may terminate the Agreement upon at least one hundred eighty (180) days' written notice or shorter notice if required by law or public emergency. Regardless of whether during or after the initial term, nothing in this Agreement shall be deemed to prohibit Landlord's right and ability, as a governmental entity, to use the Premises or take any action, regardless of the potential for interference with the Premises, to the extent required in a declared public emergency or when otherwise required by law. However, Landlord shall use all commercially reasonable efforts to avoid and minimize the duration and effect of any such interference.

Prior to any termination by Landlord, Landlord and Diamond shall use best efforts to find a mutually agreeable location on the Property or other property owned or controlled by Landlord for Diamond to relocate the Systems to or build a new tower. In the event the parties find a mutually agreeable location on the Property for the relocation of the Systems, the parties shall enter into a lease agreement on identical terms to this Agreement. During the negotiation of a mutually agreeable location, and prior to execution of the new lease agreement, Diamond shall provide Landlord with an estimate of the cost for relocating the Systems and related carrier equipment to the proposed new location(s) ("Estimated Relocation Cost") for the Entity's understanding and consideration as to how collection of rent might be impacted, and Diamond shall be entitled to an abatement of rent under the new agreement in an amount equal to the actual

cost to Diamond to relocate the Systems and related carrier equipment up to the Estimated Relocation Cost.

15. **COMPENSATION**: During the term of this Agreement, including any renewals, Diamond shall have the exclusive right to collect all rents and other lease or licensee fees from Licensees. Diamond shall compensate Landlord in the manner and at the rate specified in Exhibit B attached hereto and made a part hereof, on or before the last day of the month following Diamond's receipt of Licensee's payment. In no event shall Diamond be required to compensate Landlord any amount that has not been actually received by Diamond from Licensee. Diamond will maintain accurate books and records of accounting, in accordance with generally accepted accounting principles, for the determination of amounts owed and payments to be made under this Agreement. Upon reasonable notice, and once per calendar year, Landlord or its designee shall have the right, during regular business hours, to inspect the books and records of Diamond relating to determination of amounts owed and payments required to be made under this Agreement.

16. **TAXES**. Landlord, a governmental entity, is generally exempt from taxation and shall be required under this Agreement to pay any taxes for which it is exempt. Diamond shall be responsible for the payment of any personal property taxes assessed on, or any portion of such taxes attributable to, the Systems, if any. If Landlord receives a tax assessment or bill for any personal property taxes on or attributable to the Systems, Landlord shall furnish Diamond a copy within thirty (30) days of receipt by Landlord or Landlord's representative, a copy of the tax assessment or bill for any personal property taxes which are assessed on, or any portion of such taxes attributable to, the Systems, if any. Landlord hereby represents and warrants, to the best of its knowledge as of the date of this Agreement, that Landlord's Premises on which the Systems are located (or are to be located) is not subject to any "Conservation Use Covenant", "Greenbelt Covenant" or any conservation use program which restricts or limits development of the Premises.

17. **TERM**:

(a) The initial term of this Agreement shall be a period of five (5) years commencing on the Effective Date. During the term of this Agreement, Diamond shall have the exclusive right to install, remove, operate, and maintain wireless communications System(s) at the Premises with the sole exception being Landlord's own equipment used for its personal or its business use. Diamond shall have the right to extend the period of this Agreement for five additional successive five (5) year terms upon the same terms and conditions set forth herein. This Agreement shall automatically be extended for each successive renewal term unless Diamond notifies Landlord in writing at least ninety (90) days before the expiration date of the then current term of Diamond's intention not to extend the relevant term.

(b) During the term of this Agreement and any renewals thereof, Landlord will not permit a Licensee or a potential Licensee to by-pass Diamond or to negotiate directly with the Landlord for the rental of space on the Premises.

(c) Except as otherwise provided herein, should a Licensee or potential Licensee approach the Landlord directly or indirectly, Landlord will refer the Licensee to Diamond and

Landlord will not negotiate directly or indirectly with a Licensee or potential Licensee related to rental of space on the Premises.

18. **AUTHORITY**: By execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

19. **INTEGRATED AGREEMENT**: This Agreement and all exhibits and amendments attached hereto represent the full and complete agreement between the parties.

20. **MODIFICATIONS**: Any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by an authorized representative of both parties.

21. **SEVERABILITY**: The unenforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

22. **SUBORDINATION AND NON-DISTURBANCE**. To the extent applicable, this Agreement shall be subject to and subordinate to any mortgage or deed to secure debt (collectively referred to as a "**Mortgage**") made by Landlord which may now or hereafter encumber the Premises, provided that no such subordination shall be effective unless the holder of every such Mortgage shall in a separate agreement with Diamond agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Landlord's interest in the Premises, such holder shall recognize and confirm the validity and existence of this Agreement and that Diamond shall have the right to continue its use and occupancy of the Premises in accordance with the provisions of this Agreement as long as Diamond is not in default of this Agreement beyond applicable notice and cure periods. Landlord and Diamond shall execute in timely fashion such instruments as may reasonably be requested to evidence the provisions of this paragraph. In the event the Premises are encumbered by a Mortgage on or after the Effective Date, Landlord, no later than ten (10) days thereafter, shall use commercially reasonable efforts to obtain and furnish Diamond with a non-disturbance and attornment agreement in recordable form from the holder of each Mortgage.

23. **ASSIGNMENTS AND SUBLEASES**. Except as provided in this Section, Diamond may not sell, transfer, assign, sublease, or convey any portion of its interest in this Lease or the Premises. Notwithstanding the foregoing, if an event of default has not occurred and is continuing, Diamond may, upon written notice to Landlord, (i) sublease space on the Tower Facilities and within the Premises to third parties, (ii) assign its interest in the Agreement to any party who (a) has a proven history of operating communication towers, (b) has a net worth of at least Fifteen Million and 00/100 Dollars (\$15,000,000.00) and (c) assumes in writing the obligations of Diamond under this Agreement, (iii) mortgage its interest in this Agreement and the leasehold interest created hereby to third party lenders in bona fide loan transactions, which mortgage shall not be deemed a loan or mortgage on Landlord's property and any records filing regarding the mortgage shall clearly state that fact, and (iv) assign its interest in this Agreement and the leasehold interest created hereby to Affiliates, as hereinafter defined. For purposes hereof, "Affiliates" shall mean, as to any party to this Lease, any individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, or other entity of whatever nature,

which, directly or indirectly, is in control of, is controlled by, or is under common control with, such party. For purposes of this definition, "control" of an entity means the power, directly or indirectly, either to (i) vote 10% or more of the securities having ordinary voting power for the election of directors of such entity, or (ii) direct or cause the direction of the management and policies of such entity whether by contract or otherwise. Except as provided above, any attempt by Diamond to sell, transfer, encumber, assign or convey its leasehold estate or any interest in the estate without the prior, written consent of Landlord shall be null and void.

24. **SURVIVORSHIP**: This Agreement shall be binding upon the successors, heirs and permitted assigns of the parties. This Agreement shall run with the Premises.

25. INTENTIONALLY DELETED.

26. **ESTOPPELS**. Either party may request, in writing, that the other party certify information regarding the existence and terms of this Agreement to a prospective mortgagee or purchaser. Such certification shall be transmitted within ten (10) business days after receipt of written request and, subject to any specific qualifications or disclaimers stated in the certification, may be relied upon by the party who requested it, and the contents of the certificate shall be binding upon the party executing it. The certificate may include (i) the validity, force and effect of this Agreement; (ii) the extent to which this Agreement has been supplemented or amended; (iii) the existence of any default; (iv) the existence of any asserted offsets, counter-claims or defenses on the part of the other party to which the certifying party has actual notice; (v) the commencement and expiration dates of the term, (vi) the amount of any prepaid rent; and (vii) any other matter as may reasonably be requested.

27. **RECORDATION**: Diamond, at its option, shall have the right to record a memorandum of this Agreement in the form of the Memorandum of Antenna Site Lease Agreement attached hereto as Exhibit E with the county clerk's office in which the Premises is located and/or the county clerk's office in which this Agreement was executed.

28. **HAZARDOUS SUBSTANCE**:

(a) Landlord represents and warrants that to its knowledge without duty of inquiry, the Premises are free of any Hazardous Substance. "**Hazardous Substance**" shall mean any hazardous or toxic substance, material or waste which is, or becomes designated as such in the future or is regulated by any agency of the United States Government or by any local governmental authority having jurisdiction, including, without limitation, any substance, material or waste that is defined or designated as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or the Clean Water Act. With prior written notice to Landlord, Diamond shall have the right, but not the duty, to enter upon the Premises and conduct, at Diamond's sole cost and expense and for its sole use and benefit, an environmental assessment to determine the presence of hazardous substances within, on, or under the Premises, provided that Diamond shall not undertake any subsurface environmental testing without the prior consent of Landlord, which may be withheld in the sole discretion of Landlord.

(b) During the Term of this Agreement, Diamond shall not cause or authorize the presence, use, storage and/or disposal of any Hazardous Material on or under the Premises by Diamond, its Licensees, agents, employees, business invitees, or contractors. Notwithstanding the foregoing, Diamond, and its licensees, sublicensee, sublessees, and/or subtenants shall have the right to install backup generators on the Premises and such installation shall not be a violation of this Section. Diamond shall comply, and require all agents, employees, business invitees, contractors, licensees, and sublessees to be in compliance with all applicable laws, rules, regulations and orders. Diamond shall defend, indemnify, protect, and hold Landlord harmless from and against all claims, costs, fines, judgments, and liabilities, including attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of Hazardous Materials on or under the Premises caused by the acts, omissions, or negligence of Diamond, its Licensees, sublessees, agents, employees, business invitees, or contractors. The foregoing indemnity shall survive any termination of this Agreement.

29. **NOTICES:** All notices required under or permitted by this Agreement shall be given and served in writing, either delivered personally or sent by overnight courier, providing proof of such service, and addressed to the following parties:

If to Landlord, to:

If to Diamond, to:

Diamond _____ LLC
120 Mountain Ave.
Springfield, New Jersey 07081
Attention: Legal Department

With a copy to:

Diamond _____ LLC
120 Mountain Ave.
Springfield, New Jersey 07081
Attention: Lease Administration

30. **DIAMOND'S RENTAL STREAM OFFER.** If at any time after the date this Agreement, Landlord receives and is formally considering acceptance of a bona fide written offer from a third-party seeking assignment or transfer of Rent payments associated with this Agreement ("Rental Stream Offer"), Landlord shall promptly notify Diamond and, subject to any confidentiality requirements in the Rental Stream Offer, furnish Diamond with a copy of the Rental Stream Offer. To the extent permitted by law, Diamond shall be given a twenty (20) day opportunity after it receives such copy to match the Rental Stream Offer and agree in writing to match the terms of

the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. Landlord agrees to consider any such offer from Diamond in good faith. However, Diamond acknowledges and agrees that nothing herein shall obligate Landlord to consider or approve any Rental Stream Offer, including that of Diamond, and any contract shall be subject to Landlord's determination of best value, requirements of law, and approval of Landlord's governing body.

31. **WAIVER OF INCIDENTAL AND CONSEQUENTIAL DAMAGES:** To the full extent such may be disclaimed by law, neither Party will assert any claim whatsoever against the other for loss of anticipatory profits or any other indirect, special, incidental or consequential damages.

32. **WAIVER OF LANDLORD'S LIEN.** To the extent permitted by law, Landlord hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Systems or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws. Landlord consents to Diamond's right to remove all or any portion of the Systems from time to time in Diamond's sole discretion and without Landlord's consent.

33. **REMOVAL OF PERSONAL PROPERTY.** On or after termination of this Agreement, Diamond shall, at its sole cost and expense, remove the Systems and all other personal property and improvements which Diamond or its Licensees, sublessees, agents, or contractors has installed or otherwise located on the Premises. Diamond shall reasonably restore the Premises to its original condition within sixty (60) days and shall continue to pay compensation as required by this Agreement until removal is completed. If any such property or equipment, including improvements, is not removed from the Premises within the required time, such items shall be deemed abandoned, and Landlord shall be entitled to remove the remaining items and invoice Diamond for all actual costs of doing so and Diamond shall remit payment of such invoice to Landlord within thirty (30) days of receipt.

34. **MISCELLANEOUS**

(a) This Agreement constitutes the entire agreement and understanding of Landlord and Diamond with respect to the subject matter of this Agreement, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to said Agreement must be in writing and executed by Landlord and Diamond.

(b) This Agreement shall be construed in accordance with the laws of the state in which the Premises is situated.

(c) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(d) Whenever under this Agreement the consent or approval of Landlord is required or a determination must be made by Landlord, no such consent or approval shall be unreasonably

withheld, conditioned, or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

(e) This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart.

(f) Diamond acknowledges that Landlord is a governmental entity and may disclose any and all information, including the terms of this Agreement, where required under the Texas Public Information Act or other applicable law. To the extent Diamond asserts any of its information is confidential or proprietary, Diamond must clearly mark it as such. However, nothing herein or in such marking shall be deemed to prohibit Landlord, from disclosing such information to its attorneys, consultants, or other contractors with a need-to-know, to regulating agencies, or as required by law, including, but not limited to, any judicial or administrative order, subpoena, or open records ruling of the Texas Attorney General under the Texas Public Information Act.

(g) Authority. By execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

{Signatures on following page}

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

LANDLORD:

[_____]

DIAMOND:

Diamond _____ LLC

Draft Only – Not for Signature

Name: _____

Title: _____

Date: _____

Draft Only – Not for Signature

Name: Michael G. Brett

Title: CFO

Date: _____

FOR REFERENCE ONLY

EXHIBIT A

PREMISES

FOR REFERENCE ONLY

EXHIBIT B

COMPENSATION

Landlord shall be compensated on a monthly basis during the term of this Agreement and any renewals thereof at a rate of _____ percent (___) of the total revenue collected by Diamond less (i) any maintenance, monitoring, insurance, utilities and other operational expenses and additional rents to third parties, incurred by Diamond, and (ii) any taxes, fees, assessments, surcharges or other expenses payable by Diamond to any governmental authority or any third party for Diamond's or a Diamond Licensee's operation on such Property.

FOR REFERENCE ONLY

EXHIBIT C

Formula for Electrical Consumption Reimbursement

FOR REFERENCE ONLY

EXHIBIT D

FORM OF LANDLORD APPROVAL FORM

FOR REFERENCE ONLY

EXHIBIT E

FORM OF MEMORANDUM OF ANTENNA SITE LEASE AGREEMENT

After recording, return to:
Legal Department
Diamond _____ LLC
820 Morris Turnpike, Suite 104
Short Hills, New Jersey 07078

Site Name:

Memorandum of Antenna Site Lease Agreement

This memorandum evidences that a lease (“Lease”) was made and entered into by written Antenna Site Lease Agreement dated _____, 20__, between _____ (“Landlord”) and DIAMOND _____ LLC (“Diamond”), the terms and conditions of which are incorporated herein by reference.

Such Lease provides, in part, that Landlord leases to Diamond the premises (the “Premises”) described in Exhibit A attached hereto and located at _____, City of _____, County of _____, State of Texas. The term of the Lease is for five (5) years commencing on _____, 20__, which term is subject to five (5) additional five (5) year extension periods .

This Memorandum is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall control.

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

LANDLORD:

[_____]

Exhibit Only – Not for Signature _____

DIAMOND:

DIAMOND _____ LLC

Exhibit Only – Not for Signature _____

* Final Memorandum will have appropriate state notary blocks.

FOR REFERENCE ONLY

EXHIBIT C

Ground Lease Agreement Form

[ATTACHED]

OPTION AND GROUND LEASE AGREEMENT

THIS OPTION AND GROUND LEASE AGREEMENT (“Agreement”) is made this ___ day of _____ 202___, by and between _____ (“Optionor”) and DIAMOND TOWERS V LLC, a Delaware limited liability company (“Optionee”).

I. OPTION TO LEASE

1. Grant of Option. For good and valuable consideration and the mutual promises herein set forth, Optionor hereby gives and grants unto Optionee and its assigns, an exclusive and irrevocable option (“Option”) to lease a certain parcel of real property, located at _____, _____, _____, more particularly described on Exhibit “A”, and survey or site plan shown on Exhibit “A-1”, attached hereto (“Leased Premises”); together with an easement, or easements, for ingress, egress and utilities for the duration of the lease on the property which is more particularly described on Exhibit “B” attached hereto (“Easement”). Optionor agrees and acknowledges the Optionee may, at Optionee’s sole cost and expense, have a metes and bounds survey prepared of the Leased Premises and the Easement, and that the legal description of the Leased Premises and the Easement, as shown on the survey, shall thereafter become the legal description of the Leased Premises and the Easement.

2. Option Initial Term. The initial term of this Option shall be for twenty four (24) months from the Effective Date (“Option Initial Term”).

3. Consideration for Option. Consideration for the Initial Term of the Option granted hereunder shall be Two Thousand and 00/100 Dollars (\$2,000.00) (“Option Consideration”).

4. Extension of Option. This Option can be extended at the discretion of Optionee for one (1) additional period of twelve (12) months (“Option Renewal Terms”) by Optionee paying to Optionor the additional consideration of One Thousand and 00/100 Dollars (\$1,000.00) prior to the expiration of the Option Initial Term or any Option Renewal Term. No more than two (2) total Optional Renewal Terms will be allowed hereunder unless agreed to by Entity in writing. The Option Initial Term and all Option Renewal Terms shall hereinafter be referred to collectively as the “Option Term.”

5. Optionor’s Representations and Warranties. As an inducement for Optionee to enter into and be bound by the terms of this Option, Optionor represents and warrants to Optionee and Optionee’s successors and assigns that, as of the date of this Agreement:

(a) To the knowledge of Optionor, without duty of inquiry or conducting a title search, Optionor has good title to the Leased Premises and the Easement;

(b) To the knowledge of Optionor, Optionor has the authority to enter into and be bound by the terms of this Option;

(c) To the knowledge of Optionor, there are no pending or threatened administrative actions, including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against Optionor or which may otherwise affect the Leased Premises; and

(d) To the knowledge of Optionor, the Leased Premises are not presently subject to an option, lease or other contract which may adversely affect Optionor's ability to fulfill its obligations under this Option, subject to Optionors retention of its authority to manage and control its governmental owned property and use the Leased Premises when required for Optionor's public purposes during the Option Term, and Optionor covenants that it shall not grant an option or enter into any contract which will affect the Leased Premises or the Easement until this Option expires or is terminated by Optionee.

These representations and warranties of Optionor shall survive the exercise of the Option and the closing anticipated by the exercise of this Option.

6. Inspections and Investigations. Optionor hereby grants to Optionee, its officers, agents, employees and independent contractors the right and privilege to enter upon the Leased Premises and the Easement at any time after the Effective Date, upon at least seventy two (72) hours prior written notice to Optionor, to perform, or cause to be performed, test borings of the soil, environmental audits, engineering studies and to conduct a survey of the Leased Premises and the Easement. Optionor shall provide Optionee with any necessary keys or access codes to the Leased Premises if needed for ingress and egress. Optionee shall not unreasonably interfere with Optionor's use of the Leased Premises or the Easement in conducting these activities, and shall comply with all Optionor safety, security, and access protocols and requirements. Notwithstanding any provision to the contrary contained in this Agreement, Optionee shall not have the right to undertake any subsurface environmental testing on the Leased Premises without the prior written consent of Optionor, which consent may be withheld in the sole discretion of Optionor. Optionee shall have the right, at its cost and expense, to have the Leased Premises and the Easement surveyed and to obtain a title report or commitment for a leasehold title policy covering the Leased Premises and the Easement from the title insurance company of its choice. Optionor shall, at its option, remove any survey or title defects, which will adversely affect Optionee's leasehold title or its ability to insure or mortgage the leasehold interest or, if Optionee will not accept any survey or title defects, Optionee may declare this Option to be void and of no further effect in which case there shall be no further liability on the part of Optionee to Optionor.

7. Further Acts. Optionor shall cooperate with Optionee's reasonable requests in executing documents as may be necessary to establish Optionee's rights under this Option or Optionee's use of the Leased Premises and the Easement and to take such action as may reasonably be required to effect the intent of this Option, at the sole cost and expense of Optionee. Notwithstanding the foregoing, Optionee shall have no obligation to pay Optionor's legal fees associated with such actions. Optionee shall be responsible for the filing of any applications with federal, state and local governmental authorities which applications relate to Optionee's Intended Use of the Leased Premises including but not limited to land use and zoning applications. To the extent applications may require Optionor approval, inclusion, or submission,

Optionee shall provide such applications to Optionor for review and approval with reasonable and sufficient time (which shall be no less than ten (10) Optionor business days) to review.

8. Assignment of Option. This Option may be sold, assigned or transferred at any time by Optionee upon the written consent of Optionor, which consent shall not be unreasonably withheld, conditioned, or delayed, with respect to any assignment of this Agreement by Optionee. Upon written approval of Optionor to such sale, assignment or transfer, and the completion of such sale, assignment, or transfer, Optionee shall be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action. Notwithstanding the foregoing, Optionee may assign this Option to an Affiliate, as hereinafter defined, of Optionee without Optionor's consent. Optionee shall provide written notice to Optionor of such Affiliate assignment.

9. Change in Status or Property. If during the Option Term, or during the Term, if the Option is exercised, Optionor/Lessor decides to subdivide, sell, or change the status of the zoning of the Premises, the Property or any of Lessor's contiguous, adjoining or surrounding property (the "Surrounding Property"), or in the event of a threatened foreclosure on any of the foregoing, Optionor/Lessor shall immediately notify Optionee/Lessee in writing. Optionor/Lessor agrees that during the Option Term, or during the Term if the Option is exercised, Optionor/Lessor shall not initiate or consent to any change in the zoning of the Premises which would adversely impact the zoning status of the Tower, the property or the Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Optionee/Lessee from using the Premises for the Intended Use, as further defined herein, unless such change is determined, in Optionor's sole discretion, to be necessary for its own use of property for its governmental/public purposes. Any and all terms and conditions of the Agreement that by sense or context are intended to be applicable during the Option Term shall be so applicable.

II. GROUND LEASE AGREEMENT

10. Exercise of Option. Upon the tender of written notice of Optionee's intent to exercise the Option, the following lease provisions ("Lease") shall govern the relationship of the parties, and Optionor shall thereafter be referred to as Lessor, and Optionee shall thereafter be referred to as Lessee. The date of the written notice to exercise the Option shall constitute the commencement date of the Lease ("Commencement Date").

11. Use. The Leased Premises may be used by Lessee for the transmission and receipt of wireless communication signals in any and all frequencies and the construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure or towers, associated antennas, equipment shelters or cabinets, buildings, fencing and related facilities and activities ("Intended Use"). Lessor agrees to reasonably cooperate with Lessee in obtaining, at Lessee's expense, all licenses and permits required for Lessee's Intended Use of the Leased Premises (the "Governmental Approval"). Lessee shall prepare, execute and file all required applications to obtain Governmental Approval for the Intended Use. Lessor agrees to reasonably assist Lessee with such applications and with obtaining and maintaining

Government Approvals. Lessee may construct additional improvements, demolish and reconstruct improvements, or restore, replace and reconfigure improvements at any time during the Initial Term or any Renewal Term of this Lease. In the event Lessee desires to modify or upgrade the Tower Facilities, as further defined herein, in a manner that requires an additional portion of the property (the "Additional Premises") for such modification or upgrade, Lessee shall notify Lessor such that the parties may seek to negotiate a Lease for Additional Premises, as may be available and appropriate, upon the same terms and conditions set forth herein, except that Rent, as further defined herein, shall increase, in conjunction with the lease of the Additional Premises by the amount equivalent to the then current per square foot rental rate charge by Lessor to Lessee times the square footage of the Additional Premises. Nothing herein shall be deemed to require Lessor to lease Additional Premises or to guaranty the availability of any property not within the Leased Premises for lease.

12. Legal Compliance. Lessee will comply with and abide by all federal, state, and local laws and regulations in its performance under this Lease and its use and activities on the Leased Premises, Easement, or other Lessor property, including, but not limited to, obtaining, at its sole expense, all licenses, permits, or regulatory or governmental approvals that may be required. Lessee shall further require the same compliance by its contractors, licensees, or sublessees in all agreements. Lessee shall defend, indemnify, and hold harmless Lessor for any claims, suits, actions, liability, loss, or damage arising out of any noncompliance by Lessee, its employees, agents, contractors, licensees and sublicensees.

13. Initial Term. The term of this Lease shall be ten (10) years commencing on the Commencement Date, as that term is defined in Section 10 above, and terminating on the tenth (10th) anniversary of the Commencement Date ("Initial Term").

14. Renewal Terms. Lessee shall have the right to extend this Lease for five (5) additional five (5) year terms (each a "Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth in this Lease. This Lease shall automatically be renewed for each successive Renewal Term unless Lessee notifies Lessor of Lessee's intention not to renew the Lease at least thirty (30) days prior to the expiration of the Initial Term or the Renewal Term which is then in effect. If Lessee remains in possession of the Leased Premises after the termination of this Agreement, then Lessee shall be deemed to be occupying the Leased Premises on a month to month basis ("Holdover Term"), subject to the terms and conditions of this Agreement. Hereinafter, the Initial Term, any Renewal Term and any Holdover Term may be collectively referred to as the "Term."

15. Rent. Commencing on the first day of the calendar month following the date that Lessee commences construction on the Leased Premises ("Rent Commencement Date"), during the Initial Term and each Renewal Term of this Lease, Lessee shall pay to Lessor the amount of rent ("Rent") provided in the Rent Schedule attached hereto as Exhibit "C", which shall be deemed to include any applicable state, county or local sales or use tax from which Lessor is not exempt. It shall be the sole responsibility of the Lessor to remit payment of any applicable state, county or local sales or use tax related to the Rent from which Lessor is not exempt to the appropriate taxing authority. Nothing herein shall be deemed to impose on Lessor the obligation to pay taxes from which it is exempt. Rent shall be payable in advance on or before the fifteenth

(15th) day of each calendar month, and shall be remitted to the address shown for Lessor in this Lease, or such other address as Lessor may direct by notice in writing to Lessee. If the Commencement Date, or the date of termination (the "Termination Date"), of this Lease is other than the first (1st) day of a calendar month, Rent shall be prorated. In the event of termination for any reason, other than nonpayment of Rent, all advance Rent paid to Lessor with respect to the period after the Termination Date shall be refunded to Lessee.

16. Lessor's Representations and Warranties. Lessor further represents and warrants that, to its actual knowledge as of the date of this Agreement and without duty of inquiry, there are no easements, licenses, rights of use or other encumbrances on the Leased Premises which will materially interfere with or constructively prohibit Lessee's Intended Use of the Leased Premises. Lessor further represents and warrants that, to its actual knowledge as of the date of this Agreement, the execution of this Lease by Lessor will not cause a breach or an event of default of any other agreement to which Lessor is a party.

17. Conditions Subsequent. Lessee represents that it has exercised due diligence in its review of the Leased Premises to determine that its Intended Use is not actually or constructively prohibited by any laws, rules, or regulations. In the event that, despite Lessee's exercise of due diligence, Lessee's Intended Use of the Leased Premises becomes actually or constructively prohibited through no fault of Lessee or the Leased Premises becomes, in Lessee's commercially reasonable opinion, unacceptable to Lessee, then Lessee shall have the right to terminate this Lease. In the event that Lessee terminates solely due to its opinion that the Leased Premises are unacceptable, but the Intended Use is not actually or constructively prohibited, Lessee shall pay Lessor a termination fee of two (2) months' Rent.

18. Interference Lessee represents that, prior to entering into this Agreement, it has exercised due diligence in reviewing the Leased Premises and existing use of property adjacent to the Leased Premises to reasonably determine that it is appropriate for the Intended Use without interference. In the event a subsequent change of use by Lessor, its lessees, licensees, invitees, or agents to any portion of adjacent real property owned by Lessor materially interferes with the wireless communications operation of Lessee, any such interference extending for more than forty-eight (48) hours may be deemed a material breach of this Lease by Lessor and Lessor shall have the responsibility to take commercially reasonable action, to the extent permitted by law, to terminate said interference. Prior to Lessee exercising any rights under this Agreement regarding interference, Lessee agrees to notify Lessor of the interference and work with Lessor in good faith to promptly determine the source of interference and reasonable options to rectify the interference. Further, upon Lessor providing Lessee advanced notice of any anticipated or potential changes on Lessor's adjacent property, Lessee agrees to work with Lessor in good faith to determine in advance any potential areas of interference. In the event any such interference does not cease or is not promptly rectified, Lessor acknowledges that continuing interference will cause irreparable injury to Lessee, and Lessee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease immediately upon notice to Lessor. Except where may be required for Lessor's necessary governmental operations, compliance with law, or to address an emergency or critical situation, Lessor will not grant after the Effective Date, a lease, license or any other right to any third party, if it reasonably believes that the exercise of such grant may materially and adversely affect

or interfere with the Tower Facilities, the operations of Lessee or the rights of Lessee under this Agreement. Lessor will notify Lessee in writing prior to granting any third party the right to install and operate wireless cellular communications equipment within one (1) mile of the Leased Premises. For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the property or Surrounding Property that causes material electronic or physical obstruction with, or degradation of, the communication signals from the Tower Facilities.

19. Improvements; Utilities, Access and Landscaping.

(a) Lessee shall have the right at Lessee's sole cost and expense, to erect and maintain on the Leased Premises improvements, personal property and facilities, including without limitation, tower(s), a structural tower base(s), radio transmitting and receiving antennas, communications equipment, equipment cabinet(s) and/or shelter(s) and related facilities (collectively the "Tower Facilities"). The Tower Facilities shall remain the exclusive property of the Lessee throughout the Term and shall be fully removed, and the property restored, by Lessee upon termination of this Lease at Lessee's sole expense. Lessor shall have the right to require a decommissioning bond in favor of Lessor as security for Lessee's obligation to remove the Tower Facilities, in form and substance reasonably satisfactory to Lessor, if (i) the Lease is assigned to an entity with a net worth of less than five-million dollars (\$5,000,000) and (ii) a bond is not already required in the jurisdiction where the Leased Premises are located. Lessor grants Lessee the right, to the extent permitted by law, regulations, and local ordinance, to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed and cut all tree limbs to the extent necessary to prevent interference with or falling upon Lessee's tower or Lessee's other improvements, communications equipment or Easement rights. Lessor grants Lessee the Easement in Exhibit "B" and may, as necessary, grant additional, non-exclusive easements as agreed to by the Parties in writing in, over, across and through other real property owned by Lessor as reasonably required for construction, installation, maintenance, and operation of the Tower Facilities. In the event that the tower to be constructed by Lessee on the Leased Premises is a guyed tower, Lessor also grants Lessee an easement over Lessor's real property during the Initial Term and any Renewal Term of this Lease for any guy wires and guy wire anchors. If Lessee elects to utilize a small Unmanned Aircraft System ("UAS") in connection with the installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at the Property or Leased Premises, Lessor hereby grants Lessee, or any small UAS operator acting on Lessee's behalf, express permission to fly over the applicable Property and Leased Premises, and consents to the use of audio and video navigation and recording in connection with the use of the small UAS. Lessee must coordinate all small UAS operations with Lessor in advance and shall ensure all such operations shall only be performed by persons with a valid FAA remote pilot in command certification, or other certification or license legally required for such operations, and shall ensure safe operation and use all necessary and reasonable efforts to limit audio and video recording to the Leased Premises, and avoid any audio or video recording of students or private property.

(b) Lessee shall have the right to install utilities, at Lessee's expense, and to improve present utilities on the Leased Premises (including but not limited to the installation of emergency power generators). Lessee shall have the right to permanently place utilities on (or to

bring utilities across or under) the Easement to service the Leased Premises and the Tower Facilities. In the event that utilities necessary to serve the equipment of Lessee or the equipment of Lessee's licensee(s) or sublessee(s) cannot be located within the Easement for ingress and egress, Lessor agrees to cooperate with Lessee and to act reasonably in allowing the location of utilities on other real property owned by Lessor without requiring additional compensation (other than compensation of direct costs, if any) from Lessee or Lessee's licensee(s) or sublessee(s). Lessor may, as appropriate, execute a separate written easement to the Lessee or to the utility company providing the service, in a form which may be filed of record evidencing this right.

(c) Lessor represents and warrants to Lessee that Lessee shall, at all times during this Lease, enjoy ingress, egress, and access from the Leased Premises to an open and improved public road which presently exists, and which Easement shall be adequate to service the Leased Premises and the Tower Facilities. If no such public road exists, or ceases to exist in the future, Lessor and Lessee shall work to determine an appropriate easement agreeable to the Parties for Lessee, Lessee's sublessees and assigns so that Lessee may, at its own expense, construct a suitable private access drive to the Leased Premises and the Tower Facilities. To the degree such access is across other property owned by Lessor, Lessor shall, as appropriate, execute an easement evidencing this right and Lessor shall use reasonable efforts to maintain access to the Easement in a free and open condition so that no material interference is caused to Lessee, by other lessees, licensees, invitees or agents of the Lessor which may utilize the Easement. Lessor shall provide such access to the Leased Premises via the approved Easements to allow Lessee, or its sublessees, to use, maintain and repair the improvements located on the Leased Premises. Such access shall be provided twenty-four (24) hours per day, seven (7) days per week. Lessee shall provide Lessor forty-eight (48) hours notice prior to accessing the Leased Premises, email acceptable. Notice shall be provided to TISD through Carlos Garcia [PO Box 170, 19200 Cobb Ave., Tornillo, TX 79853 / GarciaC@tisd.us or (915) 765-3035T]. Notice shall not be required in the event of an emergency. If Lessor willfully and intentionally obstructs access granted by this Lease for reason other than casualty or compliance with law, such obstruction shall be deemed a default under the Lease and in connection with such default, in addition to any other rights or remedies available to Lessee under this Lease or at law or equity, Lessor shall pay Lessee, as liquidated damages, and not as a penalty, Five Hundred and 00/100 Dollars (\$500.00) per day in consideration of Lessee's damages until Lessor cures such default. Lessor and Lessee agree that Lessee's damages in the event of a denial of access are difficult, if not impossible, to ascertain, and the liquidated damages set forth are a reasonable approximation of such damages.

(d) In the event a Governmental Approval necessary for the construction operation and/or maintenance of the Tower Facilities requires landscaping around the Tower Facilities and such required landscaping cannot be located within the Leased Premises following Lessee making all reasonable efforts and attempts to modify the Tower Facilities design to allow such required landscaping, Lessee shall notify Lessor and the Parties shall work together in good faith to determine if it is possible for Lessor to provide an easement for property outside of the Leased Premises to satisfy any such Governmental Approval with respect to landscaping without requiring additional compensation from Lessee or Lessee's licensee(s), sublessee(s) or such similar parties. Nothing herein shall require Lessor to approve or provide an easement that

interferes with Lessor's use of its property. Lessee shall be responsible for the installation and maintenance of any such landscaping contemplated by this Section.

(e) Lessee shall comply with all requirements of Texas Government Code §2252.909 (Required Lease Terms for Lease of Public Property), or any successor statute. Lessee shall:

(i) Include in each contract for the construction, alteration, or repair of an improvement on the Leased Premises a condition that the contractor (A) execute a payment bond that conforms to Subchapter I, Chapter 53, of the Texas Property Code; and (B) execute a performance bond in an amount equal to the amount of the contract for the protection of Lessor and conditioned on the faithful performance of contractor's work in accordance with the plans, specifications, and contract documents; and

(ii) Provide Lessor a notice of commencement, as set forth herein, at least 90 days before the date the construction, alteration, or repair of any improvement to the Leased Premises begins. The notice of commencement under this subsection must (A) identify the public property where the work will be performed; (B) describe the work to be performed; (C) state the total cost of the work to be performed; (D) include copies of the performance and payment bonds required under subsection (e)(i); and (E) include a written acknowledgement signed by the contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth day after the date a subcontract is executed.

(iii) On or before the 10th day after Lessor receives a notice of commencement for the construction, alteration, or repair of an improvement to leased property required under subsection (e)(ii), Lessor may notify Lessee that the construction, alteration, or repair may not proceed.

(iv) Lessee acknowledges that, pursuant to Texas Government Code §2252.909(e), a person commits an offense (Class A misdemeanor) if the person materially misrepresents information in a notice of commencement.

(v) LESSOR is a tobacco-free, drug-free, weapon-free and alcohol-free zone. The LESSEE shall use commercially reasonable efforts to ensure that all employees and contractor employees are not in possession of or under the influence of any drugs, tobacco or alcohol and that no weapons are brought onto the Premises. Violation of this policy will result in the offending employee being restricted from all LESSOR campuses.

(vi) Any LESSEE employees or contract workers having direct contact with students must submit to a criminal background check as required by Texas law. LESSEE shall maintain copies of all criminal background checks for all of LESSEE's and subcontractor's employees on the worksite having direct contact with students and shall make same available for inspection at LESSOR'S request.

20. Termination. Except as otherwise provided herein, this Lease may be terminated without any penalty or further liability upon written notice as follows:

(a) By either party upon a default of any material covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default (without however, limiting any other rights available to the parties pursuant to any other provisions hereof); provided, that if the defaulting party commences and continues efforts to cure the default within such period, the non-defaulting party shall have reasonable, additional time (not to exceed forty-five (45) days) to cure the default;

(b) Upon thirty (30) days' written notice by Lessee to Lessor, if Lessee is unable to obtain or maintain through no fault of Lessee, any license, permit or other Governmental Approval necessary for the construction and operation of the Tower Facilities or Lessee's business;

(c) By Lessee for any reason upon sixty (60) day's advance written notice from Lessee to Lessor, and upon payment of a termination fee to Lessor in the amount of twelve (12) months of the then current Rent due hereunder; or

(d) By Lessor as set forth in this Section 20(d). As a governmental entity, Lessee acknowledges that, by entering into this Lease, Lessor is not relinquishing, and may not relinquish, the authority of its governing body to control the property's use or allow the Lease to interfere with the property's public purpose. After the Initial Term, to the extent Lessor's governing body determines that the Lease will no longer serve a public purpose or that the Leased Premises is required for other purposes, Lessor may, upon at least one hundred eighty (180) days' written notice to Lessee, terminate the Lease at the end of its then current term. Such notice shall include a detailed reason and/or justification for the termination. Further, in the event a need arises on the part of Lessor to use the Leased Premises for the governmental entity's own purposes after the Initial Term, Lessee agrees to work with Lessor to modify the Lease to accommodate such use or, if such accommodation is not possible, Lessor may terminate the Lease upon at least one hundred eighty (180) days' written notice or shorter notice if required by law or public emergency. Regardless of whether during or after the Initial Term, nothing in this Agreement shall be deemed to prohibit Lessor's right and ability, as a governmental entity, to use the Leased Premises or take any action, regardless of the potential for interference with the Leased Premises, to the extent required in a declared public emergency or when otherwise required by law. However, Lessor shall use all commercially reasonable efforts to avoid and minimize the duration and effect of any such interference.

Prior to any termination by Lessor, Lessor and Lessee shall use best efforts to find a mutually agreeable location on the Property or other property owned or controlled by Lessor for Lessee to relocate the Tower Facilities to or build a new tower. In the event the parties find a mutually agreeable location on the Property for the relocation of the Tower Facilities, the parties shall enter into a lease agreement on identical terms to this Agreement. During the negotiation of a mutually agreeable location, and prior to execution of the new lease agreement, Lessee shall provide Lessor with an estimate of the cost for relocating the Tower Facilities and related carrier equipment to the proposed new location(s) ("**Estimated Relocation Cost**") for the Entity's

understanding and consideration as to how collection of rent might be impacted, and Lessee shall be entitled to an abatement of rent under the new agreement in an amount equal to the actual cost Lessee to relocate the Tower Facilities and related carrier equipment up to the Estimated Relocation Cost.

21. Sublessee's Improvements. Lessee's licensee(s) and sublessee(s) shall be entitled to modify the Tower and to erect additional improvements on the Leased Premises, including, but not limited to antennas, dishes, cabling, additional storage buildings or equipment shelters on the Leased Premises as are reasonably required for the operation and maintenance of the communications equipment to be installed on the Leased Premises by said licensee(s) and sublessee(s), together with rights of ingress and egress to the Leased Premises and the right to install utilities on the Leased Premises as if said licensee or sublessee were the Lessee under this Lease. Lessee shall, in its agreements with such licensee(s) and sublicensee(s), ensure that the licensee(s) and sublicensee(s) are subject to all requirements under this Agreement that apply to Lessee, including regarding improvements, use of property, and access to property.

22. Taxes.

(a) Lessor, a governmental entity, is generally exempt from taxation and shall not be required under this Agreement to pay any taxes for which it is exempt. Lessee shall be responsible for (i) any taxes and assessments attributable to and levied upon Lessee's leasehold improvements on the Leased Premises and as set forth in this Section and (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublease by Lessee.

(b) In the event Lessor receives a notice of assessment with respect to which taxes or assessments are imposed on Lessee's leasehold improvements on the Leased Premises, Lessor shall provide Lessee with copies of each such notice promptly upon receipt, but in no event later than 30 days after the date of such notice of assessment. Lessee shall reimburse Lessor for the tax and assessments identified on the notice of assessment on Lessee's leasehold improvements, which are paid by the Lessor. If Lessor seeks reimbursement from Lessee, Lessor shall, no later than 30 days after Lessor's payment of the taxes or assessments for the assessed tax year, provide Lessee with written notice including evidence that Lessor has timely paid same, and Lessor shall provide to Lessee any other documentation reasonably requested by Lessee to allow Lessee to evaluate the payment and reimburse Lessor.

(c) For any tax amount which Lessee is responsible for under this Lease and Agreement, Lessee shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action with respect to the valuation of the Leased Premises. Lessor shall reasonably cooperate with respect to the commencement and prosecution of any such proceedings. The expense of any such proceedings shall be borne by Lessee and any refunds or rebates secured as a result of Lessee's action shall belong to Lessee, to the extent the amounts

were originally paid by Lessee. In the event Lessee notifies Lessor by the due date for the assessment of Lessee's intent to contest the assessment, Lessor shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Lessor shall provide prior written notice to Lessee of any split by Lessor or action by Lessor to cause the tax parcel on which the Leased Premises are located to be split, bifurcated, separated or divided.

(e) Any tax related notices shall be sent to Lessee in the manner set forth in Section 30, (Notices). Promptly after the Commencement Date, upon written request of Lessee, Lessor shall provide the address requested by Lessee to the taxing authority for the authority's use in the event the authority needs to communicate with Lessee. In the event that Lessee's tax address changes by notice to Lessor, Lessee shall provide notice to the taxing authority. If the taxing authority requires additional notice from the property owner, Lessee shall notify Lessor, and Lessor shall reasonably assist in providing Lessee's new tax address to the taxing authority or authorities.

(f) Notwithstanding anything to the contrary contained in this Section, Lessee shall have no obligation to additionally reimburse Lessor for any tax or assessment for which the Lessee is separately reimbursed or rebated by a third party.

(g) Lessor hereby represents and warrants that, to the best of its knowledge as of the date of this Agreement, Lessor's property on which the Leased Premises and Easement are located is not subject to any "Conservation Use Covenant", "Greenbelt Covenant" or any conservation use program which restricts or limits development of Lessor's property.

23. Destruction of Premises. If the Leased Premises or the Tower Facilities are destroyed or damaged, so as to materially hinder the effective use of the Tower Facilities in Lessee's reasonable judgment, Lessee may elect within thirty (30) days of such damage/destruction to terminate this Lease as of the date of the damage or destruction by so notifying the Lessor in writing. In such event, all rights and obligations of Lessee to Lessor shall cease as of the date of completion of the removal of the Tower Facilities by Lessee as required by this Agreement, and Lessee shall be entitled to reimbursement of any Rent prepaid by the Lessee for the period beyond that date.

24. Condemnation. If a condemning authority takes all of the Leased Premises, or a portion sufficient in Lessee's determination to render the Leased Premises, in the reasonable opinion of Lessee, unsuitable for the use which Lessee was then making of the Leased Premises, this Lease shall terminate as of the date the title vests in the condemning authority. Lessee shall be entitled to file its own claims against the condemning authority for the value of its Tower Facilities, moving expenses, prepaid rent and business dislocation expenses. A sale of all or part of the Leased Premises to a purchaser with the power of eminent domain, in the face of the exercise of eminent domain power, shall be treated as taking by condemnation for the purpose of this Section.

25. Casualty. Each Party shall provide notice to the other Party of any casualty or other harm affecting the property within twenty-four (24) hours of discovery or notice of the casualty or other harm. If any part of the Tower Facilities or the property is materially damaged by casualty or other harm, through no fault of Lessee, as to render the Leased Premises unsuitable, in Lessee's reasonable determination, then Lessee may elect within thirty (30) days of the date of the casualty or other harm to terminate the Lease and Agreement by providing written notice to Lessor, which termination will be effective as of the date of the notice. Lessor agrees to permit Lessee to place reasonable temporary transmission and reception facilities on the property, but only until such time as Lessee is able to activate a replacement transmission facility at another location and only to the extent permitted by law and only to the extent such temporary facilities do not impede or interfere with Lessor any more than the Tower Facilities. Notwithstanding the termination of this Lease and Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. Lessee shall be fully responsible, including obtaining insurance coverage, for its own protection from losses for any damages to Tower Facilities, and Lessor shall not directly or through insurance be liable for any loss to Tower Facilities unless caused by willful act or gross negligence of Lessor and, in such event, only to the extent permitted by law. If Lessor or Lessee undertakes to rebuild or restore the Leased Premises and/or the Tower Facilities, as applicable, Lessor agrees to permit Lessee to place reasonable temporary transmission and reception facilities which do not impede or interfere with Lessor any more than the Tower Facilities on the property at no additional Rent until the reconstruction of the Leased Premises and/or the Tower Facilities is completed. If Lessor determines not to rebuild or restore the property, Lessor will notify Lessee of such determination within sixty (60) days after discovery or notice of the casualty or other harm. Lessor agrees that the Rent shall be abated until the property and/or the Leased Premises are rebuilt or restored, unless Lessee places temporary transmission and reception facilities on the property.

26. Insurance. Lessee shall purchase and maintain in full force and effect, throughout the Initial Term and any Renewal Term, commercial general liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate, which insurance shall include Lessor as an additional insured. Lessee shall require all of its contractors and subcontractors to maintain General Liability Insurance coverage in an amount equal to that specified herein.

27. Indemnification. In addition to, and without limiting, any other indemnification obligations in this Agreement, Lessee will defend, indemnify, and hold harmless Lessor and its officers, board members, employees, and agents from and against all claims, suits, actions, liability, liens, loss, and damage of any character, type, or description, including without limitation all expenses of litigation, court costs, and attorneys' fees, arising out of or related to: (a) injury or death to any person or damage to property related to the acts of Lessee or its agents, employees, contractors, invitees, licensees, or sublessees on Lessor's property; and (b) Lessee's negligence, misconduct, breach of contract, or other failure to comply with its obligations under this Agreement, or infringement or violation of a third-party's intellectual property or privacy right. Notwithstanding the foregoing, Lessee shall have no obligation to indemnify and hold harmless Lessor and its officers, board members, employees, and agents from and against all claims, suits, actions, liability, liens, loss, and damage of any character, type, or description,

including without limitation all expenses of litigation, court costs, and attorneys' fees, to the extent determined by a court, arbitrator, or tribunal of competent jurisdiction to have been caused by Lessor's negligence or willful misconduct.

28. Lessee's Environmental Covenants and Indemnity. As used in this Lease, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is, or becomes designated as such in the future or is regulated by any agency of the United States Government or by any local governmental authority having jurisdiction, including, without limitation, any substance, material or waste that is defined or designated as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or the Clean Water Act. During the Term of this Lease, Lessee shall not cause or authorize the presence, use, storage and/or disposal of any Hazardous Material, on or under the Leased Premises by Lessee, its agents, employees, business invitees, contractors, licensees, or sublessees. Notwithstanding the foregoing, Lessee, and its licensees, sublicensee, sublessees, and/or subtenants shall have the right to install backup generators on the Leased Premises and such installation shall not be a violation of this Section. Lessee shall comply, and require all agents, employees, business invitees, contractors, licenses, and sublessees to be in compliance with all applicable laws, rules, regulations and orders. Lessee shall not install or permit the installation of any underground storage tanks on the Leased Premises. Lessee shall defend, indemnify, protect and hold Lessor harmless from and against all claims, costs, fines, judgments and liabilities, including attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of Hazardous Materials on or under the Leased Premises caused by the acts, omissions or negligence of Lessee, its agents, employees, business invitees, contractors, licensees, or sublessees. The foregoing indemnity shall survive any termination of this Lease.

29. Lessor's Environmental Representation. Lessor represents and warrants, to its knowledge, without duty of inquiry, that no Hazardous Materials have been generated, stored, disposed of or are present on or under the Leased Premises prior to the Commencement Date of this Lease. Lessor shall immediately notify Lessee in writing of (i) any release or threatened release of Hazardous Materials in, on, under, from or migrating towards the Leased Premises; (ii) any non-compliance with any environmental laws related in any way to the Leased Premises; (iii) any actual or potential environmental lien; (iv) any required or proposed remediation of environmental conditions relating to the Leased Premises; and (v) any written or oral notice or other communication relating in any way to Hazardous Materials on the Leased Premises. The foregoing representations shall survive any termination of this Lease.

30. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if sent by a nationally recognized courier, or certified mail, return receipt requested, to the following address:

If to Lessor, to:

Attn:

If to Lessee, to:

Diamond Towers V LLC
120 Mountain Avenue
Springfield, New Jersey 07081
Attention: Legal Department

31. Title and Quiet Enjoyment. Lessor represents, to its knowledge and without duty of inquiry, that (i) it has good fee simple title to the Leased Premises and the Easement; and (ii) the Leased Premises constitutes a legal lot that may be leased without the need for any subdivision or platting approval. Lessor covenants that Lessee shall have the quiet enjoyment of the Leased Premises during the term of the Lease. This Lease shall be an estate for years and not a usufruct. Lessor shall not knowingly use, nor shall Lessor knowingly permit its lessees, licensees, invitees, or agents to use any adjacent property owned or controlled by Lessor in any way which materially interferes with operations of Lessee. Such interference may be deemed a material breach by Lessor, and Lessee shall have the right, in addition to any other rights that it may have in law or equity, to enjoin such interference or to terminate this Lease.

32. Subordination and Non-Disturbance. To the extent applicable, this Lease shall be subject to and subordinate to any mortgage or deed to secure debt (collectively referred to as a "Mortgage") made by Lessor which may now or hereafter encumber the Leased Premises, provided that no such subordination shall be effective unless the holder of every such Mortgage shall in a separate agreement with Lessee agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Lessor's interest in the Leased Premises, such holder shall recognize and confirm the validity and existence of this Lease and that Lessee shall have the right to continue its use and occupancy of the Leased Premises in accordance with the provisions of this Lease as long as Lessee is not in default of this Lease beyond applicable notice and cure periods. Lessee shall execute in timely fashion such instruments as may reasonably be requested to evidence the provisions of this Section. In the event the Leased Premises are encumbered by a Mortgage on or after the Commencement Date, Lessor, no later than ten (10) days after the Option has been exercised, shall use commercially reasonable efforts to obtain and furnish Lessee with a non-disturbance agreement in recordable form from the holder of each Mortgage.

33. Condition of Leased Premises. Lessee acknowledges that it has independently and personally inspected the Premises and that it has entered into this Agreement based upon such examination and inspection. Lessee accepts the Premises in their present condition, "AS IS, WITH ALL FAULTS, IF ANY. AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED," other than the warranty of quiet enjoyment, specifically without limiting the generality of the foregoing, Lessee accepts the Premises without any warranty of (a) the nature or quality of any construction, structural design or engineering of any improvements currently located at or constituting a portion of the Premises, (b) the quality of the labor and materials included in any such improvements, or (c) the suitability of the Premises for any particular purpose or developmental potential.

34. WAIVER OF CONSUMER RIGHTS UNDER DTPA. AS A MATERIAL CONSIDERATION FOR LESSOR'S ENTERING INTO THIS AGREEMENT, LESSEE HEREBY WAIVES ANY RIGHT IT MAY HAVE UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., TEXAS BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION, LESSEE VOLUNTARILY CONSENTS TO THIS WAIVER.

35. Assignments and Subleases. Except as provided in this Section, Lessee may not sell, transfer, assign, sublease, or convey any portion of its interest in this Lease or the Leased Premises. Notwithstanding the foregoing, if an event of default has not occurred and is continuing, Lessee may, upon written notice to Lessor, (i) sublease space on the Tower Facilities and within the Leased Premises to third parties, (ii) assign its interest in the Agreement to any party who (a) has a proven history of operating communication towers, (b) has a net worth of at least Fifteen Million and 00/100 Dollars (\$15,000,000.00) and (c) assumes in writing the obligations of Lessee under this Agreement, (iii) mortgage its interest in this Agreement and the leasehold interest created hereby to third party lenders in bona fide loan transactions, which mortgage shall not be deemed a loan or mortgage on Lessor's property and any records filing regarding the mortgage shall clearly state that fact, and (iv) assign its interest in this Agreement and the leasehold interest created hereby to Affiliates, as hereinafter defined. For purposes hereof, "Affiliates" shall mean, as to any party to this Lease, any individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, or other entity of whatever nature, which, directly or indirectly, is in control of, is controlled by, or is under common control with, such party. For purposes of this definition, "control" of an entity means the power, directly or indirectly, either to (i) vote 10% or more of the securities having ordinary voting power for the election of directors of such entity, or (ii) direct or cause the direction of the management and policies of such entity whether by contract or otherwise. Except as provided above, any attempt by Lessee to sell, transfer, encumber, assign or convey its leasehold estate or any interest in the estate without the prior, written consent of Lessor shall be null and void.

36. Successors and Assigns. This Lease shall run with the Leased Premises described on Exhibit "A" and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

37. Waiver of Lessor's Lien. To the extent permitted by law, Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Tower Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws. Lessor consents to Lessee's right to remove all or any portion of the Tower Facilities from time to time in Lessee's sole discretion and without Lessor's consent.

38. Waiver of Incidental and Consequential Damages. To the full extent such may be disclaimed by law, neither Party will assert any claim whatsoever against the other for loss of anticipatory profits or any other indirect, special, incidental or consequential damages.

39. Lessee's Exclusivity. To the extent permitted by law and without relinquishing Lessor's right to control use of its properties as may be required for its own and public purposes as further delineated herein, Lessor agrees not to lease any of Lessor's property within a radius of [three (3) miles, or such other distance as negotiated by the parties] from the Leased Premises for construction of a tower or for use as a communications facility or for the operation of an antenna site leasing business which competes directly or indirectly with Lessee.

40. Removal of Personal Property. On or after the Termination Date, Lessee shall, at its sole cost and expense, remove the Tower and all other personal property and improvements which Lessee or Lessee's licensees, sublessees, agents, or contractors has installed or otherwise located on the Leased Premises. Lessee shall reasonably restore the Leased Premises to its original condition within sixty (60) days and shall continue to pay Rent as required by this Agreement until removal is completed. If any such property or equipment, including improvements, is not removed from the Leased Premises within the required time, such items shall be deemed abandoned, and Lessor shall be entitled to remove the remaining items and invoice Lessee for all actual costs of doing so and Lessee shall remit payment of such invoice to Lessor within thirty (30) days of receipt.

41. Rental Stream Offer. If at any time after the date this Agreement, Lessor receives and is formally considering acceptance of a bona fide written offer from a third-party seeking assignment or transfer of Rent payments associated with this Agreement ("Rental Stream Offer"), Lessor shall promptly notify Lessee and, subject to any confidentiality requirements in the Rental Stream Offer, furnish Lessee with a copy of the Rental Stream Offer. To the extent permitted by law, Lessee shall be given a twenty (20) day opportunity after it receives such copy to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. Lessor agrees to consider any such offer from Lessee in good faith. However, Lessee acknowledges and agrees that nothing herein shall obligate Lessor to consider or approve any Rental Stream Offer, including that of Lessee, and any contract shall be subject to Lessor's determination of best value, requirements of law, and approval of Lessor's governing body.

42. Estoppels. Either party may request, in writing, that the other party certify information regarding the existence and terms of this Lease to a prospective mortgagee or purchaser. Such certification shall be transmitted within ten (10) business days after receipt of written request and, subject to any specific qualifications or disclaimers stated in the certification, may be relied upon by the party who requested it, and the contents of the certificate shall be binding upon the party executing it. The certificate may include (i) the validity, force and effect of this Lease; (ii) the extent to which this Lease has been supplemented or amended; (iii) the existence of any default; (iv) the existence of any asserted offsets, counter-claims or defenses on the part of the other party to which the certifying party has actual notice; (v) the commencement and expiration dates of the term, (vi) the amount of any prepaid rent; and (vii) any other matter as may reasonably be requested.

43. Memorandum/Short Form. Contemporaneously with the execution of this Agreement, Lessor and Lessee shall execute a recordable Memorandum of Lease ("Memorandum") substantially in the form attached hereto as Exhibit "D". The Memorandum

shall set forth a description of the Leased Premises, the Easement, the name and addresses of Lessor and Lessee, the duration of the Initial Term and the Renewal Term(s) of this Lease, and any other provision that either party may request, except for the rental provisions. Lessee may record this Memorandum at any time during the Term, in its absolute discretion.

44. Miscellaneous.

(a) The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

(b) This Agreement constitutes the entire agreement and understanding of Lessor and Lessee with respect to the subject matter of this Agreement, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to said Agreement must be in writing and executed by Lessor and Lessee.

(c) Lessor agrees to cooperate with Lessee in any reasonable request to execute documents necessary to protect Lessee's rights under this Agreement or Lessee's use of the Leased Premises, and to take any further action which may reasonably be required as to effect the intent of this Agreement.

(d) This Agreement shall be construed in accordance with the laws of the state in which the Leased Premises is situated.

(e) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(f) Whenever under this Agreement the consent or approval of Lessor is required or a determination must be made by Lessor, no such consent or approval shall be unreasonably withheld, conditioned, or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

(g) This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart.

(h) Lessee acknowledges that Lessor is a governmental entity and may disclose any and all information, including the terms of this Agreement, where required under the Texas Public Information Act or other applicable law. To the extent Lessee asserts any of its information is confidential or proprietary, Lessee must clearly mark it as such. However, nothing herein or in such marking shall be deemed to prohibit Lessor from disclosing such information to its attorneys, consultants, or other contractors with a need-to-know, to regulating

agencies, or as required by law, including, but not limited to, any judicial or administrative order, subpoena, or open records ruling of the Texas Attorney General under the Texas Public Information Act. NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) LESSOR DOES NOT WAIVE SOVEREIGN IMMUNITY BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT OR BY ANY CONDUCT OF ITS REPRESENTATIVES UNDER THIS AGREEMENT; AND (ii) ANY DISPUTE RESOLUTION PROCESS HEREIN PROVIDED DOES NOT AFFECT LESSOR'S RIGHT TO ASSERT ANY AND ALL CLAIMS AND DEFENSES IN ANY LEGAL PROCEEDING.

(i) Authority. By execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

FOR REFERENCE ONLY

IN WITNESS WHEREOF, this Agreement shall be effective on the date of execution of the last signatory below (“Effective Date”).

LESSOR:

[INSERT NAME]

By: *Draft Only – Not for Signature*

Name: _____

Title: _____

Date: _____

LESSEE:

Diamond Towers V LLC, a
Delaware limited liability company

By: *Draft Only – Not for Signature*

Name: Michael G. Brett

Title: COO

Date: _____

FOR REFERENCE ONLY

EXHIBIT "A"

Description of Real Property

A ____ ft. x ____ ft. parcel located within the following parcel:

*Note: to be replaced by As-Built Survey

FOR REFERENCE ONLY

EXHIBIT “A-1”

Site Sketch (to be replaced by survey)

*Note: to be replaced by As-Built Survey

FOR REFERENCE ONLY

EXHIBIT “B”

Easement
Legal Description

*Note: to be replaced by As-Built Survey

FOR REFERENCE ONLY

EXHIBIT “C”

Rent Schedule

TO BE COMPLETED

FOR REFERENCE ONLY

EXHIBIT "D"

Prepared by:
Legal Department
Diamond Towers V LLC
120 Mountain Ave.
Springfield, New Jersey 07081

Site Name: _____

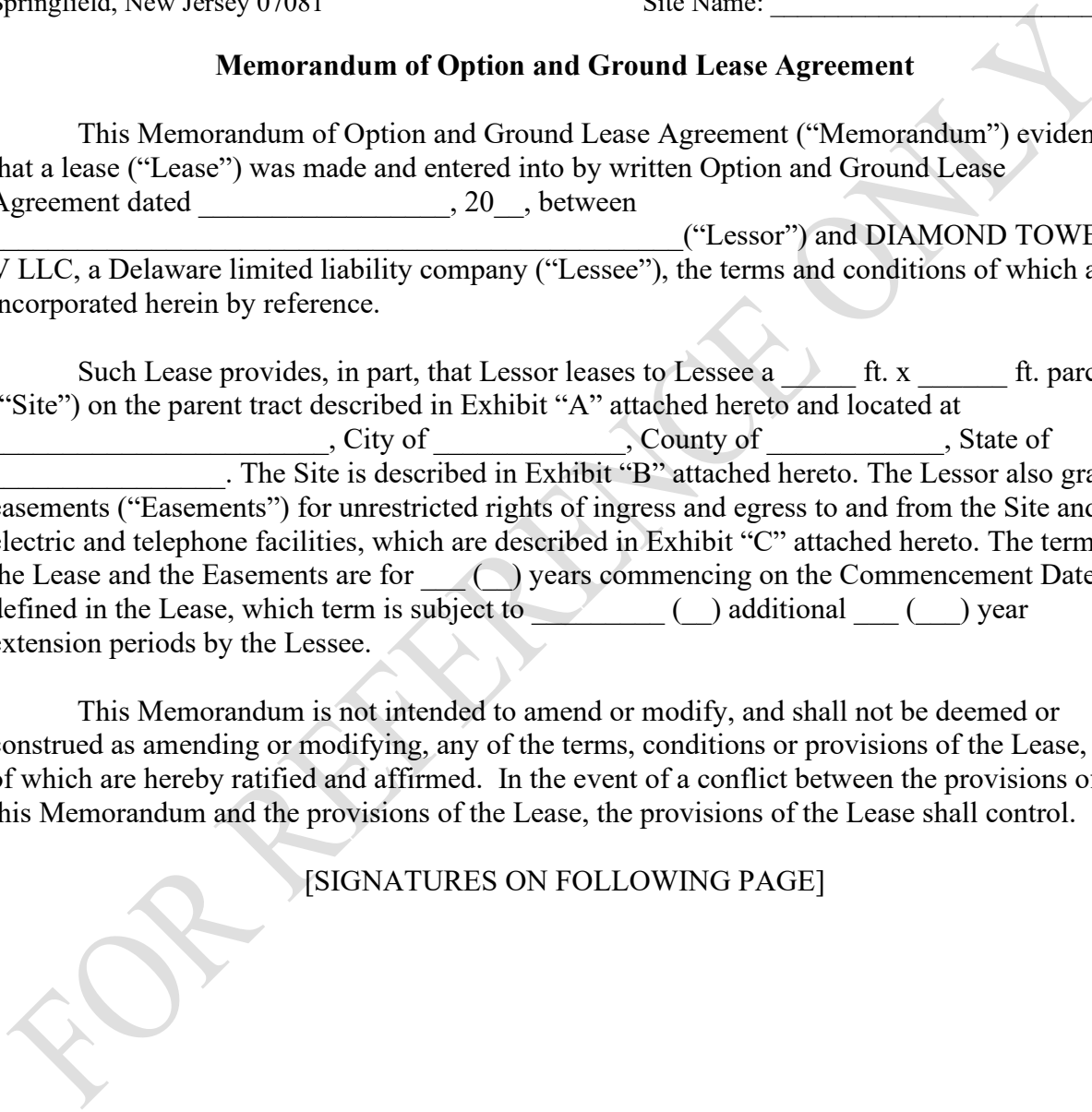
Memorandum of Option and Ground Lease Agreement

This Memorandum of Option and Ground Lease Agreement ("Memorandum") evidences that a lease ("Lease") was made and entered into by written Option and Ground Lease Agreement dated _____, 20__, between _____ ("Lessor") and DIAMOND TOWERS V LLC, a Delaware limited liability company ("Lessee"), the terms and conditions of which are incorporated herein by reference.

Such Lease provides, in part, that Lessor leases to Lessee a _____ ft. x _____ ft. parcel ("Site") on the parent tract described in Exhibit "A" attached hereto and located at _____, City of _____, County of _____, State of _____. The Site is described in Exhibit "B" attached hereto. The Lessor also grants easements ("Easements") for unrestricted rights of ingress and egress to and from the Site and to electric and telephone facilities, which are described in Exhibit "C" attached hereto. The term of the Lease and the Easements are for ____ () years commencing on the Commencement Date, as defined in the Lease, which term is subject to _____ () additional ____ () year extension periods by the Lessee.

This Memorandum is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall control.

[SIGNATURES ON FOLLOWING PAGE]



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

LESSOR:

By: Exhibit Only - Do not Sign

LESSEE:

DIAMOND TOWERS V LLC, a Delaware limited liability company

Exhibit Only - Do not Sign

*** Final Memorandum will have appropriate state notary blocks.**

FOR REFERENCE ONLY

EXHIBIT “A” TO MEMORANDUM

Legal Description of parent parcel

Exhibit Only

EXHIBIT “B” TO MEMORANDUM

Legal Description of Site

Exhibit Only

EXHIBIT “C” TO MEMORANDUM

Access and Utilities Easements

Exhibit Only

FOR REFERENCE ONLY

EXHIBIT D Compensation

Existing Structures¹

The compensation owed by Diamond to Entity related to any Colocation Agreement on an Existing Structure shall be seventy-five percent (75%) of the gross monthly rents actually collected by Diamond from Tenant(s) ("Colocation Rent"). Diamond's payment of the Colocation Rent to Entity will be as set forth in the Colocation Agreement.

New Structures²

Should Diamond construct a New Structure on a Property, Diamond shall pay to Entity thirty percent (30%) of Gross Receipts, as hereinafter defined, actually received by Diamond from all Tenants on the New Structure during the immediately preceding month. For any Tenants after the second Broadband Tenant, as hereinafter defined, is installed on the New Structure, the revenue share to Entity shall increase to forty percent (40%) of Gross Receipts actually received by Diamond from such additional Tenants (excluding the first two installed Broadband tenants). All the payments described in this paragraph are collectively referred to as the "New Structure Rent".

Broadband Tenant

Verizon, AT&T, and T-Mobile, and their respective successors and assigns, shall each be considered a "Broadband Tenant" for purposes of this Section.

Gross Receipts

"Gross Receipts" means all rents, licenses, and other fees (but excluding third-party reimbursements for utilities, taxes, structure modifications and similar expenses incurred by Diamond)) actually received by the Diamond from a Tenant pursuant to a particular sublease or sublicense during the applicable month. In no event shall Diamond have the right to deduct its expenses from Gross Receipts. If, during any given month, a Tenant does not pay any fees to Tenant, then it shall cease to be a Tenant and Entity shall not be eligible for any rent relating to that Tenant for that month. Notwithstanding the foregoing, in the event a Tenant pays their rent and/or fees to Diamond late in a given month, Diamond shall be obligated to pay Entity the revenue share associated with such payment with the following month's Colocation Rent payment.

Effect of Termination

For the avoidance of doubt, upon expiration or earlier termination of this Agreement, Diamond will remain entitled to continue receiving its percentage of the gross monthly revenue received from any Tenants subject to the revenue share arrangements described above and subject to the terms of the applicable Lease or other agreement with Entity, and will remain obligated to continue paying Entity its share of such revenue sharing payments, until all applicable Leases or Tenant Agreements expire or are terminated in accordance with their terms, as the case may be, and all applicable Tenants cease paying Colocation Rent, New Structure Rent, and other applicable payments. This paragraph shall survive the termination of this Agreement.

¹ An Entity may choose a one-time payment in lieu of an ongoing revenue share for Existing Structures or New Structures.

² The revenue sharing percentage on New Structures assumes a monopole design.