



August 9, 2018

**VIA EMAIL**

Lakeview School District  
Attn: Blake Prewitt  
15 Arbor Street  
Battle Creek, MI 49015  
(269) 565-2404  
[bprewitt@lakeviewspartans.org](mailto:bprewitt@lakeviewspartans.org)

Re: Easement Agreement / Site ID: MI15648-A Site Name: Battle Creek 3, MI

Dear Ground Owner:

SBA Towers VIII, LLC, a Delaware limited liability company, or an affiliate (“SBA”), proposes that it be granted the option to enter into an exclusive, perpetual communications easement with the Lakeview School District (“Owner”) over real property currently leased by SBA from Owner (“Property”) together with an assignment of the corresponding ground lease pursuant to an agreement in recordable form provided by SBA (“Easement”). A sample form Easement is attached hereto as **Exhibit “A”**. SBA proposes the following terms applicable to this transaction, in addition to the Easement:

**Option Payment:** Within 14 days after full execution of this option agreement (“Agreement”), SBA will pay the Owner the sum of One-Hundred Dollars (\$100.00).

**Option Period:** SBA shall have a period of seventy-five (75) days from full execution of this Agreement to inspect the Property and contact governmental authorities regarding the Easement (“Option Period”). If SBA elects not to exercise the option, it will send Owner notice of termination prior to the expiration of the Option Period. If notice is not sent prior to the expiration of the Option Period, SBA shall deliver the Easement and other documents necessary for closing (“Closing Documents”) within fourteen (14) days of the expiration of the Option Period.

**Purchase Price:** One-time payment in the sum of Two Hundred Twelve Thousand and No/100 Dollars (\$212,000.00), less any payments made to Owner in advance for ground rent or other rent (“Purchase Price”) attributable to any period subsequent to the closing date. Accordingly, no additional consideration shall be due during the term of the Easement.

**Closing:** Owner shall execute and deliver to SBA the executed Easement and other Closing Documents, including, but not limited to, an owner’s affidavit, closing statement and documents required by SBA’s title company to issue an owner’s title policy in favor of SBA insuring the exclusive Easement within seven (7) days of receipt. SBA will deliver Owner’s closing proceeds, within two (2) business days

following full execution of the Closing Documents by check or wire transfer (“Closing”) in accordance with written instructions provided by Owner. The Closing will occur as soon as the conditions set forth on **Exhibit “B”** hereto are satisfied to SBA’s satisfaction.

**Confidentiality:** Owner acknowledges that the terms expressed in this Agreement are confidential, and agrees not to disclose any information regarding this transaction, whether written or oral, to any third party without SBA’s written consent. From the date of this Agreement until Closing, Owner agrees not to directly or indirectly solicit, initiate or encourage offers or proposals for the sale of the Property in whole or in part. The parties acknowledge that Owner is a Michigan public body, obligated to comply with the Michigan Freedom of Information Act, the Michigan Open Meetings Act, the Revised School Code, and other laws and policies that will affect its ability to comply with this paragraph. Owner shall not be obligated to keep information confidential that it reasonably believes is a required disclosure under any of the aforementioned laws and policies.

**Cooperation:** Owner will cooperate with SBA in obtaining any consents or approvals from governmental authorities necessary to effectuate and create the Easement.

By executing this Agreement below, Owner agrees to each of its terms and the terms of **Exhibit “A”**. Owner represents that it is the fee simple owner of the Property, with full authority to enter into this Agreement, the assignment at closing to SBA of the landlord’s interest in the existing ground lease, and the Easement. This Agreement will be binding upon, and will inure to the benefit of, the Owner, SBA, and their respective successors and assigns. In the event of a breach of this Agreement, in addition to other remedies, the parties are entitled to seek damages including, but not limited to, costs incurred for investigations and inspections done relating to this Agreement. The effective date of this Agreement (and the Option Period shall begin) on the last date this Agreement is executed by the parties. Owner shall deliver the executed Agreement by (1) overnight courier or U.S. mail at the address below, (2) by facsimile to 561-322-2893, or (3) electronic mail to [landinfo@sbsite.com](mailto:landinfo@sbsite.com). If Owner does not accept the terms of this Agreement within forty (40) days of its date, it shall terminate and shall be of no further force or effect.

We appreciate your cooperation and attention to this matter. If you have any questions, please feel free to call MaryPat Ciarletta at 800-799-4722 x 9203.

Sincerely,

SBA Towers VIII, LLC

By: \_\_\_\_\_  
Martin Aljovin  
Vice President, Asset Optimization  
Date: \_\_\_\_\_

OWNER AGREES TO THE TERMS OF THIS AGREEMENT:

Lakeview School District

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

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

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

Date: \_\_\_\_\_

[Signature page to Agreement. Re: Easement Agreement / Site ID: MI15648-A Site Name:  
Battle Creek 3, MI]

**EXHIBIT "A"**

**SAMPLE EASEMENT AGREEMENT**

Prepared by and Return to:  
SBA Network Services, LLC  
Attn: \_\_\_\_\_  
8051 Congress Avenue  
Boca Raton, FL 33487  
561.226-\_\_\_\_\_

\_\_\_\_\_  
[Recorder's Use Above This Line]

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Tax ID Number:

**EASEMENT AGREEMENT**

By and between \_\_\_\_\_ ("Grantor") with an address of \_\_\_\_\_

and

\_\_\_\_\_, a \_\_\_\_\_ ("Grantee")  
with an address of 8051 Congress Avenue, Boca Raton, FL 33487

By initialing below, the Grantor does hereby acknowledge that the Grantor has received, reviewed and approved this Easement Agreement in which the Easement described herein is granted from Grantor to Grantee.

Grantor initial(s) here: \_\_\_\_\_

## EASEMENT AGREEMENT

This Easement Agreement (“Agreement”) dated effective \_\_\_\_\_, 201\_\_ (“Effective Date”) by and between \_\_\_\_\_, with an address at \_\_\_\_\_ (“Grantor”) and \_\_\_\_\_, a \_\_\_\_\_, with an address of 8051 Congress Avenue, Boca Raton, FL 33487 (“Grantee”).

### BACKGROUND

Grantor is the owner of the real property described on **Exhibit ‘A’** attached hereto (the “Premises”). Grantor desires to grant to Grantee certain easement rights with respect to the Premises, as more particularly described below, and subject to the terms and conditions of this Agreement.

### AGREEMENTS

For and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Easements.** Grantor, for itself and its heirs, personal representatives, successors and assigns, hereby grants and conveys unto Grantee, its tenants, lessees, sublessees, licensees, agents, successors and assigns: (i) a perpetual, exclusive easement (the “Exclusive Easement”) in and to that portion of the Premises more particularly described on **Exhibit ‘B’** hereto; and (ii) a perpetual, non-exclusive easement in and to that portion of the Premises more particularly described on **Exhibit ‘C’** hereto (the “Access and Utility Easement”) (the Exclusive Easement and the Access and Utility Easement being collectively referred to herein as the “Easements”).

2. **Private Easement.** Nothing in this Agreement shall be deemed to be a dedication of any area for public use. All rights, easements, and interests herein created are private and do not constitute a grant for public use or benefit.

3. **Successors Bound.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, lessees, successors and assigns. It is the intention of the parties hereto that all of the various rights, obligations, restrictions, and easements created in this Agreement shall run with the affected lands and shall inure to the benefit of and be binding upon all future owners and lessees of the affected lands and all persons claiming under them.

4. **Duration.** The duration of the Easements granted herein (the “Term”) shall be perpetual, unless Grantee provides written, recordable notice of its intent to terminate this Agreement, in which event this Agreement and all obligations of Grantee hereunder shall terminate upon Grantee’s recordation of any such notice. Grantor may not terminate this Agreement.

5. Easement Consideration. Grantor hereby acknowledges the receipt, contemporaneous with the execution hereof, of all consideration due hereunder. Accordingly, no additional consideration shall be due during the Term of this Agreement.

6. Use of Easement Areas.

(a) Exclusive Easement. Grantee and its designated customers, lessees, sublessees, licensees, agents, successors and assigns shall have the unrestricted right to use the Exclusive Easement for installing, constructing, maintaining, operating, modifying, repairing and replacing improvements and equipment, which may be located on the Exclusive Easement from time to time, for the facilitation of communications and/or data related uses in connection therewith. Grantee may make improvements, alterations or modifications on or to the Easements as are deemed appropriate by Grantee, in its commercially reasonable discretion and are related to the permitted uses. All installation, construction, maintenance, operating, modification, repairing, and replacing all improvements and equipment by Grantor shall be done in a good and workmanlike manner and in full compliance with all applicable laws, codes, rules, regulations, and ordinances. Grantee shall obtain all necessary permits and licenses for any work related to the Easements. Grantor makes no representation that Grantee's proposed use of the Easements is permitted by applicable laws, codes, rules, regulations, and/or ordinances. At all times during the term of this Agreement, Grantee shall have the exclusive right to use, and shall have free access to, the Easements seven (7) days a week, twenty-four (24) hours a day. Grantee shall have the exclusive right to lease, sublease, license, or sublicense any structure or equipment on the Exclusive Easement and shall also have the right to license, lease or sublease to Grantee and its affiliated entities or third parties any portion of the Exclusive Easement, but no such lease, sublease or license shall relieve or release Grantee from its obligations under this Agreement. Grantor shall not have the right to use the Exclusive Easement for any reason and shall not disturb Grantee's right to use the Exclusive Easement in any manner. Grantor and Grantee acknowledge that Grantee shall have the right to construct a fence around all or part of the Exclusive Easement, and shall have the right to prohibit anyone, including Grantor, from entry into such Exclusive Easement. Any new fence to be constructed by Grantee will be subject to the reasonable approval of Grantor, which will not be unreasonably delayed, and further subject to any requirements under applicable laws.

(b) Access and Utility Easement. The Access and Utility Easement shall be used by Grantee, its tenants, lessees, sublessees, licensees, agents, successors and assigns only for ingress and egress from and to the Exclusive Easement, as well as the construction, installation, operation and maintenance of overhead and underground electric, water, gas, sewer, telephone, data transmission and other utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) with the right to construct, reconstruct, improve, add to, enlarge, change and remove such facilities, and to connect the same to utility lines located in a publicly dedicated right of way. Grantor shall not in any manner prevent access to, and use of, the Access and Utility Easement by Grantee or its tenants, lessees, sublessees, licensees, agents, successors and assigns and Grantor shall not utilize the Access and Utility Easement in any manner that interferes with Grantee's or its tenants', lessees', sublessees', licensees', agents', successors' and assigns' use of such area. Grantee shall not in any manner prevent access to, and use of, the Access and Utility Easement by Grantor or its tenants. All improvements installed within the property subject to the

Access and Utility Easement shall be constructed, maintained, repaired, and operated in accordance with sound engineering standards to assure that at all times the same are in conformance with the requirements of all governmental bodies having jurisdiction.

7. Equipment and Fixtures. Grantee's equipment, structures, fixtures and other personal property now or in the future on the Easements, to the extent permitted by law, shall not be deemed to be part of the Premises, but shall remain the property of Grantee or its licensees and customers. At any time during the Term, Grantee or its customers shall have the right to remove their equipment, structures, fixtures and other personal property from the Easements. Grantee, upon termination of this Agreement, shall, within one hundred eighty (180) days, remove all improvements, fixtures, and personal property constructed or installed on the Easement Premises by Grantee and restore the Easement Premises to substantially the same condition prior to the construction of the tower, normal wear and tear and casualty excepted. Grantee shall not be required to remove any foundations, driveways, or underground cables or wires. All costs to restore the property are to be the responsibility of Grantee.

8. Assignment. Grantee may freely assign this Agreement, including the Exclusive Easement and the Access and Utility Easement and the rights granted herein, in whole or in part, to any parent, subsidiary or affiliate entity of Grantee, or to any other entity engaged in the communications business that has a financial strength of equal or greater value than Grantee at any time without the prior written consent of Grantor. Any other assignment shall be subject to the written consent of Grantor, which shall not be unreasonably withheld, conditioned or delayed. If any such assignee agrees to assume all of the obligations of Grantee under this Agreement, then Grantee will be relieved of all responsibility hereunder.

9. Covenants and Agreements.

(a) Grantor represents and warrants that it is the owner in fee simple of the Premises, free and clear of all liens and encumbrances and that it alone has full right to grant the Easements and assign the Lease (as such term is defined in Section 25 hereof). Grantor further represents and warrants that Grantee shall peaceably and quietly hold and enjoy the Easements for the Term.

(b) Grantee acknowledges that Grantor at the time of this Agreement is Lakeview School District, which is a tax-exempt entity, and the Premises is currently exempt from real property taxation. If the Premises becomes taxable as a result of Grantee or its assignees' use of the Premises, including real or personal property taxes, then Grantee shall be responsible for the payment of any tax or fee that is directly attributable to the presence or installation of Grantee's facilities, but only for so long as this Agreement remains in effect. During the Term, if the Premises is ever taxed as a result of Grantor selling the Premises to an individual or entity who is not tax-exempt (in such instance, and for this subparagraph only, a "New Grantor"), the New Grantor shall pay when due all real property taxes and all other fees and assessments attributable to the Premises. If New Grantor fails to pay when due any taxes affecting the Premises, Grantee shall have the right but not the obligation to pay such taxes and demand payment therefore from New Grantor, which payment New Grantor shall make within ten (10) days of such demand by Grantee. The provisions of the foregoing sentence shall survive the termination or expiration of this Agreement. Further, if

the Premises becomes subject to tax while still owned by Grantor, due to a change in laws or related rules unrelated to Grantee's or its assignee's use of the Premises, then Grantee shall be responsible for the payment of any tax or fee that is directly attributable to the presence or installation of Grantee's facilities, but only for so long as this Agreement remains in effect.

(c) Grantor shall not cause the area comprising the Easements to be legally or otherwise subdivided from any master tract of which it is a part in such a way that the remaining tract containing the Easements is substantially the only use of the tract, nor shall Grantor knowingly cause the area comprising the Easements to be separately assessed for tax purposes.

(d) Grantor shall not grant, create, or suffer any claim, lien, encumbrance, easement, restriction or other charge or exception to title to the Premises that would adversely affect Grantee's use of the Easements. Grantor has granted no outstanding options to purchase or rights of first refusal with respect to all or any part of the Premises and has entered into no outstanding contracts with others for the sale, mortgage, pledge, hypothecation, assignment, lease or other transfer of all or any part of the Premises and there are no leases, written or oral, affecting the lands underlying the Easements except for the Lease.

(e) Grantor has and will comply with all environmental, health and safety laws with respect to the Premises. Grantee will comply with all environmental, health and safety laws with respect to the Premises.

(f) Grantor has not received notice of condemnation of all or any part of the Premises, notice of any assessment for public improvements, or notices with respect to any zoning ordinance or other law, order, regulation or requirement relating to the use or ownership of such lands and there exists no violation of any such governmental law, order, regulation or requirement and there is no litigation pending or threatened, which in any manner affects the Easements.

(g) Grantor reaffirms and restates the representations contained in the Lease (as defined in Section 25) as though they were set forth in this Agreement. The representations and warranties made hereunder shall survive the Closing. At this time this Agreement is being entered into, Grantor is a general powers school district and may not have the legal authority to indemnify a third party, including Grantee. Subject to the foregoing and acknowledging that Grantor's representation of such is limited under Michigan law, Grantor agrees to indemnify, defend and hold harmless Grantee and its officers, directors, shareholders, agents and attorneys for, from, and against all damages asserted against or incurred by any of them by reason of or resulting from a breach by Grantor of any representation, warranty or covenant of Grantor contained herein, in the Lease, or in any agreement executed in connection herewith. Grantee agrees to indemnify, defend and hold harmless Grantor and its officers, directors, shareholders, agents and attorneys for, from, and against all damages asserted against or incurred by any of them by reason of or resulting from a breach by Grantee of any representation, warranty or covenant of Grantee contained herein, in the Lease, or in any agreement executed in connection herewith.

(h) Grantee hereby waives all claims against Grantor for injuries or damage for any cause arising at any time to persons in or about the Exclusive Easement where said injuries or damage occurs as a result of the use of the Exclusive Easement by Grantee or from the failure of



Grantee to keep the Exclusive Easement in commercially reasonable condition and repair, as herein provided. Grantee will indemnify Grantor and save it harmless from and against any and all claims, actions, damages, liability and expenses in connection with loss of life, personal injury and/or damage to property arising from or out of the occupancy or use by Grantee of the Exclusive Easement or any part thereof occasioned wholly or in part by any act or omission of Grantee, its sublessees, invitees, agents, employees, or contractors.

10. Non-Disturbance. During the Term, Grantor will not improve or grant any other easement, ground lease, lease, license, sale or other similar interest of or upon the Premises if such improvement or interest would materially interfere with Grantee's use of the Easements nor shall Grantor during the Term enter into any other lease, license or other agreement for a similar purpose as set forth herein, on or contiguous to the Premises. Grantee and its tenants, lessees, sublessees, licensees, agents, successors, and assigns are currently utilizing the Exclusive Easement for the non-exclusive purpose of transmitting and receiving telecommunication signals. Grantor and Grantee recognize the Grantee's use of the easement rights set forth in this Agreement would be frustrated if the telecommunications signals were blocked, if an obstruction were built that would cause interference with such transmission, if access and/or utilities to and from the Exclusive Easement were partially and/or completely inhibited, or if Grantee's use was otherwise materially interfered with or prevented. Grantor, for itself, its successors and assigns, hereby agrees to use commercially reasonable efforts to prevent the occurrence of any of the foregoing, and shall promptly undertake any remedial action necessary to do so. Grantee shall have the express right to seek an injunction to prevent any of the activity prohibited by this Section 10.

11. Access and Utilities. To the extent not otherwise addressed herein, (or to the extent any access and utility easement specifically referenced herein, including but not limited to the Access and Utility Easement or the Exclusive Easement, if applicable, cannot, does not, or will not fully accommodate the access and utility needs of the Exclusive Easement at any time), Grantor hereby grants and conveys unto Grantee, its tenants, lessees, sublessees, licensees, agents, successors and assigns, full, complete, uninterrupted and unconditional access to and from the Exclusive Easement, seven days a week, 24 hours a day, over and across any contiguous property now or hereafter owned by Grantor, for, without limitation, ingress and egress to and from the Exclusive Easement, as well as the construction, installation, location, maintenance, relocation and repair of overhead and/or underground utility connections, including electric, telephone, gas, water, sewer, and any other utility connection, provided that Grantee shall repair any damages to the Premises caused by such access. This easement, and the rights granted herein, shall be assignable by Grantee to any public or private utility company to further effect this provision. Grantor agrees to maintain all access roadways from the nearest public right of way to the Exclusive Easement in a manner sufficient to allow for pedestrian and vehicular access to the Exclusive Easement at all times. Grantee shall at all times be responsible to maintain and repair the Exclusive Easement during the Term. If it is reasonably determined by Grantor or Grantee that any utilities that currently serve the Exclusive Easement are not encompassed within the description of the Access and Utility Easement set forth herein, then Grantor and Grantee agree to amend the description of the Access and Utility Easement set forth herein to include the description of such areas. If it becomes necessary to relocate any of the utility lines that serve the Exclusive Easement, Grantor hereby consents to the reasonable relocation for such utility lines upon the premises for no additional consideration, and hereby agrees to reasonably cooperate with Grantee

to create a revised legal description for Access and Utility Easement that will reflect such relocation. Grantee will release the previous, replaced utility lines that served the Exclusive Easement upon such completion of relocation and replacement, and shall revise any related, active documents accordingly.

12. Mortgagees' Continuation Rights and Notice and Cure. Grantee may from time to time grant to certain lenders selected by Grantee and its affiliates (the "Lender") a lien on and security interest in Grantee's interest in this Agreement and all assets and personal property of Grantee located on the Easements, including, but not limited to, all accounts receivable, inventory, goods, machinery and equipment owned by Grantee ("Personal Property") as collateral security for the repayment of any indebtedness to the Lender. Should Lender exercise any rights of Grantee under this Agreement, Grantor agrees to accept such exercise of rights by Lender as if same had been exercised by Grantee. If there shall be a monetary default by Grantee under the Agreement, Grantor shall accept the cure thereof by Lender within fifteen (15) days after the expiration of any grace period provided to Grantee under this Agreement to cure such default, prior to terminating this Agreement (if permitted by the terms hereof). If there shall be a non-monetary default by Grantee under this Agreement, Grantor shall accept the cure thereof by Lender within thirty (30) days after the expiration of any grace period provided to Grantee under this Agreement to cure such default, prior to terminating this Agreement (if permitted by the terms hereof). Hereafter, this Agreement may not be amended in any respect which would be reasonably likely to have a material adverse effect on Lender's interest therein or surrendered, terminated or cancelled, without the prior written consent of Lender. If the Agreement is terminated or is rejected in any bankruptcy proceeding, Grantor will enter into a new easement agreement with Lender or its designee on the same terms as this Agreement within 15 days of Lender's request made within 30 days of notice of such termination or rejection, provided Lender pays all past due amounts under the Agreement, if any. The foregoing is not applicable to normal expirations of this Agreement. Grantor hereby agrees to subordinate any security interest, lien, claim or other similar right, including, without limitation, rights of levy or distraint for rent, Grantor may have in or on the Personal Property, whether arising by agreement or by law, to the liens and/or security interests in favor of the Lender, whether currently existing or arising in the future. Nothing contained herein shall be construed to grant a lien upon or security interest in any of Grantor's assets. The parties acknowledge the limited ability under law to lien Grantor's property. Simultaneous with any notice of default given to Grantee under the terms of this Agreement, Grantor shall deliver of copy of such notice to Lender at an address to be provided by Grantee.

13. Notices. All notices required to be given by any of the provisions of this Agreement, unless otherwise stated, shall be in writing and delivered in person or by a national overnight delivery service (and shall be effective when received, when refused or when the same cannot be delivered) to the appropriate party at the address set forth below (or at such other address designated in writing pursuant to the terms hereof):

To Grantor: Lakeview School District  
Attn: Superintendent  
15 Arbor Street  
Battle Creek, Michigan 49015

To Grantee: \_\_\_\_\_  
8051 Congress Avenue  
Boca Raton, FL 33487  
Attn: Legal Dept.

14. Force Majeure. The time for performance by Grantor or Grantee of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from strikes, civil riots, floods, labor or supply shortages, material or labor restrictions by governmental authority, litigation, injunctions, and any other cause not within the control of Grantor or Grantee, as the case may be.

15. Recording. This Agreement shall be recorded at Grantee's option and expense.

16. Miscellaneous. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the state where the Premises are located.

17. Captions and Headings. The captions and headings in this Agreement are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of or the scope or intent of this Agreement.

18. Cumulative Remedies. Except as otherwise expressly provided herein, each and every one of the rights, benefits and remedies provided to Grantor or Grantee by this Agreement, or by any instrument or documents executed pursuant to this Agreement, are cumulative and shall not be exclusive of any other of said rights, remedies and benefits allowed by law or equity to Grantee.

19. Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, including facsimile and electronic signatures, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

20. Severability. If any provision of this Agreement is deemed unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if such provision had been so limited or as if such provision had not been included herein, as the case may be. Additionally, if any laws, rules or regulations promulgated by any state, county or local jurisdiction, including without limitation those concerning zoning, subdivision or land use, or should any court of competent jurisdiction, make the sale of the Easements herein either void or voidable, Grantor agrees that upon the written request of Grantee, the grant of the Easements shall convert to a ground lease between Grantor, as lessor, and Grantee, as lessee, (with the Exclusive Easement area being the leased premises therein, and the Access and Utility Easement area remaining a non-exclusive easement for access and utility purposes) for uses consistent with

those set forth in Section 6 hereof, and containing other terms and conditions acceptable to both parties; provided that Grantee shall not be required to obtain the consent of Grantor to enter into any sublease or license of any portion of the Exclusive Easement or to permit sublessees or licensees to utilize the Access and Utility Easement; nor shall Grantor be entitled to any additional consideration in connection with such subleases and licenses; and provided that the delivery of the consideration paid by Grantee to Grantor for the Easements at the execution of this Agreement shall constitute the prepayment of rent under such ground lease for an extended term of 99 years, or as long as permitted by applicable law. Grantee shall be financially responsible for all reasonable costs related to the conversion of this Agreement to a ground lease.

21. Attorney's Fees. If there is any legal action or proceeding between Grantor or Grantee arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney's fees and disbursements shall be included in and as a part of such judgment.

22. Entire Understanding and Amendment. This Agreement and the closing documents executed in connection therewith, constitute the entire understanding between the parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressed herein. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement and signed by each of the parties hereto.

23. Zoning. Grantor hereby covenants and agrees that neither Grantor nor an affiliate of Grantor shall at any time file an opposition to a zoning or land use application of Grantee or in any way publicly oppose Grantee at a zoning hearing or other land use proceedings in connection with the Premises and the Easements; and that Grantor shall promptly cooperate with Grantee in making application for obtaining all licenses, permits, and any other necessary approvals that may be required for Grantee's intended use of the Easements.

24. Rule Against Perpetuities. If the rule against perpetuities or any other rule of law would invalidate the Easements or any portion or provision hereof or would limit the time during which the Easements or any portion or provision hereof shall be effective due to the potential failure of an interest in property created herein to vest within a particular time, then each such interest in property shall be effective only from the date hereof until the passing of twenty (20) years after the death of the last survivor of the members of Congress of the United States of America (including the House of Representatives and the Senate) representing the state in which the Premises is located who are serving on the date hereof, but each such interest in property shall be extinguished after such time, and all other interests in property created herein and all other provisions hereof shall remain valid and effective without modification.

25. Assignment of Ground Lease. The parties hereby recognize and agree that the Premises is currently subject to that certain \_\_\_\_\_, dated \_\_\_\_\_, originally by and between Grantor and \_\_\_\_\_, and assigned to Grantee, as amended and assigned

from time to time (collectively, the "Lease"). It is the intention of the parties that the interest created by this Agreement, including the Lease, shall not merge into any other interest now or hereafter held by Grantee and such interests shall remain a separate and distinct interest in the underlying real property. Grantor hereby acknowledges that there currently exists no default under the Lease and no conditions that, with the passage of time, would constitute defaults under the Lease. Grantor hereby assigns, transfers, sets over and delivers to Grantee, all of its rights, title and interests under the Lease arising or accruing on or after the date of this Agreement and Grantee hereby accepts, assumes and agrees to be bound by all the terms and conditions which are the responsibility of the landlord under the Lease. To the extent permitted by law, Grantor hereby releases and forever discharges Grantee from all claims arising under the Lease. Grantor is a general powers school district and may not have the legal authority to indemnify a third party, including Grantee; subject to the foregoing and acknowledging that Grantor's representation of such is limited under Michigan law, Grantor hereby agrees to indemnify and agrees to hold Grantee harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) under the Lease which relate to costs or actions first arising on or before the date of this Agreement. Grantee hereby agrees to indemnify and agrees to hold Grantor harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) under the Lease which relate to costs or actions first arising after the date of this Agreement.

26. Cure Period; Default. No party to this Agreement shall be in default of the terms thereof until thirty (30) days following the date of the defaulting party's receipt of notice of default from the non-defaulting party. In the event such default is not reasonably capable of cure within such thirty (30) day period and such defaulting party promptly and diligently pursues the cure of such default during such cure period, such cure period shall be extended for so long as the defaulting party diligently pursues such cure for a maximum of ninety (90) additional days. In no event shall Grantor be entitled to terminate this Agreement as a result of or remedy for any breach or default thereunder by Grantee. In the event Grantor or Grantee fails to comply with the terms of this Agreement after the applicable notice and cure period, the non-defaulting party may, in its sole and absolute discretion, cure any such default, and to the extent the non-defaulting party incurs any expenses in connection with such cure (including but not limited to the amount of any real property taxes the non-defaulting party pays on behalf of the defaulting party), the defaulting party agrees to promptly reimburse the non-defaulting party for such expenses incurred.

27. Right of First Refusal/Exclusivity. If at any time during term of this Agreement, Grantor receives a bona fide written offer from a third person (the "Offer") to sell, assign, convey, lease or otherwise transfer or create any interest in the Easements and/or Premises, or any portion thereof, which Grantor desires to accept, Grantor shall first give Grantee written notice (including a copy of the proposed contract) of such Offer prior to becoming obligated under such Offer, with such notice giving Grantee the right to purchase the Easements for a pro-rata price based on the size that the Easements are to the portion of the Premises described in the Offer. Grantee shall be obligated to obtain and pay for, as applicable, any land division necessary to effectuate a sale of the Easements or any portion of the Premises Grantee intends to purchase pursuant to this paragraph. Grantee shall have a period of fifteen (15) days after receipt of Grantor's notice and terms to accept the Offer or exercise Grantee's right to purchase the Easements and exercise this

right of first refusal by notifying Grantor in writing. If Grantee has not accepted the Offer or exercised its right to purchase the Easements in writing to Grantor within such fifteen (15) day period, the Offer will be deemed rejected. In addition to the above, Grantor shall not, at any time during the term of this Agreement, grant any interest in any portion of the Premises (other than the conveyance of fee simple title to the entire Premises) to any third party in the telecommunications business (or affiliated therewith) without the prior written consent of Grantee, in Grantee's sole and absolute discretion.

As part of Grantee's right to the undisturbed use and enjoyment of the Easements, Grantor shall not at any time during the term of this Agreement (i) use or suffer or permit another person to use any portion of the Premises or any contiguous parcel of land now or hereafter owned, leased or managed by Grantor for any of the uses permitted herein by Grantee or other uses similar thereto, or (ii) grant any interest or an option to acquire any interest in any portion of the Premises that permits (either during the term of this Agreement and/or after the term hereof) any of the uses permitted under this Agreement or other uses similar thereto without the prior written consent of Grantee, in Grantee's sole discretion. The phrase "or other uses similar thereto" as used herein shall include, without limitation, the transmission, reception or relay of communications signals and/or data by way of small cells, distributed antenna systems, data centers, C-RAN or fiber. Grantor may not assign any Easement Payment or this Agreement or any rights hereunder, except in connection with conveyance of fee simple title to the Premises, without the prior written consent of Grantee, in Grantee's sole and absolute discretion.

28. Further Acts. Grantor shall cooperate with Grantee in executing any documents necessary to protect Grantee's rights under this Agreement or Grantee's use of the Easements and to take such action as Grantee may reasonably require to effect the intent of this Agreement.

29. Insurance. Grantee shall maintain commercial general liability insurance with limits of not less than \$2,000,000 combined single limit per occurrence, with a certificate of insurance to be furnished to Grantor within 30 days of written request by Grantor.

[The remainder of this page is intentionally left blank. Signatures to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written below.

**WITNESSES:**

**GRANTOR:**

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

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

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

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

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

**INSERT CORRECT STATE NOTARY**

\_\_\_\_\_  
Notary Public

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

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

**WITNESSES:**

**GRANTEE:**

\_\_\_\_\_, a  
\_\_\_\_\_

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

By: \_\_\_\_\_  
Thomas P. Hunt  
Executive Vice President & General Counsel

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

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by Thomas P. Hunt, the Executive Vice President & General of Counsel \_\_\_\_\_, a \_\_\_\_\_, on behalf of the company, who is personally known to me.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)



**EXHIBIT 'A'**

Premises

Legal description to be incorporated upon receipt of final survey.

**EXHIBIT 'B'**

Exclusive Easement

Legal description to be incorporated upon receipt of final survey.

**EXHIBIT 'C'**

Access and Utility Easement

Legal description to be incorporated upon receipt of final survey.

## **EXHIBIT "B"**

### **CONDITIONS TO CLOSING**

1. Receipt by SBA of a title insurance commitment for the subject transaction stating that Owner has good, indefeasible and marketable fee simple title to the Property, free and clear of all liens and encumbrances except such matters as may be acceptable to SBA.
2. Receipt by SBA of a survey in form satisfactory to SBA revealing no encumbrances, which shall be provided and certified to Owner in advance of the Closing. The legal descriptions from the survey shall be used to complete the descriptions of the exclusive, perpetual communications easement on the final executed, recordable Easement.
3. The execution and delivery by Owner of all forms required by applicable taxing authorities and any documents required by SBA's title insurer evidencing the authority of the party executing such documents on Owner's behalf.
4. Owner will obtain an executed, recordable subordination and a non-disturbance agreement ("SNDA") for all mortgages, deeds of trust or any other liens against the Property prior to Closing. If Owner is unable to obtain any required SNDA, SBA reserves the right, in its sole discretion, to elect to close without such SNDA or elect not to close.
5. The use of the Easements by SBA and the financial transaction contemplated herein is satisfactory to SBA (this determination being made in SBA's sole discretion).